crittenden's

inside insurance report™

Volume 1, Number 36 October 3, 2016

Medical Professional Liability

PHYSICIAN GROUPS | CARRIERS TAKE ON NEW RISKS

Carriers will develop enhanced coverages for physician groups in response to additional risks cropping up in tandem with these groups growing increasingly larger and reaching further afield. Expect these carriers to take on new risks to bring new accounts on board, which may include accepting prior acts in other states and taking on physicians with less than exceptional track records. The consolidation of practices that began nearly a decade ago will continue but vary geographically. Data points to increased consolidation in the Southeast and Texas specifically while in other regions, like the Upper Midwest, the trend appears to be slowing.

As groups continue to draw in physicians and expand their reach to additional territories, some carriers writing this class will manage to carry away significant amounts of written premium. **ProAssurance** reported in its second quarter results perhaps the most sizeable of such increases, with written premium from its Specialty P&C segment topping $21 million for the quarter. This bests the carrier's premium for last year's second quarter by at least $3.5 million and constitutes a $3 million increase in the amount of premiums written for physicians. This boost was owed in large part to a substantial multi-state physician group account that weighed in as the largest single premium ever billed by the carrier.

Others in this space will attempt to gain traction in the market with the introduction of coverage for evolving physician group risks. A prominent threat inherent in the larger size of these groups is the potential for data breaches that come with wider reaching impacts, heightened by the industry's shift toward the adoption of electronic health records. The rise of EHR claims frequency is pushing insurers, such as **COPIC** and **ISMIE Mutual**, to deploy more cyber liability coverages for physician group policies. Starting this month ISMIE will introduce a cyber liability endorsement through a partnership with **Beazley** to cover several new areas, offering groups reimbursement protection for expenses related to cyber extortion threats and those incurred to recover or restore deleted, damaged or corrupted data. The enhancements also cover E&O claims, including billing to a government or commercial payer, self-referrals and HIPAA violations.

Look for rates to generally remain flat even as carriers continue to broaden coverage. Some carriers will offer credits for accounts with favorable loss experience. Excluding EHR exposures, claims frequency for most of the industry has declined as carriers put their efforts into more disciplined underwriting, aggressive claims defense and increased risk management efforts. This could be the first precursors of sporadic tightening of underwriting as pressures mount within this class. Expect carriers writing these risks avoid significant changes for the time being. Growth in this sector will likely remain on track through the end of the year. Insiders anticipate multi-specialty practices gaining in size while single specialty groups continue to join forces with larger groups.

SPECIALTY RISKS

PREMISES POLLUTION LIABILITY | FILLING THE AIG VOID

Competitive conditions in the premises, or site, pollution legal liability line will persist through year's end as players look to claim the massive amount of business left behind by **AIG**'s unexpected withdraw at the start of the year. In addition to boosting limits and increasing their offerings for this segment, carriers will use this shakeup to pursue a wider geographic reach by growing their practices during the coming months. AIG's departure freed up an estimated $100 million of pollution legal liability business.

Quotation not permitted. Material may not be reproduced in whole or in part in any form whatsoever. Copyright © 2016 Crittenden Research Inc.

The elimination of AIG's influence on pricing will allow rates to rise while the reshuffling of the carrier hierarchy draws on. Capacity will continue to balloon, with more than 20 insurers now pining for accounts previously held by AIG. **Beazley** and **Chubb** will lead the way in terms of geographic expansion, with each in the midst of growing their practices and expanding into new territories. *Continued on Page 2*

PHYSICIAN GROUPS

COPIC Ins. Co. (A): Janel Loud-Mahany, Vice President, Underwriting and Policyholder Services, 7351 E. Lowry Blvd., Ste. 400, Denver, CO 80230, (800) 421-1834 ext. 6168, jloud@copic.com.

ISMIE Mutual Ins. Co. (A-): Keith Evans, AVP, Business Development, 20 N. Michigan Ave., Suite 700, Chicago, IL 60602, (312) 690-2403, keithevans@ismie.com.

ProAssurance Group (A+): Jeff Bowlby, Sales and Marketing, 100 Brookwood Place, Birmingham, AL 35209, (800) 282-6242, jbowlby@proassurance.com.

PREMISES POLLUTION

Beazley Ins. Co. (A): Jayne Cunningham, Focus Group Leader and Underwriter, Environmental, 1270 Avenue of the Americas, Suite 1200, New York, NY 10020, (917) 344-3309, jayne.cunningham@beazley.com.

Philadelphia Indemnity Ins. Co. (A++): Jon Peeples, Vice President, One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004, (610) 617-7068, jon.peeples@tmsic.com.

XL Catlin (A+): Matt O'Malley, President, Environmental Insurance, 505 Eagleview Blvd., Exton, PA 19341, (610) 968-9466, matt.omalley@xlcatlin.com.

PREMISES POLLUTION LIABILITY…

Continued from Page 1

Beazley poses a double threat, boasting one of the largest increases in capacity among carriers insuring operational and fixed-site environmental risks. Through a **Lloyd's of London** consortium, the carrier began offering an expanded capacity of up to $50 million for this line during the third quarter, jumping to the forefront of the competition. Other carriers making strides on the path to a greater market presence include **Philadelphia**, with its new site pollution liability coverage for storage tanks through a partnership with UCPM Inc.; **XL Catlin** with a second quarter launch of a wholesale site pollution and professional liability policy for contractors; and **W.R. Berkley** with several of its member companies aiming to introduce additional limits to their Pollution Liability coverage starting next month.

Fewer Long-Term Policies

As more carriers gravitate toward this sector, concerns over an increase in claims frequency during the last few years will suppress their appetites for longer term site pollution policies. Expect newer entrants as well as existing players to more frequently opt for shorter term policies – three to five years – though some will continue to provide terms of up to 10 years for accounts with favorable claims histories. Demand for long-term coverage has risen alongside the uptick in claims, with a key driver being an increase in mergers and acquisitions, accompanied by real estate transactions. Those on the acquiring end of these deals are placing greater emphasis on site pollution liability in particular, as concern grows in regard to potential legacy pollution risks associated with the companies being bought and the real estate they own. Look for additional demand in the hospitality and habitational sectors as well, stemming from a rise in the construction of these properties in former industrial areas.

The scramble for AIG's former accounts, coupled with burgeoning demand, will prompt carriers to expedite their strategies for gaining accounts amid this influx of new business. This escalation is in evidenced in Chubb recent expansion, which through its merger with ACE, grew its Environmental products distribution network from nine to 48 branches this year alone. The carrier now offers its premises pollution liability products for small, mid-sized and large companies in the U.S. and abroad, drawing a bead on specific classes such as real estate and healthcare, as well as public and educational entities and agriculture.

Others carriers, like XL Catlin, are responding with product enhancements and an expansion of their focus on particular classes and industries. Also the result of a significant merger this year, XL Catlin released a second quarter wholesale PLL policy through its new North America Environmental business. The carrier's product is geared directly toward trade contractors, offering coverage for jobsites and pollution occurring from waste or materials transported to non-owned disposal sites. Designed for contractors earning revenues

Quotation not permitted. Material may not be reproduced in whole or in part in any form whatsoever. Copyright © 2016 Crittenden Research Inc.

of less than $50 million, the policy provides limits of up to $5 million, protecting against environmental clean-up costs for a variety of pollutants including mold.

A new product from Philadelphia also caters to a specific industry: storage tank owners and operators. Under the new Storage Tank Environmental Policy, insureds are protected from claims of bodily injury, property damage and remediation expenses for pollution from underground or above ground tanks. Philadelphia's product offers limits of $1 million/$2 million, with a minimum premium of $300.

COMMERCIAL AUTO

TNCs/RIDESHARING | JUMP IN CAPACITY, NEW FOCUS

Expect new fleets to emerge in the commercial auto market as transport network companies launch of self-driving cars. TNCs like leaders Uber and Lyft have long resisted classifying the vehicles in their networks as commercial fleets, instead advocating the principle that these vehicles are operated by independent contractors, which keeps them exempt from commercial auto coverage. We expect this will change – sooner rather than later – following the inclusion of self-driving cars in TNCs' fleets. Uber is beginning a self-driving car test program in Pittsburgh. Similarly, Boston's launch of what is called an "Urban Mobility Program" to expand ridesharing focuses on a test of self-driving vehicles for passengers. These programs will further disrupt the market and tip the scales towards requiring commercial auto coverage.

BONUS CONTENT

Top Medical Malpractice Settlements

Look for this exclusive content in Crittenden's ***insuranceVISUALS***

Insurers such as **Mercury**, **Progressive** and **Travelers** currently write hybrid endorsements for drivers of TNCs, which offers coverage for drivers who use their personal vehicles for flexible commercial use. As self-driving cars hit the roads, the question of who is considered the "driver", and thus, who is responsible for any damages in an accident, will force carriers to consider new coverage alternatives. San Francisco-based startup **Metromile** sells pay-per-mile insurance in several states, including California, Oregon and Pennsylvania. The insurer recently received a $191.5 million infusion from billionaire Mark Cuban and other investors in addition to making a $22 million deal to buy **Mosaic Insurance Inc.** to underwrite policies and offer an avenue by which it can expand into new states. This could lead to them expanding into commercial lines in the future.

Look for **American Family** to expand its TNC initiatives in 2017 as it watches these developing trends. It currently offers ridesharing endorsements in Colorado and other markets, and hopes to learn from and adapt to the changes in the TNC industry. **Farmers** offers a policy that extends coverage when a driver logs in to a TNC app, in addition to the time between waiting for their next ride.

Characterizing Driverless Service

All commercial auto writers will be watching the TNC industry closely with the expectation that, as various states begin to define the legal requirements regarding driverless vehicles, opportunities for new commercial auto business within this segment could be presented during the next 12 months. Many regulations will be in a state of flux as the definitions for "autonomous vehicle" remains variable from state to state and new legislation is considered or enacted. California, for example, is host to a litany of regulations, whereas states like Pennsylvania and Florida are considerably more open-ended. Complicating the matter further, a federal safety and standards guideline proposal unveiled on Sept. 20 regarding driverless vehicles, may force auto manufacturers, as well as carriers, to adhere to strict federal guidelines, should the proposal pass.

Uber and Lyft offer similar commercial coverage, with Uber's plan backed by **James River**, for drivers that attempt to bridge the gap between a vehicle's personal and commercial use. Coverages vary, depending on when a driver is in the ridesharing cycle – in-between driving to a customer, dropping them off, or heading to the next ride – when an accident or property damage occurs. This doesn't account for self-driving cars, however. Currently, Uber's self-driving cars are insured for up to $5 million per incident. Uber has yet to lay out any specifics as to the question of liability in regards to an accident, which complicates the matter, often due to the inconsistency of regulations across state lines. States like California requires a human driver to be present in the driver's seat for emergencies. The Golden State specifies that fault in an accident is assessed by determining if the human driver acted properly or if the technology itself was at fault.

Quotation not permitted. Material may not be reproduced in whole or in part in any form whatsoever. Copyright © 2016 Crittenden Research Inc.

Geico, **Progressive** and **USAA** are among some of the carriers that offer commercial products for ridesharing drivers, but anticipate these and similar programs to experience transition periods as ridesharing companies face increasing difficulty among state regulators as they try to expand. TNCs' disagreement on fleet classification has already caused problems for Lyft and Uber, with both facing regulation issues in larger states such as Texas, Florida, New York, New Jersey, and Pennsylvania. These states refuse to budge on issues such as driver classification, fingerprinting drivers, wheelchair accessibility and whether state or local enforcement has the ultimate authority, factors that will likely play a factor in any new commercial auto coverage.

MANUFACTURING E&O

QBE North America (A): 1 General Dr, Sun Prairie, WI 53596, Walter Grote, SVP Commercial Insurance, (312) 803-1714, walter.grote@us.qbe.com.

TNCs/RIDESHARING

American Family Insurance Co. (A+): Tim Hyman, National Product Line Management Director Personal Lines Division, thyman@amfam.com; Heather Johnston, Innovation Department, hjohnsto@amfam.com; 6000 American Parkway Madison, WI 53783, (800) 692-6326.

Errors & Omissions

MANUFACTURING | EMERGING MARKET & RISKS SHAKE UP MARKET

QBE North America will bring new competitive pressure to the E&O market with the addition of a new Manufacturing E&O endorsement to its Product Liability line. The new product comes in response to increased demand and emerging risks in the manufacturing market. Crittenden expects QBE's presence in this sector will push other carriers to adjust premiums downward to stay competitive. Look for companies like **The Hartford Group** and **Liberty Mutual**, which already offer programs with an eye on product liability for businesses, to take a page from QBE's book to launch new coverages.

QBE's new product looks to target a number of different needs with various coverages, including Damage to Your Product, Damage to Your Work, and "Impaired Property," and expects this new suite of coverages to expand its P&C line. QBE can be expected to be aggressive in pursuing new accounts. The emergence of new technologies in the manufacturing industry continues to create new exposures and corresponding demand. So called "smart" is one of these emerging exposures, encompassing collaborative robotics, bio-fabrication of cells and tissues, and innovative reuse and recycling of materials. Component manufacturers, in particular, are adopting the ability to quickly change products.

Additionally, advancements in production are allowing more and more U.S. manufacturers to distribute an increasing quantity of product overseas, as well as work with more foreign markets and manufacturing partners. Greater reliance on technology will boost the amount of premium written, continuing a trend that pushed premiums volume up by 5 percent from 2014 to 2015. Part of this growth stems from manufacturers seeking to limit product liability claims; data from the National Association of Insurance Commissioners shows that 70.5 percent of incurred losses in 2015 were due to product liability claims.

Crittenden's Inside Team

Quotation not permitted. Material may not be reproduced in whole or in part in any form whatsoever. Copyright © 2016 Crittenden Research Inc.

Customer Service
(800) 421-3483
membership@crittendenresearch.com

Newsroom Fax: (415) 475-1575

Crittenden's Inside Insurance Report™ is published by Crittenden Research, Inc., 201 Alameda del Prado, Suite 220, Novato, CA 94949. Send address changes to *Crittenden's Inside Insurance Report*™, P.O. Box 1150, Novato, CA 94948-1150. Contents copyright © 2016 Crittenden Research, Inc. Sample reports may be requested online at http://www.crittendenonline.com. Crittenden publishes *Crittenden's Inside Insurance Report*™, *Crittenden's Insurance Markets*™, *Crittenden's Medical Insurance*™, *Crittenden's Specialty Coverages Insider*™ and *Crittenden's Insurance Program Directory*™. For more information, go to http://www.crittendenonline.com.

Crittenden's Inside Insurance Report™ is protected by copyright. It is illegal under federal law to make and distribute copies of this report in any form without permission, including without limitation, photocopies, faxes, e-mails, digital scans and postings on an intranet site. Violators risk criminal penalties and up to $150,000 in damages per offense. Please contact our customer service department at (800) 421-3483 for information regarding site licenses, to request reprints of articles or to inquire about permission to make copies.

Crittenden makes every effort to ensure the accuracy of the information published in *Crittenden's Inside Insurance Report*™. Crittenden uses only those sources it determines are accurate and reliable, but no guaranty or warranty with regard to the information is made or implied. Information in *Crittenden's Inside Insurance Report*™ is subject to change. This report is an editorial service. Crittenden does not sell insurance.

Quotation not permitted. Material may not be reproduced in whole or in part in any form whatsoever. Copyright © 2016 Crittenden Research Inc.