

**NEW YORK STATE DENTAL ASSOCIATION  
COUNCIL ON PROFESSIONAL LIABILITY INSURANCE  
MEETING MINUTES  
MARCH 2, 2018  
NYSDA HEADQUARTERS**

**Present:** Council Members: Drs. Wayne Harrison, Chair (S), Michael Pasquali (3), Mark Slavin (5), David Reed (7), Chester Gary (8) *via telephone*, Roland Emmanuele (9) *substitute*, Frank Palmaccio (N) *via telephone*.

Guests: Mr. Michael Herrmann (NYSDA Staff), Ms. Heather Relation (NYSDA Staff), Ms. Danielle Zimbardi (MLMIC Dental Director) *via telephone*, Ms. Barbara Gottstein (MLMIC –Upstate Claims), and Mr. John VanDenburgh (MLMIC contract defense attorney)

Unable to Attend: Steven Tunick (1), Robert Blashka (2), Richard Dunn (6), Charlene Berkman (Q), Andrew Witrock (S), and Peter Wasserman (B).

After introductions, Dr. Harrison gave a Risk Management update. He indicated that he recently met with presenters, Drs. Fred Wetzel and Kevin Henner to consider changes to both the live and online courses. Dr. Wetzel has already revised the content to address new practice issues that have arisen in recent years and had consulted with MLMIC to address any course concerns they might have. In order to make the online course more interesting, Dr. Henner will record voice-over on relevant slides throughout the presentation.

Dr. Harrison next led the Council through a review of the Claims Review Guidelines. The Council discussed a number of topics with a particular focus on the following:

- It was agreed that the insurance carriers should continue to inform the insured defendant of the composition of the claims review committee that will hear their case. Alternately, it is imperative for the local claims committee chairperson or component executive director to inform the carrier which members are expected to attend the meeting.
- The Council agreed to add a duty to meet a second time on short notice to re-hear a case if circumstances have changed. This does not preclude the carrier from consulting with the Chairperson afterwards to advocate settlement upon further changes in the trial.
- It is the committee chairperson's responsibility to send the case report to the carrier and NYSDA after the completion of the meeting. They may have the component office do this for them, but they need to ensure that it happens.
- It was agreed that while the primary focus of the committees should be the evaluation of the dentistry provided in a case, but should not ignore other important factors that could impact the case outcome.

After some discussion, the Council agreed that it would be helpful if the insured defendant received an overview of the claims review process to help them better understand how the

process works and why it is important. MLMIC has abridged a series of articles that Dr. Emmanuele had previously written on the process. The Council agreed that this document would make a good deliverable to give to insureds.

Ms. Zimbardi reported on the claims activity in the MLMIC dental business. She noted that the most prevalent claims are related to root canals, implants, extractions, and any procedures that result in paresthesia and osteomyelitis. According to the national practitioner data bank, of 20,000 cases reported in NY State, @ 2,500 of these were dental-related. And of \$8.5 billion of NYS awards, just \$250 million of this related to dental. Roughly 11% of national cases were dental-related.

Mr. VanDenburgh discussed the new law in New York referred to as “Laverne’s Law” which extends the statute of limitations for malignant cancer cases. This should not affect too many cases but it could result in a number of large awards that may not have happened absent this law.

Dr. Wayne Harrison will be ending his term as Chair this June and the Council chose to nominate Dr. Frank Palmaccio to replace him. This nomination will be submitted for consideration of the NYSDA President.

The Council agreed that we should continue meeting in person every 18-24 months as we have been doing.

There being no other business, the meeting was adjourned.