Meet Luke W. Martin, M.D.

Dr. Martin began his tenure on the Mutual’s Board when he was elected in 2015. He serves on the Board’s Risk Management, Claims, and Underwriting Committees.

Dr. Martin grew up in rural Lincoln County, West Virginia. He earned his medical degree from the Brody School of Medicine at East Carolina University in 2005 and completed his general surgery residency at West Virginia University in 2010.

Dr. Martin is board certified in General Surgery. Dr. Martin joined Thomas Health System Physician Partners in 2013 following private practice in general surgery. He practices at St. Francis and Thomas Memorial hospitals in Charleston, W.Va. He is the medical staff President-Elect at Saint Francis Hospital and medical director of the Saint Francis Wound Care Clinic. He lives in Charleston with his wife, Laura, and their dog Titus.

The only medical professional or hospital liability insurance company that closely monitors West Virginia and regional legislative affairs on an ongoing basis is the West Virginia Mutual Insurance Company. Our Mission Statement clearly explains why: “The West Virginia Mutual Insurance Company will provide professional liability insurance to healthcare providers on a sound and enduring basis.” Therefore, it behooves us to make sure the environment in which our company operates remains stable in order for us to enjoy continued success and ensure continued affordable access to coverage for our policyholders.

It is obvious that most past malpractice insurance companies have not sufficiently cared about this and have either left the state, become insolvent, or exited the medical liability insurance market altogether when the going got tough. One large such company that is currently writing medical professional liability coverage in our state actually lobbied against tort reform in certain jurisdictions in which they did business in the early 2000’s so as to keep premiums high and, therefore, generate more profits for their stockholders. Furthermore, the company in question also dramatically reduced its physician medical liability exposure at that time because of difficult market conditions, and it only reentered the liability insurance space later when significant improvement had occurred. While we at the Mutual enjoy incredible loyalty on the part of our insureds overall, a number of physicians have left us for other companies not dedicated to West Virginia physicians’ interests solely because of relatively small cost differentials.

The annual average cost for West Virginia and regional physicians to re-enter the liability insurance market is $30,000-$40,000 or more per year. We at the Mutual enjoy incredible loyalty on the part of our insureds overall, a number of physicians have left us for other companies not dedicated to West Virginia physicians’ interests solely because of relatively small cost differentials.

We at the Mutual pride ourselves on our fiscal responsibility. We take our fiscal responsibility extremely seriously, as most past malpractice insurance companies have not. We at the Mutual have refused to exit the market, refused to take on additional risk, refused to cut rates, refuse to go bankrupt so as to keep premiums high and, therefore, generate more profits for their stockholders. Furthermore, the company in question also dramatically reduced its physician medical liability exposure at that time because of difficult market conditions, and it only reentered the liability insurance space later when significant improvement had occurred.

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Before You Sign on the Dotted Line
by Susan W. Romaine, WVMIC General Counsel

Whether in the stack of papers on your office desk or electronically in digital documents, physician signatures are needed everywhere. It is certainly easy and convenient to quickly skim through a document before signing it. After all, most documents regarding licensing, compliance with state and federal regulations, Medicare and Medicaid, insurance billing, employment contracts and vendor agreements use the same, standard language, right? Unfortunately, that is not the case in today’s complex world. There is no such thing as “standard language,” and signing off on a seemingly straightforward document without carefully reviewing the consequences of both intended and unintended ramifications. Some examples of potential unforeseen consequences include accepting liability for any adverse event, regardless of fault; agreements to arbitration; agreeing to undesirable fixed fees and renewal terms; and unintentionally agreeing to additional duties and obligations. Therefore, it is important to carefully review and understand any document that requires a signature. Although it may seem tedious and unnecessary, taking the time to fully understand a document before signing it can prevent even more time consuming and costly errors down the road.

With that said, it is unrealistic for a physician to read every word of every document to be signed. There are not enough hours in the day. It is also unrealistic for a physician to decipher and catch potentially problematic clauses in the various agreements encountered on a regular basis. Physicians wear a number of hats throughout the day not just as a medical provider, but also counselor, of hats throughout the day not just as a medical provider, but also counselor, instructor, office administrator, and employer. Yet, physicians are not trained lawyers, accountants, compliance officers or insurance experts. A physician’s focus should be on patients and the practice of medicine. Therefore, this article will provide some tips and tools to assist you in reviewing documents you are required to sign and to protect yourself against unintended and potentially harmful consequences.

**Signature Precautions**

Signatures are powerful. A signature indicates the signer’s consent, approval, attestation and acknowledgement of the document being signed. By signing a document, an immediate presumption is created that the signer has read, reviewed, and agrees with the document’s contents. Your signature is distinct and should be protected as such. Signature stamps are discouraged. If one falls into the wrong hands, it can lead to unauthorized use and abuse of your signature. The use of pre-signed prescription pads constitutes professional misconduct by the West Virginia Board of Medicine and should not ever exist in your practice. Equally risky is permitting someone else to sign for you. Such an act is illegal and is also classified as professional misconduct by the Board of Medicine, even if the signer has the physician’s permission.

Electronic signatures carry the same weight as handwritten signatures, therefore your discrete user identification for any electronic document system should be safeguarded the same way. Office personnel should each have his or her own distinct login credentials in order to eliminate any unauthorized use of a physician’s credentials. Most electronic medical record (EMR) software can track and record the time a document was accessed, whether any changes were made, and the time the electronic signature is entered. Whether manual or electronic, special care must be given when providing a signature.

**Reviewing the Document**

The volume of documents requiring a physician’s signature can be overwhelming. One way to make this task more manageable is to have a trusted member of your office staff review and “triage” the documents before passing them to you for signing. This staff member can do an initial review of each document and organize them into categories ranging from documents that are straightforward and need no further attention, to those that are more complex and require closer review. The staff member can also highlight any deadlines for submission or flag obvious areas that raise questions or create concerns.

Any document requiring a signature should be carefully examined. Although difficult, try to set aside a quiet time for reviewing such documents so that you can fully concentrate. Lengthy and more complex documents are discussed in more detail below. However, it is important not to discount even the most straightforward appearing of documents. Has a patient presented you with a form from their insurance company, place of employment or school? It is important to understand what you are signing, as it may affect the patient’s ability to receive benefits or participate in certain activities, and your signature will endorse whatever it is the patient is attempting to do. Has a nurse practitioner or physician’s assistant requested you sign off on documents for their use? Are you regularly given a stack of checks to sign? Pay close attention to each payee and amount being paid, and ask yourself if each payment makes sense. If it does not, then trust your instinct and seek further information.

For those documents that require more than common sense to understand, it is important to do your research and recognize when to seek assistance. You cannot underestimate the importance of conducting research on any given type of contract or agreement. Research can be as easy as conducting an internet search, contacting references, or reaching out to other physicians for their experience. The West Virginia State Medical Association and West Virginia Board of Medicine are also good resources.

As busy physicians, you likely employ an accountant to assist with taxes and other financial matters, as it is more efficient to have someone with accounting expertise handle those affairs. The same reasoning should apply to the retention of attorneys for reviewing important agreements. Attorneys are trained in this area, therefore, it is a better use of your resources to have an attorney assist with interpreting and negotiating such documents. It is also wise to develop a relationship with a trusted healthcare attorney that can assist with this type of work when needed. The emphasis on healthcare – just as pediatricians do not treat adults or dermatologists do not help with chronic headaches, lawyers do not practice in a “one size fits all” way. It may be convenient to ask your neighbor who is a bankruptcy attorney to “just glance over” a new agreement with your EMR vendor. However, while that attorney could certainly spot red flags, he may not have knowledge of the current state of the law with respect to EMR or the common clauses or pitfalls of such agreements. Thus, it is best to have a competent legal contact to call when needed. If you do not know any attorneys that specialize in areas relevant to your needs, the best kind of referral is word of mouth – ask other physicians for recommendations.

**Be Fair to Yourself**

Have you ever disagreed with or felt uncomfortable with a document but signed anyway because you felt you had no negotiating power? You are not alone. Some documents can be intimidating, especially seemingly “standard” agreements from larger institutions. You should have peace of mind about the documents you sign. Do not be afraid to ask questions or try and negotiate alternative terms. Does the agreement incorporate certain language that does not make sense or seem wrong to you? It is quite possible there was a mistake in drafting, the author did not intend it to say what it does, or the document just needs to be updated. This is why there is no harm in asking questions. Is there additional language or comments you want to add, but no designated space? Ask if you can include it, or consider writing it in the margin. Are there terms that you simply are not comfortable with? Then try to negotiate a change. If you are doing the negotiations yourself, be polite, reasonable, and prepared with a clear explanation of why you wish to make a change. You should also be prepared to make a compromise – although your preferred alternative may not be adopted, the end result may be better than where you began. You may be surprised how easy it can be to amend agreements just by having a discussion.

In conclusion, the suggestions above may not reduce the amount of documents requiring your signature, but they will hopefully help you to manage them more effectively and avoid the unintended consequences that can have long-term effects on your practice.