BILLING E&O…

Continued from Page 2

The program targets nonprofit hospitals, physician groups with more than 100 physicians and long-term care facilities with more than $75 million in annual revenue. The minimum retention is $500,000 and co-insurance of 10 percent to 25 percent is required. Coverage includes defense and investigative costs, civil fines and penalties including multiple damages component. The policy offers optional retroactive coverage of up to three years. The policy also includes regulatory risk mitigation consultation services up to $15,000 and healthcare compliance audit expense reimbursements. The coverage is non-admitted, available in 50 states and offers limits up to $10 million on a primary or excess basis.

The Lloyd's-backed AJG product offers coverage for hospitals, physician groups, allied health centers and long-term care facilities. The MedSecure E&O program covers indemnity and defense for regulatory fines and penalties associated with non-routine billing errors, coverage for shadow audits and claims expenses, and will cover both governmental and private payers, as well as voluntary notification. Coverage includes defense against state and federal qui tam and False Claims Act cases, EMTALA, Stark and HIPAA proceedings. Prior acts coverage is available. The program is led by the Hiscox Lloyd's syndicate and supported by the **Chaucer**, Amlin, **Atrium**, **Aegis** and **Marketform** syndicates.

The Lloyd's-backed Burns & Wilcox program's coverage of healthcare organizations includes medical facilities, hospitals, long-term care, medical billing and physician and medical groups, except home health. It excludes ambulance companies, durable medical equipment providers and home health agencies. The product covers billing errors, fraud and abuse investigations, medical regulatory violations and cyber liability. It can include regulatory proceedings related to whistleblower actions, RAC audits, HIPAA, HITECH, Star, and EMTALA violations. Prior acts coverage and first-dollar coverage are available. The program is open to brokers and will consider one-off accounts. Limits are available up to $1 million per physician and up to $5 million per claim for program.

MEDICAL FACILITIES

HOSPITALS | IRRATIONAL PRICING THREATENS EXCESS

Crittenden expects the hospital excess segment to remain challenging, with some carriers offering policies at unprofitable premium levels, some even well below burning costs. This can be attributed to abundant capacity and a diminishing policyholder pool pushing carriers to resort to extreme pricing measures to retain every account. While this irrational pricing is not indicative of every carrier's behavior and some will walk away from potentially unprofitable accounts, we expect at least another year or two of inadequate pricing, especially without a significant rise in claims frequency or severity. Even so, it will take several hefty losses for carriers to pull back on aggressive pricing and their liberal terms and conditions.

A handful of carriers – **Berkshire Hathaway Specialty**, **AXIS** and **RLI** among them – jumped into the hospital excess segment during the last few years despite the competitive conditions. Many of the PIAA companies, including **ProAssurance**, are also expanding into hospital primary and excess lines. Since PIAA companies can easily address physician exposures, they are successfully taking away business from E&S carriers that can't. **Hallmark Financial** entered the hospital space earlier this year with a claims-made med mal policy and a customized package that can include general liability, employee benefits liability, evacuation, legal and public relations expense and scheduled physician coverage and captive reinsurance. The program can offer high excess placements, lead excess over large SIRs, primary and umbrella placements as well as various nontraditional insurance options such as stretched aggregates. The carrier targets acute care hospitals or multi-hospital systems, integrated delivery systems and various specialty hospitals. Limits are available up to $10 million.

Evolving Issues in Underwriting

The expansion of hospitals, especially as they become larger, multi-hospital systems, is inflating their exposures, which could be detrimental to carriers that cut prices to lure hospitals facing budgetary restraints. In turn, hospitals' financial limitations have led to cutting corners on risk management and non-revenue services, further risking overall patient safety and, ultimately, their corporate survival. Many nonprofits are merging and becoming larger entities or relying on large endowments. Several local and state governments are challenging hospitals' nonprofit status in an attempt to recoup some taxes.

Continued on Page 4

HOSPITALS…

Continued from Page 3

Although this doesn't directly affect insurance, a nonprofit entity forced to become a for-profit operation will leave less funds on the table for a robust insurance program. Hospitals also have to deal with constant adjustments related to the Affordable Care Act and face the possibility that the outcome of the upcoming presidential election could change the way the ACA is implemented. Hospitals have already invested millions to comply with ACA regulations and could take another hit if required to implement a new system. Failing health exchanges are also putting a strain on hospitals that budgeted for additional reimbursement from exchanges. Only a handful of the initial exchanges remain in operation.

The acquisition and hiring of physicians remains an ongoing underwriting issue for hospitals, especially since carriers often cannot predict an increase in a hospital's physician exposure throughout a year. Increased regulatory scrutiny and cyber exposures also threaten hospitals' bottom lines. Cyber-attacks continue to hit hospitals and ransomware incidents are on the upswing this year.

Shock losses and batch claims continue to result in large settlements but have yet to significantly affect claims frequency or severity. So far, carriers have responded to a shock loss by non-renewing the affected account, only to have other carriers offer replacement policies. While carriers may ask more questions about a particular shock loss in a specific venue, they haven't really adjusted their risk appetites, and the incredible abundance of capacity insulates the hospital excess segment from all but the largest losses.

BONUS CONTENT

Ranking Financial Institutions Programs

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

Longstanding carriers will struggle to grow premium volume this year, with a few revising their excess appetites to attract more business. **Hiscox** doesn't expect much premium growth this year and Beazley is struggling to grow its hospital book. Comparatively, **Beazley**'s allied health book continues to increase by leaps and bounds. **Swiss Re**, which previously focused on facultative placements, has become more competitive with lead excess placements during the last two years. **XL Catlin**'s Bermuda insurance operations are reporting strong retention and strategic growth.

StarStone maintains its approach of walking away from accounts for which it cannot get an appropriate price. The carrier's renewals are stable but finding new business is challenging, leading to its expectation of flat premium volume. It is planning to leverage its Lloyd's syndicate to garner additional business. It is looking into getting slips out of London as another way to expand its presence in the marketplace. It also offers large amounts of horizontal layering, which includes paying a specified amount to a hospital with a self-insured retention if that hospital incurs a second loss that exceeds the SIR.

XL Catlin pins its growth to a reliance on its ability to offer to hospitals and healthcare providers alternative products that address recent exposures. This includes standalone integrated occurrence coverage, multi-year programs, swing rated and commutation programs, and integrated risk product solutions. It also launched a specific standalone batch product within the last few years dedicated to healthcare risks. Other carriers to offer unique policies addressing new exposures include **AXIS** and **Hiscox Bermuda**.

StarStone offers a customizable policy with endorsements that can handle a wide range of risks. It can write any type of hospital business, offering primary, lead excess, middle excess and high excess layers. The carrier is part of some of the largest programs in the country. Its limit capacity is $10 million, with 25 percent of its distribution going through retailers and 75 percent through wholesalers. StarStone can offer a flexible risk allowance and portions off premium paid to go toward risk management initiatives, products or education. Among its available services is paying for risk managers to attend conferences such as ASHRM or PLUS to get external continuing education. **Ironshore** and **Markel** also offer risk management reimbursements.

StarStone hasn't needed to make any significant changes to its excess policy; it has been broadly written since its launch in 2010. The carrier did revise its primary policy during the first quarter of this year to incorporate more coverage, such as sexual misconduct, eliminating much of the need to add coverage via endorsement. StarStone leaves it to brokers and clients to determine how much coverage they want or if they want coverage sublimited or at full limits or not at all.

XL Catlin offers coverage to not only hospitals, but also senior care facilities, managed care organizations, large physician groups and miscellaneous facilities including…

Continued on Page 5

BILLING/REGULATORY LIABILITY

Beazley Insurance Co. (A): Kelly Webster, Healthcare Management Liability Focus Group Leader, 333 W. Wacker Drive, Suite 1400, Chicago, IL 60606, (312) 476-6211, kelly.webster@beazley.com.

Ironshore Inc. (A): Aaron Donovan, Assistant VP, Healthcare Regulatory Liability Errors and Omissions, 300 S. Wacker Drive, 7th Floor, Chicago, IL 60606, (312) 496-7522, aaron.donovan@ironshore.com.

Lloyd's of London (A): Brian Alva, VP, NAS Insurance, 16501 Ventura Blvd., Suite 200, Encino, CA 91436, (818) 382-6103, balva@nasinsurance.com.

Lloyd's of London (A): Gareth Tungatt, Chief Underwriting Officer, Ascent Underwriting, First Floor, 10-12 Eastcheap, London, United Kingdom EC3M 1AJ, +44 (0) 203 642 8254, gareth.tungatt@ascentunderwriting.com.

Lloyd's of London (A): Jay Lynch, President, Boynton & Boynton, 21 Cedar Ave., Fair Haven, NJ 07704, (800) 822-0262 ext. 1102, fax (732) 530-4220, jlynch@boyntonandboynton.com.

Lloyd's of London (A): Karl Olson, VP, Professional Liability, Burns & Wilcox Brokerage, 201 Spear St., Suite 1850, San Francisco, CA 94105, (415) 659-0194, karlolson@burns-wilcox.com.

HOSPITALS…

Continued from Page 4

…pharmacies, home health, outpatient, and dialysis clinics. It can write products through Bermuda, London and U.S. access points. Its minimum attachment is $5 million, but lower attachments can be considered based on exposure and loss profile. Limits are available up to $100 million. XL Catlin also offers clinical risk management and loss prevention services to hospitals, physicians and nurses through a partnership with The Sullivan Group.

EDUCATIONAL INSTITUTIONS

SCHOOLS | SHIFTING FOCUS

Expect steady growth for schools programs going into the second half of the year amid a recent trend of greater focus on expanding coverage for additional exposures. As both the higher and primary/secondary education segments maintain generally stable conditions, marked by steady pricing and an absence of excessive claims activity, carriers will be left to bolster the competitiveness of programs while warding off a range of ever deepening exposures.

Program changes are being driven by a number of ongoing trends and deepening exposures in this space. **Philadelphia**, **Zurich**, **Markel** and several other carriers have been at the forefront of a pack of insurers moving into educators' legal liability, as interest in the coverage has been on the upswing during recent months. **Professional Solutions Insurance Co.** brought a new program to market in July, offering a new Educators Management Liability product providing claims-made coverage for ELL, D&O and entity liability, fiduciary and EPL. **Great American** has been alongside the likes of Zurich and Markel, working to enhance ELL offerings through a recent string of endorsements.

Philadelphia's young Educators Professional Select program combines ELL and EPL coverages into a single offering. Launched during the first quarter, Educators Professional Select also extends protections to non-educator professionals employed by a school, including lawyers, psychologists and counselors. Under the ELL portion of Philadelphia's program, students enrolled in intern/externship programs are also covered while acting at the direction of their educational institutions. **Allied World** recently presented a product akin to the latter portion of Philadelphia's program specific to student interns. The carrier's Student and Professional Liability product covers students beginning to practice in the fields of psychology, social work, mental health and other forms of counseling.

Chief among the growing exposures in the educational sector are those heralded by the increased presence of unmanned aircraft, or drones, in classrooms. The Federal Aviation Administration in May lifted restrictions on drone operators using the technology for educational or research purposes. This easing of restrictions portends a potential influx of drones into higher education institutions as well as primary and secondary schools, used by both students and educators. Several carriers already provide this type of coverage, but as more writers approach these risks, expect competitors that typically display more restrictive appetites to expand their options for drone coverage. More examples of this type of coverage could come to market as soon as the end of the year.