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What is a Risk Retention Group?

A risk retention group (RRG) is a policy issuing liability insurance company that is owned by its member insured's and formed under the Liability Risk Retention Act of 1981, as amended in 1986. The Liability Risk Retention Act (LRRA) is a federal law that helps U.S. businesses, professionals, and municipalities create their own solutions for liability insurance which has become either unaffordable or unavailable due to liability crisis problems in the United States. The LRRA permits a RRG to operate on a direct basis in all 50 states (and the District of Columbia) under one state license, provided that it registers in each state in which it conducts business. The LRRA is a federal law, and therefore, preempts most state regulation, making it easier for RRG's to operate nationally under uniform legislation. The primary requirements of a RRG include that:

- It can only write liability insurance
- There must be more than one insured/owner
- All insured's must be owners and likewise all owners must be insured's
- Under the LRRA, the membership of the RRG must be relatively homogeneous

Per United States Code, Title 15-Commerce and Trade, Chapter 65-Liability Risk Retention, every state may:

1. Require RRG's to comply with their unfair claim settlement practice
2. Pay taxes
3. Participate in any mechanism created to pay an equitable apportionment among insured's for policies written through the RRG
4. Register with and designate the State Insurance Commissioner as agent for service of legal documents
5. Submit to financial examination by the state if the domicile state commissioner has failed to do so
6. Comply with any lawful state order
7. Comply with state law as to deceptive, false, or fraudulent acts
8. Comply with injunction alleging impaired financial condition

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How does a RRG differ from a captive?

Several states have passed their own captive insurance laws in order to create an attractive domicile for homogenous groups wishing to start their own RRG. Obviously, being the domiciled state is a revenue producing venture for these captive states.

The word captive is a general term and usually refers to self-insuring in some manner, and under the heading of captive we find such structures as: single parent or pure captives, group captives, RRG's, self-insurance funds or trusts, off-shore captives, rent-a-captives and other alternative insurance mechanisms.

A RRG may be formed as a captive or as a traditional insurance company, but in all cases, must be domiciled in a U.S. state, and therefore, must be an onshore entity. Once licensed by a single state, a RRG is permitted to write business on a direct basis in all fifty states whereas other forms of captives are not able to operate on a nationwide basis without the use of a fronting carrier. The RRG's represented by Palumbo Insurance Associates are regulated insurance carriers providing underwriting, claims, risk and financial management to its insured's.

How does a RRG differ from an admitted insurance company?

Traditional admitted insurance companies must be licensed and comply with the insurance rules of each state in which it operates. Usually such admitted carriers must file all their forms and rates for approval by each state's insurance department. A RRG is created under a federal act and is required to be licensed only in its state of domicile. A RRG registers with, but is not subject to, the insurance laws of any state except the state of domicile.

How does a RRG differ from an Excess & Surplus Lines Company?

RRG's are similar to E&S carriers in that neither one participates in state guarantee funds, nor do their rates and forms need to be approved by the departments of insurance. An E&S carrier, however, must be approved by each state, and they are subject to the insurance laws of each state in which they wish to write business. Brokers selling E&S insurance in a state must receive declinations from admitted carriers before coverage can be bound.

Admitted companies and Excess and Surplus lines companies typically insure multiple specialties and are owned by individuals/corporations other than the insured's. RRG's are owned solely by its insured's and have only the well-being of those owners as its sole reason for existing.

What is the legal structure of most RRG's?

RRG's are typically formed as a non-assessable mutual insurance company. All RRG's we represent are managed by experienced management companies that have had huge successes with other RRG's such as Scrubs, EMPAC, OGRRGA, PIRRGA, and Physhield.

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What will I receive for my investment in the RRG?

Each subscriber will receive a surplus contribution certificate evidencing ownership of the RRG. These certificates will be a reflection of the surplus contribution bases on your premium size.

How and when will dividends be declared?

The board of directors (subscriber's advisory committee) will determine a dividend formula and dividends will be declared and paid from time to time to all subscribers in good standing based on the number of shares held. As a member owned insurance company engaged in long tail liability risks, it is expected that the first dividend will be paid after three to five years of operation.

How many votes will I receive?

Each insured physician typically will receive one vote.

Who oversees a RRG?

The state of domicile reviews the RRG's financial statements quarterly and such statements are also filed with the National Association of Insurance Commissioners. All RRG's have filed a business plan with its state of domicile specifying its scope of business and states where it plans to write insurance. Other non-domiciled states do have some overview rights as noted above. The reinsurers of the RRG's (who are all rated A or better by AM Best) have a strong vested interest in the RRG's well-being and the RRG's business plan. Underwriting guidelines and financials are provided to and approved by its reinsurers. Reinsures will visit the RRG's to audit their underwriting files for compliance with the agreed upon business plan.

National actuarial firms provides state by state rates for the RRG's and annually conducts a loss reserve valuation study confirming the adequacy of loss reserves.

Certain physician board members who are also insured's of RRG's are typically involved with the major functions of the RRG's including Underwriting, Finance, Claims and Risk Management.

Do state guarantee funds apply to an RRG?

No. As noted above, RRG's, like Excess & Surplus Lines carriers, are not required to contribute to any state guarantee fund, so they are not supported by those same guarantee funds in the event of insolvency. However, it should be noted that in insolvency, state guarantee funds vary from state to state, but generally provide only a limited amount of coverage (typically $300,000 per claim), restrict the time available to report a claim, and assign their defense counsel to handle claims.

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Where do I find more information on RRG's?

The following organizations have excellent information on risk retention groups.

National Risk Retention Association
4248 Park Glen Road
Minneapolis, MN 55416
Telephone: 952-928-4656
www.nrra-usa.org

Risk Retention Reporter
P.O. Box 91115
Pasadena, CA 50147
Telephone: 626-796-4972
www.rrr.com

What are some of the advantages of a physician owned insurance company?

As a member owned insurance company, a RRG permits the members to control the type of insured's it admits and the nature of the insurance programs that are offered. Over time, this control can result in more effective loss control programs, lower rates, and more stable coverage, creating decreased reliance on the traditional insurance market. In addition, if successful, the invested capital of the RRG can accrue to the benefit of the membership. Most importantly, the members own and control the RRG. The members are fully informed as to its operations and finance, and can benefit financially from sound underwriting and good claims management.

Is there many RRG's operating currently?

As of January 2011, there are over 255 RRG's currently operating in the United States as, representing over $2,150,000,000 in premiums written. Collectively, these companies insure a significant percentage of America's private practice physicians. Since the hard insurance market that started in 2001 there have been over 150 new RRG formations, compared to only about 20 in the prior decade. The resurgence of RRG formation is a direct result of the unaffordability and unavailability of insurance for many professions and industries and RRG’s have been established to provide affordable and dependable professional liability insurance free from the uncertainties of the commercial market.

MEMBERSHIP IN AN RRG

What are the eligibility requirements for membership?

RRG developers believe that quality physicians, as well as specialty specific risk management, are key elements, but just the beginning of a unique clinical application process. Interviewing candidate group leaders, reviewing patient safety standards, and examining loss experience in terms of dollars and underlying causes of claim events, provides RRG’s with the information necessary to select superior risk.

Why is a surplus contribution necessary in order to be insured by an RRG?

Under the LRRA a RRG is a member owned insurance company, in which all insured's must be owners and all owners must be insured's. As such, all groups joining an RRG are required to make a contribution to surplus. This contribution can in certain circumstances be spread over up to five (5) years and sixty (60) payments via financing options provided by the RRG or Palumbo Insurance Associates. In total, the contribution can equal thirty three percent (33%) to fifty percent (50%) of the fully mature claims made premium.

In order for RRG physicians to provide the control to create security, stability, and favorable rates, outside investors are not allowed.

Can I finance my capital contribution to an RRG or my insurance premium?

Yes, premium financing is available, as well as options for financing surplus contribution as noted above.

Various premium financing options are available, such as 25 % down and nine (9) equal payments. Simple interest is applied to the declining balance. Quotations for financing cost are available along with premium quotations.

RRG COVERAGE

What type of policies do RRG's write?

RRG's offers medical professional liability insurance coverage with various limits of liability under a "claims-made" policy featuring an incident trigger. The policy provides coverage for claims made against policyholders arising out of the performance of professional services rendered, or that should have been rendered, by the insured during a coverage period specified in the policy. Claims asserted against an insured are only covered when they relate to an incident that took place during the term when the policyholder had coverage with the Company and only if such claim is reported to the Company during the period of coverage.

Multiple locations can be covered through one policy and prior acts coverage is available to include terminated locations. Most RRG's policy can provide a "run off" option for terminated locations.

Are RRG's assessable?

No. Most RRG's offers only non-assessable policies. There are laws or judicial decisions that would result in the imposition of assessments on members of the company.

Are there mandatory deductibles?

No. There are no mandatory deductibles.

What limits are available?

Various limits are available to members depending on state and specialty.

Can additional locations/insured's be added once the group has signed the policy?

A group opening a new location may add that exposure to their existing coverage or start a new and separate policy.

New practitioners can be added once the physician has submitted an individual physician application which has been approved by the underwriting team.

Is extended reporting period or "tail" coverage offered?

Yes. Tail coverage is usually offered. The cost and structure of tail end policies will be determined under the guidance of the board of directors.

UNDERWRITING

How does the insurance application process proceed, and who is responsible for making underwriting and policy pricing decisions for the RRG's?

Groups interested in joining an RRG must fill out a group application and an individual physician application. Applications seek information that reflects the physician oversight of the underwriting process. RRG's are not just seeking evidence of good practices and claims history, but rather want insight into the quality of patient safety that exists in your practice and what progressive steps have been introduced to improve the risk management aspect of the practice.

How are premiums determined?

Premiums are calculated based on actuarially developed rates applied to the exposure base of the proposed insured. Since a RRG is built as a long-term solution to cost and stability issues experienced in the commercial market, RRG's rates must be expertly calculated on a conservative basis. In the medical professional liability industry, credited actuarial firms do the work for many medical professional liability insurers around the country. The physician leaders of an RRG generally direct the actuarial firms to conservatively determine the rates that will be required to provide strong long term security to its members. Actuaries have studied industry wide experience to help the RRG's set their state by state rates.

Premiums, of course, must capture the cost of managing an insurance operation, and physician leaders of the RRG's are determined to maintain a cost of doing business that is below the traditional expense load factors seen in the industry.

Do all members receive the same rate or are there considerations made for other underwriting criteria?

All rates are calculated based upon actuarial rate studies for each individual specialty and state and for rating territories within a state. RRG's physician leaders try to provide better than average rates to all its members. Considerations are made for underwriting criteria such as individual exposures, historical results, quality of the facility's current patient safety program, and the insured's willingness to join the RRG in working towards improvement in these areas.

Will program profits ever be used to reduce future premiums?

Yes. As a member owned entity, an RRG has an intrinsic interest in returning profits to its member/owners. However, the short term goal is to provide security to members by maintaining financial stability. It takes a few years for a program to develop its own creditable loss history and for rates to be developed based solely on the RRG’s own experience. It is vital to the success of RRG’s that its member/owners maintain a long term view of success for the company. Obviously, the primary goal of creating an RRG is to effect financial benefits to members via stable rates and eventually through dividend payments or perhaps even return of surplus.

CORPORATE GOVERNANCE

Who manages the operations of an RRG?

RRG’s in general are governed by physician board members who individually sit upon standing committees including Underwriting, Finance, Claims and Risk Management. Daily management is provided by a contracted management firm, or attorney in fact. Support services are contracted to various experts in RRG business affairs, who provide such services to multiple other RRG's in operation today. Each RRG will have and publish the various expert service provider supporter their RRG.

CLAIMS AND RISK MANAGEMENT

Who is responsible for handling claims for the RRG’s?

Claims and risk management can be handled in a number of different ways. Most RRG’s contract with highly experienced claims administrators that specialize in medical liability claims to handle claims. Most of the RRG’s we represent have selected ProClaim America, Inc., a recognized professional liability expert, to work on the adjusting of each claim.

Who will represent me? Can I choose my own attorney?

The claims administrator has or recommends recognized skilled defense counsels around the country to the RRG based on specialty and venue, and a panel of defense attorneys is usually established as well. However, members can recommend an attorney of their choosing and as long as their credentials are excellent, the RRG’s will most likely grant such a request.

Will an RRG grant Consent to Settle Authority to insured's?

No. RRG’s wishes to avoid the rare but inevitable situation of having an intractable insured physician behave detrimentally to the greater good of the RRG. Where RRG’s face such issues, the insured group will be asked to join the RRG in reviewing the issues at hand to determine the final course of action.

Who will review the adequacy of the RRG's loss reserves?

Usually the Subscribers Advisory Committee (board of Directors) or Claims Committee will interact with the claims administrator and actuaries in the investigation of each claim and together determine the proper reserve amount for each claim. Annually the RRG's independent actuarial firm will perform a loss reserve valuation study and certify the adequacy of the loss reserves.

How are settlement offers determined?

RRG physicians serving on the Subscribers Advisory Committee or claims committee will work with claims administrator's adjusters to determine recommended settlement amounts. All recommended settlements will be approved by the RRG board within a general review of each claim.

Do RRG programs offer risk management services?

Yes. Effective risk management is a primary goal of most, if not all RRG's. The RRG's will be able to examine losses and discover which factors of risk management result in the most impact to claims reduction. In some cases arbitration agreements can be used very effectively. RRG's also benefit from the ability of their physician members to share ideas as to the risk management in place at their specific practice, thus creating an ideal setting for innovative risk management programs to flourish.

REGULATION

Who has regulatory responsibility for RRG's?

The state in which the RRG is domiciled has primary regulatory authority over it. The insurance department of the domicile state is responsible for monitoring both the RRG's compliance with the LRRA and any specific requirements of that state of domicile. RRG's do provide their business plans and financials to each state as part of its registration with each state's Dept. of Insurance.

FINANCIAL STABILITY

In what form are RRG's organized?

In general RRG's are organized as a mutual insurance company under the laws of the state domiciled and operate under the Liability Risk Retention Act of 1986, as amended (the "Act"). A RRG is licensed in one state and registered in all other states that it anticipates doing business in. RRG's are not eligible for state insolvency funds but, as with Surplus Lines insurers, they are not required to pay into such insolvency fund assessments.

Do the RRG programs have reinsurance?

Yes. The RRG's purchases reinsurance that provides a limit of up to maximum amount per loss, usually $750,000.00 per insured, excess of the RRG's primary retention layer of $250,000 per loss, per insured.

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The reinsurance is provided by reinsurers that specialize in medical liability that all have an A rating of financial strength.

Are RRG's rated?

Not usually. Newer insurers are not issued a rating until they have been in business for 3 to 5 years. Since the RRG is dependent on reinsurers the rating of the reinsurance company is weighted very heavily. However, one of the RRG's we represent, EMPAC RRG, just received an A rating after only 2 years in operation.

Have doctor-owned insurance companies been successful?

The advantages of doctor-owned and operated companies over commercial insurance carriers are numerous, especially for a single specialty programs. With a doctor-owned insurance company, the physician led board of directors has complete control over the program. The result is savings, materialized through improved claims experience and efficient operation, returned to doctor-policyholders either in the form of dividends or reduced premiums. Financial success is also found in many cases where doctor-owned companies vigorously defend their insured's when peer review indicates that negligence was nonexistent, rather than following the route of commercial companies who are too often willing to settle unwarranted and frivolous claims, despite the resulting effect on the physician's professional reputation. In addition, since physicians examine the claims, physician-owned companies use this information to develop effective and acceptable risk management programs.

Today, RRG's have become solid financial enterprises in the marketplace as is evident in the fields of Anesthesia, Oral Surgery, Ophthalmology, and Emergency Medicine, Obstetrics, Gynecology and pediatrics. Most importantly, RRG's maintain their strong commitment to providing a safer and more cost-effective healthcare environment.

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