

# State Supreme Court Notches a Win for Physicians



By Michael A. Burzynski, CPA, CHBC



The Wisconsin Supreme Court ruled on Tuesday, July 20<sup>th</sup> that the State of Wisconsin must repay the State's Patient Compensation Fund more than \$200 Million it took from the fund in 2007 to help balance its budget. The original raid was approved in a 60-39 Bipartisan vote that each party blamed on the other. The Wisconsin State Medical Society filed a lawsuit on behalf of physicians in October 2007 and appealed prior unfavorable rulings all the way to the State Supreme Court. The ruling on July 20<sup>th</sup> also ordered that money never be taken by the State from the fund again.

## Malpractice System

Wisconsin has a unique malpractice system where health care providers contribute annually to the Patient Compensation Fund as a form of additional professional liability insurance over and above the insurance limits of their standard malpractice coverage. Because the Fund holds a large reserve to pay potential claims, the State saw it as a resource to shift funds to help Wisconsin's budget problem. This Supreme Court ruling will amplify Wisconsin's budget problems since the 2009 state budget does not have enough surplus to pay back the \$200 Million.

*"The Court's decision reaffirms our position that the Fund's assets are not general revenue. These dollars are held in a trust that may only be used for the benefit of injured patients, their families and contributing health care professionals."*

**Ruth Heitz, Wisconsin Medical Society General Counsel,**



Physicians saw an average 9.9% increase for the 2009 fiscal year premium that was billed at the end of June. There's no telling exactly how this ruling will change premiums next year, but a \$200 Million bump that will likely include 3 years of interest will certainly work to reduce premiums or at least offset any increase.

We will keep you posted with developments as the lower courts work through the details of when the State will refund the money and how interest may be involved.