

# *The* General Practitioner

Volume 25, Number 1

January-February 2004

Richard T. White, Jr., Chair  
Christopher Carlson, Chair-Elect  
Pamela Beeghly, Secretary  
William A. Roy, Treasurer  
William L. Cataldo, Associate Editor

Maury Klein, Editor  
18930 W. Ten Mile Road  
Suite 2500  
Southfield, Michigan 48075  
(248) 423-9333  
kerith08@netzero.net

## TABLE OF CONTENTS

- |   |   |  |   |
|---|---|--|---|
| A. The New Scarlet Letter<br>By William Cataldo, Esq. . . . .                   | 2 | E. To All General Practitioners<br>from the Editor . . . . .                             | 7 |
| B. The Honor Roll. . . . .  | 3 | F. Occurrence Policies and Claims<br>– Made Policies<br>By Hal. O. Carroll, Esq. . . . . | 9 |
| C. Hestor Prynne Revisited<br>By Judge Michael A. Martone. . . . .              | 4 |  |   |
| D. 2003 Changes to Drunk<br>Driving Laws<br>By Amy J. Bowen-Krane, Esq. . . . . | 6 |  |   |

## EDITOR'S NOTES

Articles and letters that appear in *The General Practitioner* do not necessarily reflect the position of the State Bar of Michigan, the General Practice Section, or any government body and their publication does not constitute endorsement of opinions or legal conclusion that may be expressed.

Readers are invited to submit their own articles, comments and opinions to Maury Klein, Editor, 18930 W. Ten Mile Road, Suite 2500, Southfield, Michigan 48075,

e-mail: [kerith08@netzero.net](mailto:kerith08@netzero.net). Publication and editing are at the discretion of the editor.

This newsletter will be published six (6) times per year by the General Practice Section of the State Bar of Michigan to inform members of the Section activities and other matters of particular interest to General Practitioners. Copyright 2003 by the General Practice Section of the State Bar of Michigan. All rights reserved.



---

# The New Scarlet Letter

By William L. Cataldo

A scarlet letter didn't make Hester Prynne more remorseful or less pregnant and a bumper sticker on the car of a repeat drunk driver isn't going to make him (or her) less of an addict. How I long for the days when justice was meted out in the form of individualized sentencing, not humiliation.

Make no mistake, District Judge Michael Martone is a bright and likeable judge. He starts on time, is professional and courteous to attorneys and reasonably flexible when one is seeking delays and adjournments. He truly wants to help substance abusers. Though I disagree with the amount of jail time he regularly hands out (he is at the forefront of a new, misdirected judicial movement that falsely believes the shock of jail rehabilitates substance abuse, giving no credence to the theory of the biochemical nature of addiction disorders) he places a tight set of reins on defendants by enforcing numerous conditions designed to educate and regulate behavior. He has done some wonderful things and had some great ideas (innovative even), but this is clearly not one of them.

Placing a bumper sticker on a repeat offender's car with the court probation department's phone number and a code secretly identifying it as the defendant's car returns us to the days of Joe McCarthy, when people were encouraged to turn in their friends and neighbors for the "greater good."

How can embarrassment cure an addiction or even be logically equated with rehabilitation and punishment? Punishment of an individual is not made more effective by extending the punishment to his family. The sins of the father are not the sins of his son, daughter or wife who also have to use that car to drive to school, work, or basketball practice. Here you have a family already dealing with the dynamic of alcoholism. Is this a family that needs more stress? I suspect that if the judge had been the product of an alcoholic home he would understand the isolation a family endures trying to keep that secret within their home. The family does not need the further trauma of being "outed." How is it that our schools understand that exposure and ridicule are poor methods of education, but

our judicial system does not?

Alcoholism is a disease state that requires professional, multidisciplinary treatment, of which shame and humiliation are not recognized modalities. It is recognized by every specialty and subspecialty of medicine and, more importantly, by most insurance plans. It is on par with diabetes, seizure disorders and cancer. Is it a voluntarily induced condition? Yes and no. There is no question that

an individual's actions impact the disease. But the tendency must exist prior to the exposure to the alcohol. Not everyone who drinks a beer becomes an alcoholic, and not everyone who smokes a cigarette becomes a nicotine addict. How much is genetic and how much is personality? Better minds than ours have argued that question before us. What is clear is that the punishment needs to fit the crime and the treatment needs to fit the disease.

Could there be a better way of making targets of the defendant and his family? Perhaps a flag on the antenna could draw more attention. Florida ordered the removal of all indicia from rented

cars to protect the public after two German tourists were killed. We protect our tourists but encourage the ridicule of alcoholics. I wouldn't drive my wife's car if it said Mary Kay Cosmetics in the rear window. Why should a family member be subject to the potential scorn of the public? One reason criminal codes exist is to protect the innocent from zealots. Having this bumper sticker is the same as having a big bull's-eye on your car. I imagine broken windows, flattened tires and keyed paint just as a start.

What about police? I can't think of a quicker way to raise suspicion of a car's occupants. Probable cause isn't a legal standard; it's a myth. Do we need to give the police yet another reason to pull a car over on a "hunch"?

How ingenious is it when the caller (complainer/whiner) doesn't even have to identify themselves to the probation department when calling in an alleged violation. All they need do is describe the alleged bad behavior and give the sticker's ID number. Can it get any easier to make a false claim? My god, there doesn't even have to be real proof. Automatically the burden is now shifted to the defendant to disprove an act that can't even be verified. Are we suf-

“Punishment of an individual is not made more effective by extending the punishment to his family. The sins of the father are not the sins of his son, daughter or wife who also have to use the car to drive to school, work or basketball practice”

⇒ ⇒ ⇒

---

fering even further erosions to our constitutional right to confront our accuser? How, as an attorney, can I even defend against the allegation when the only witness is ...Oh, that's right. We don't know who the accuser is because they didn't have to identify themselves. But we have a clerk's statement about what the caller said this guy did. This is consistent with how police routinely cheat our clients by not recording statements. The call isn't recorded and the only interpretation comes from an untrained clerk who didn't write the statement down word for word.

We will now be pitting family member against family member. What if an adolescent son or daughter was driving the car recklessly, as adolescents are prone to do? Now my client must come to court and blame his child to earn his freedom. (Remember in most courts a violation of probation results in jail time, a court work program, a driver's re-education course or additional community service.) It's a Sophie's Choice situation. Does he remain silent, as is his right? Should he take the stand and blame his child or force the kid to come to court and testify on his behalf,

subjecting himself to potential criminal charges (based on the alleged behavior)? And if he blames the child, will he be believed, or will the assumption be that he's just trying to save his own skin. Could it get any worse?

Yes! What a great weapon for a scorned ex-spouse or significant other or disillusioned family member. Court dockets are full of cases based on the evidence standard of "he said-she said". It's a great way to gain an advantage in a divorce, child custody or probate issue. If you think it doesn't happen, think again.

When does the sticker go on the car? Usually a second offender loses his license for a year. A car is not immobilized in every situation. Nor is the license plate confiscated and renewal rejected every time. The defendant may not even be eligible to drive the marked car, which extends the umbrella of punishment over the family.

I'm sure if I took more time to think about it, I could come up with even more reasons to detest this action. I don't have that much time, but I'd like to hear your opinions, pro and con, and put them in a follow-up article.

---

## The Honor Roll

---

The General Practice Section wishes to take a minute to express its appreciation for those members of the Bench who have contributed to our programs and to this publication.

Hon. Carolyn A. Archbold  
Hon. Bill Callahan  
Hon. John M. Chmura  
Hon. Stephen C. Cooper  
Hon. Martin M. Doctoroff  
Hon. Dennis C. Drury  
Hon. Lysle G. Hall  
Justice Marilyn J. Kelly

Hon. Dennis C. Kolenda  
Hon. Bryan H. Levy  
Hon. Benjamin H. Logan, II  
Hon. Milton L. Mack, Jr.  
Hon. Michael A. Martone  
Hon. Kenneth D. Post  
Hon. Dennis N. Powers  
Hon. Gerald E. Rosen  
Hon. David J. Szymanski  
Hon. Kaye Tertzag  
Hon. Helene N. White  
Hon. Joan A. Young  
Hon. Carole F. Youngblood

# Hester Prynne Revisited

By Judge Michael A. Martone

I was first introduced to Hester Prynne in the mid 1960's by *De La Salle's* legendary Brother George. As one might imagine, Hawthorn's adulteress, Mrs. Prynne, piqued not only my literary interests but that of the entire sophomore Lit class to the extent that the book, *A Scarlet Letter* was discussed ad nauseam.

I had rarely thought of Hester over the years up until 1997 when I began requiring defendants, convicted of drunken driving, to place a bumper sticker on their cars that read: **Drunk Driving, You Can't Afford It.** A small number of defense attorneys evoked the memory of Mrs. Prynne by arguing that the stickers were a modern day scarlet letter. After several months and the ACLU's pass on challenging the stickers, Mrs. Prynne faded back into history.

That is up until a couple of months ago when after five years of handing out bumper stickers and a drop in drunken driving deaths in Michigan, I decided to extend what I considered to be a small, but contributing factor in the saving of lives and introduced 'Bumper Sticker, Part II.' The new bumper sticker asks motorists "How's My Driving? The Judge Wants To Know." and provides a toll free number for them to call.

This new bumper sticker, like the old one, is solely designed to raise awareness and to save lives. It is just one of a number of post-conviction requirements placed on repeat offenders in order to maintain their conditional, revocable release back to society status.

Word of the new bumper sticker spread quickly and UPN 50's Ten O'clock News programs, *On the Spot*, wanted to do a point/counterpoint type of interview. I knew of no one who would oppose this idea more than Bill Cataldo, an excellent lawyer and passionate advocate on behalf of criminal defendants.

We were little more than a minute into the interview when Bill, in a highly charged diatribe, introduced Hester into the fray. Bill tried to convince anchor, Frank Turner, that my decision was tantamount to a scarlet letter, and I got to know Hester on a first name basis.

Clearly, this isn't an issue with a middle ground. You either believe that court-ordered bumper stickers are useful and effective tools to raise awareness, protect the public and save lives, or you don't. However, before

reaching any opinion, one must examine all aspects of the problem of drunken driving as this is not an esoteric philosophical question. We are dealing with nearly 16,000 American lives and families that are destroyed every year by drunken drivers.

To understand, in human terms, the gravity of the problem one need only look to September 11, 2001. On that infamous date, terrorists took the lives of over 2,800 people. Stunned by such a high human toll, America responded by hunting down those responsible, toppling two governments and committing billions upon billions of dollars in an attempt to prevent this tragedy from being repeated.

However, by March 6 of any given year, more than 2,800 people will suffer an equally horrific, violent death at the hands of a different kind of terrorist. By September 11, the number of dead will reach 10,922. That's 43 times a day that a drunken driver will orphan a child, silence the laughter of another, force a father to permit the harvesting of a daughter's organs for transplant and a mom will be left to grow old with the haunting memory of having to bury a son or daughter.

Despite the disparaging death tolls, America's fervor wanes in her battle to halt the number one killer of young people between the ages 16 to 24. Society may be incensed when someone dies or is seriously injured at the hands of a drunken driver and demands justice for the victims. Yet if there is no crash involved, that same sense of outrage lessens considerably when a friend or acquaintance gets arrested and disappears completely when it's a family member. Once sober and cleaned up, the drunken

driver is, many times, a good citizen, family man or woman, active in their children's schools, a church-goer and member of a local service club. Now, sufficiently contrite, the sorrowful offender begs for mercy and leniency while the victim is either maimed or dead.

Thus the battle lines become more obscure and society relies on the judiciary to take command of the problem. No small task considering the slick Madison Avenue packaging and the spending of \$944 million annually by the alcohol industry to promote drinking as part of an attractive life style.

“That's 43 times a day that a drunken driver will orphan a child, silence the laughter of another, force a father to permit the harvesting of a daughter's organs for transplant and a mom will be left to grow old with the haunting memory of having to bury a son or daughter.”

---

The judiciary, by design, a reactive institution, limited by resources, is expected to dispense justice and protect the innocent. As judges, we wait for something bad to happen and when it does, we use our best efforts to punish and rehabilitate the offender so that it won't happen again. However for victims, it's too little, too late.

With few alternatives to traditional sentences such as jail, fines, probation, community service, counseling, treatment and rehabilitation, judges, in the early 90's began seeking other avenues to prevent these untimely deaths. Judicial outreach has resulted in the establishment of proactive programs in nearly every jurisdiction. Every week new ideas surface and now, more than ever, Judges are having a greater impact on their communities. As a result, traffic deaths are beginning to drop as the pendulum of acceptance is swinging toward no longer tolerating drunks on the road.

Notwithstanding, the single most significant factor in changing attitudes and thus behavior in the long run, is education. If people understand the problem, they learn ways to solve it. Clearly one form of education is awareness. The more aware of the dangers associated with the problem, the more likely lives will be saved. Thus the necessity for the placement of the bumper stickers on the vehicles of dangerous thoughtless individuals, who are capable of killing another human being. They are people who have been caught drinking and driving multiple times. God only knows how many times they have been drunk behind the wheel and were not caught. They are people that have been offered help, treatment and rehabilitation and still will not obey the law.

While the bumper stickers may be red in color, neither the stickers nor their message should be called a scarlet letter. Hester's letter was to shame her and for no other reason. The bumper stickers purposes are to raise awareness and provide the public with an opportunity to identify someone if they witness careless, reckless or otherwise illegal driving. While a driver may not like the fact that their driving is being witnessed by others, it is a small price to pay in order to make society safer.

To allege that my purpose is to use shame as a basis for punishment is ridiculous. Members of the Bar that have appeared in front of me over the last 11 years know that I am respectful of everyone that appears in my court. I have

never intentionally embarrassed anyone. If my intention were to shame or embarrass someone, I wouldn't put a little bumper sticker on the back of their car. I would require large magnetic signs on both doors of the car stating: I AM A CONVICTED DRUNKEN DRIVER! BEWARE! or THE DRIVER OF THIS CAR IS A CONVICTED DRUNKEN DRIVER, BE CAREFUL.

I could also adopt the approach of other judges who publish a list of convicted drunken drivers in the local newspaper or make them wear sandwich signs and parade them around the Courthouse or a mall. I choose not to do such things.

But just how embarrassed are these individuals? They weren't too embarrassed to get behind the wheel, on multiple occasions, risking the lives of everyone on the road. Secure in their cocoon of a vehicle, they pass perfect strangers who may at best give the offender a glance and never see them again.

The bottom line here is that these wrongdoers simply don't want to take responsibility for their dangerous, illegal actions. They break a public law, are arrested by a public safety officer, have their trial in a public forum, sometimes even represented by a defender, paid for by the public and yet they want their punishment private so that they may have no shame. Heaven forbid! The fact that a drunken driver may not want a neighbor or a coworker to know of his or her repeat transgressions, is nothing more than the defendant's refusal to accept responsibility for their actions. It's called the blame game and it's played out every day, in every courtroom. "It's not my fault." "I was sad and upset." "The bar should not have served me."

Requiring repeat offenders to display these bumper stickers is not singling them out, It's protecting the public. It's saving lives and it's forcing them to take responsibility for their actions. Instead of whining about being ordered to put a bumper sticker on their cars, violators should accept the fact and take their punishment, and learn from it. Take responsibility and make a change. There is a word for that when it happens. It's called character. Character leads to integrity and integrity leads to responsibility, which in turn, will help solve the problem.

The stickers will result in many positive changes. Yes they will definitely raise awareness. They will make the roads safer and well you know, they might just save a life.

# 2003 Changes To Drunk Driving Laws

Amy J. Bowen-Krane

In response to threats from The United States government to withdraw Department of Transportation funding if changes were not enacted, the Michigan legislature recently passed a series of new laws governing drinking and driving offenses, as well as other driving related crimes. The most significant change coming out of these laws is the reduction of the minimum level for an unlawful bodily alcohol content. Effective September 30, 2003, with a proposed repeal date of October 1, 2013, the new standard for having an unlawful bodily alcohol level is .08, which was the previous standard for Operating While Impaired. These changes have now created the offenses of Operating While Intoxicated (OWI) and Operating While Visibly Impaired (OWVI), which do not carry a minimum presumptive blood alcohol level.

An additional new law was created covering those who operate a motor vehicle with a presence of a Schedule I Drug or Cocaine in his or her system. (OWPD). There is no minimum presumptive level - even trace amounts can result in charges being issued under this statute. In addition, there is no nexus required between the presence of any drug while operating and the effect it may or may not have had on the ability to drive. In other words, there is no requirement that the drugs had an effect on the ability to operate the motor vehicle, only that there is a presence of any drug while the motor vehicle was operated. Schedule I controlled substances are set forth in MCL 333.7212 and 333.7214.

Below is a summary of the new laws enacted September 30, 2003:

## MCL 257.625 (1)(a) and (b) OPERATING WHILE INTOXICATED / UBAC / OUID

\* Defined as either a person under the influence of alcoholic liquor, a controlled substance or a combination of alcoholic liquor and a controlled substance or a person with an alcohol content of 0.08 grams or more per 100 milliliters of bloods, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 13, 2013, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

\* Penalties remain the same as under previous law. See MCL 257.625(8) et. al.; 257.625(9) et. al.; 257.303, et. al.; 257.320a(1)(c); 257.625n(1)(a); and 257.904d(1) et. al.

Additional penalties involving Driver Responsibility Fees imposed.

\$1,000 for two consecutive years, starting upon posting of abstract.

## MCL 257.625(3) OPERATING WHILE VISIBLY IMPAIRED

\* Defined as a person whose ability to operate a motor vehicle is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

\* THERE IS NO MINIMUM PRESUMPTIVE BLOOD ALCOHOL LEVEL.

\* Penalties remain the same. See MCL 257.625(11), et. al.; 257.319(8)(a)(b); 257.320(a); 257.904d; 257.625n; 257.303, et. al.

\* Additional Penalties involving Driver Responsibility Fees imposed.

\* \$500 for two consecutive years, starting upon posting of abstract.

## MCL 257.625(8) OPERATING W/ PRESENCE OF A SCHEDULE 1 DRUG (OWPD)

\* Defined as person who operates a motor vehicle having in his or her body any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or of a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

### 1st Offense

93 days max jail; \$500 fines max plus costs; 360 hours community service max; 6 month suspended license, first 30 days hard; 6 points; discretionary forfeiture; discretionary immobilization up to 180 days; \$1000 Driver Responsibility Fee for two consecutive years.

### \* 2nd Offense:

\* 5 days - 1 year imprisonment; \$200-1000 fines plus costs; 30-90 days community service; minimum 1 year revocation of license; discretionary forfeiture; mandatory immobilization 90-180 days unless vehicle is forfeited; 6 points; \$1000 Driver Responsibility Fee for two consecutive years.

### \* 3rd Offense:

\* 1-5 years MDOC or 30 days to one year jail; \$500-5000 fines plus costs; 60-180 days community service; minimum 5 year revocation of license; plate confiscation; discretionary forfeiture; 1-3 years immobilization unless vehicle is forfeited; 6 points; \$1000 Driver Responsibility Fee imposed.

Continued on page 10



---

Fold Here

---

General Practice Section  
18930 W. Ten Mile Road, # 2500  
Southfield, MI 48075

Please  
Place  
Stamp  
Here

**General Practice Section  
c/o Maury Klein  
18930 W. Ten Mile Road, #2500  
Southfield, MI 48075**

---

Fold Here

---

Secure Here

# Occurrence Policies and Claims Made Policies

By Hal O. Carroll

There are many different types of insurance, but one of the distinctions that causes the most confusion is the distinction between “occurrence” policies and “claimsmade” policies.

“Occurrence” policies are by far the more common type. Auto policies, homeowners policies and general liability policies all are typically of this type. “Claims made” policies are offered for different types of risk, such as malpractice policies insuring physicians, attorneys, architects and engineers.

As the names indicate, occurrence policies provide coverage for a loss that occurs during the policy year, even if the claim is filed years later. Claims made policies, on the other hand provide coverage without regard to when the loss occurred, provided it is made during the policy year.

“An ‘occurrence’ policy protects the policyholder from liability for any act done while the policy is in effect, whereas a ‘claims made policy’ protects the holder only against claims made during the life of the policy.” *Stine v Continental Casualty Co*, 419 Mich 89, 98; 349 NW2d 127 (1984).

“In general, a ‘claims made’ policy provides coverage no matter when the alleged error, omission, or act of negligence occurred as long as the misdeed is discovered and the claim for indemnity is made within the policy period.” *Pinckney Schools v Continental Casualty*, 213 Mich App 521, 525-526; 540 NW2d 748 (1995).

Claims made policies “are of relatively recent origin and were developed primarily to deal with situations in which the error, omission, or negligent act is difficult to pinpoint and may have occurred over an extended period of time.” *Stine* at 98-99

**Retroactive date.** The statement that claims made policies provide coverage for claims made during the policy year regardless of when the loss occurred comes with two important caveats. First, claims made policies will typically come with a “retroactive date.” This sets a starting date for the losses that are covered. Only claims arising out of losses that occurred after the retroactive date will come within the terms of the policy. For example, a policy issued for 2003 may have a retroactive date of 1998, so that only claims made during 2003 and arising out of an event after 1998 are covered.

**Notice requirement.** The other caveat is that the notice requirement in a claims made policy is significantly different from the notice requirement in an occurrence policy. Some policies are written to require that the insured notify the insurer within the policy year. More often the insured must provide notice within a few months of the end of the policy year. Unlike the notice requirement in an occurrence policy, there is no “prejudice” requirement.

For an occurrence policy, the insurer must show prejudice. “[I]t is a well-established principle that an insurer who seeks to cut off responsibility on the ground that its insured did not comply with a contract provision requiring notice immediately or within a reasonable time must establish actual prejudice to its position.” *Koski v Allstate Ins Co*, 456 Mich 439, 444; 572 NW2d 636 (1998).

In *Schubiner v New England Ins Co*, 207 Mich App 330, 331; 523 NW2d 635 (1994), the court rejected the insured’s argument that there was no prejudice to the insurer from a delay in giving notice. “We decline to apply the general insurance principle that the insurer must show prejudice where it is claiming lack of notice. . . . That principle developed in the context of ‘occurrence’ insurance policies. . . . Given the facts of this case, and the clear discussion of ‘claims made’ policies in *Stine*, supra, we see no basis for applying that principle here.”

Public policy and “illusory coverage.” Obviously, the coverage under a claims-made policy is narrower than the coverage of an occurrence policy. This has led to attacks on the basis of public policy, essentially arguing that the coverage is illusory. The Supreme Court rejected this in *Stine*, supra. It is noteworthy that in *Stine* the policy’s “retroactive date” was the beginning of the policy period itself. Thus, only a claim made during the policy year and also arising out of an event that occurred during the policy period was covered.

The *Stine* court explained the rationale behind claims made coverage in some detail. From the insurer’s standpoint, liability risks arising from professional activities are often difficult to tie to a specific event date. “[T]he error or omission may be a discrete act or failure to act, or it may consist of a lengthy process and remain latent and undiscoverable for a number of years. Examples include a physician’s misdiagnosis, an attorney’s fraudulent concealment, or an architect’s defective design.” *Stine* at 99. This creates a long “tail” exposure, in which an insurer may be called upon to defend a claim long after the fact. As a result, it is difficult to set rates, and the insure will tend to plan for the worst eventuality.

By issuing claims made coverage, on the other hand, the insurer knows its risk with more certainty. The result is less coverage in terms of the time frame and a correspondingly reduced premium.

**Tail coverage.** A consequence of claims made coverage, of course, is that it ends when the policy year ends. This is not a problem if the insured renews coverage every year, but it can be a problem if the insured does not renew, or switches insurers. Many claims made policies include a provision that allows reporting a claim up to a certain

---

## 2003 Changes to Drunk Driving Laws

Continued from page 6

Additional changes include amending the range under the "Zero Tolerance" laws from .02-.07 to .02 - .08.

New penalties were also added under the OWI/OWVI/OWID/OWPD and DWLS causing death statutes, if the person killed is an emergency responder. Maximum penalty is 20 years MDOC, \$2,500-10,000 fines plus costs; plate confiscation, discretionary forfeiture; up to 180 days immobilization; and \$1000 Driver Responsibility Fee for two consecutive years.

Failure to pay the Driver Responsibility Fees will result in additional suspension of driving privileges until the fees are paid.

Clearly the changes to these laws will have a major impact on the practice of criminal and traffic defense. The threshold for violations has been lowered, and the stakes for your clients have been raised. In addition to previously established penalties, additional financial burdens will be placed upon your clients, and failure to comply with those requirements will result in further administrative penalties against driving privileges. The slippery slope in this area of legislation has just been greased again!

*Amy J. Bowen-Krane is an attorney in Southfield, MI specializing in criminal and traffic defense.*

Sources: ICLE 2003 Drunk Driving Defense Update

John C. Talpos, Attorney at Law  
Michael V. Morgan, Attorney at Law  
Michigan Department of State

## Occurrence Policies and Claims Made Policies

Continued from page 9

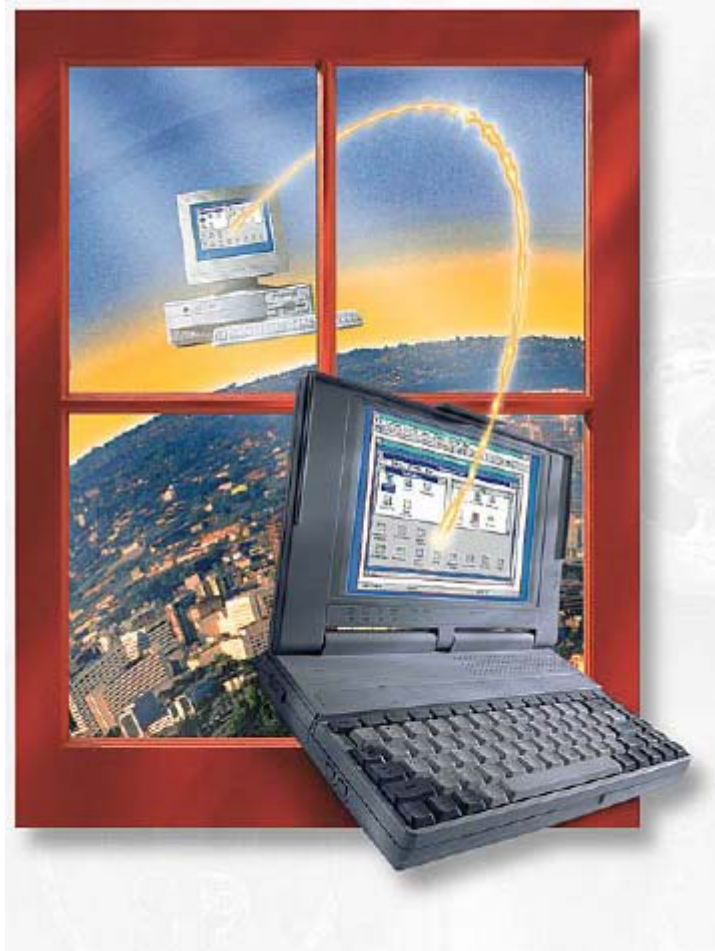
time (such as 60 or 90 days) after the policy ends. This is called "tail coverage" or an "extended reporting period." Tail coverage for a longer period (sometimes specified and sometimes indefinite) may be available for an additional premium. If the insured purchases this tail coverage, then he or she will be insured for a claim arising out of an event that occurred during the policy year but was not made as a claim until later, during the extended reporting period.

Next: Introduction to indemnity.

*Hal O. Carroll is head of the Insurance and Indemnity Group at Vandevveer Garzia, and author of numerous articles on insurance and indemnity issues. His email address is hcarroll@vandevveergarzia.com*

---

Communicate with other members  
of the General Practice Section by  
signing up for the Section listserv at  
[http://www.michbar.org/general/  
signup.html](http://www.michbar.org/general/signup.html)





Michael Franck Building  
306 Townsend Street  
Lansing, MI 48933-2083

NONPROFIT  
U.S. POSTAGE PAID  
LANSING, MI  
PERMIT NO. 191