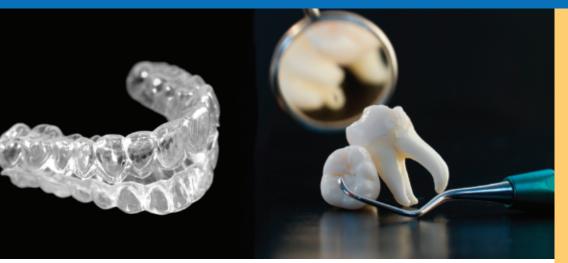


AN EDIC PUBLICATION VOLUME 18 • OCTOBER 2014

EASTERN DENTISTS INSURANCE COMPANY



ADA C'E'R'P[®] Continuing Education 2014 EDIC fall Webinar Series

Invisilign Orthodontic Benefits for the Entire Team: Cosmetics, Restoration, Prosthetic, Periodontal and Functional

Dr. Willy Dayan, DDS

Thursday, Nov 6, 2014 7:00 PM, EST

The goal of comprehensive orthodontics is enhanced cosmetics and function of the dentition. With new orthodontic techniques such as Invisalign, we can promise our patients a cosmetic and effective orthodontic experience, without wearing any braces.

Learning Objectives: The goal of orthodontics in these cases is to create a foundation where the restorative dentist and team of dental specialists can then build a beautiful and functional smile without compromise. Specialized tooth movements can be planned into cosmetic orthodontic treatment plans for better integrity and longevity of the result for the patient, and to make the final experience more pleasurable for the patient and the entire dental team.

Nerve Injuries

Dr. Raymond Fonseca, DMD and Attorney Gary Gittleman, Partner at Naulty, Scaricamazza & McDevitt, LLC.

Thursday, Dec 11, 2014 7:00 PM, EST

- EDIC INSUREDS ONLY -

Learning Objectives: The most common complication from surgical removal of impacted third molars is injury to the inferior alveolar and lingual nerves. Dr. Fonseca will discuss the anatomy involved, proper surgical procedure, as well as the diagnosis, prevention, and treatment of these injuries. Attorney Gittleman will discuss the legal aspects of nerve injuries, using case examples to illustrate risk management principles that can be utilized to reduce your risk of being sued due to an adverse complication from oral surgery.

To learn more about these FREE webinars and to register, go to: http://edicevents.webex.com

EDIC is an ADA-CERP recognized provider, and dentists may earn two CEU credits per session and be eligible for risk management insurance discounts.

Speaking With Hope

EDIC is a proven specialty provider of dental professional liability insurance for our colleagues in eleven states along the East coast. We not only excel at delivering a competitive insurance policy, but we are committed to supporting the dental profession. Beyond fulfilling your insurance needs, EDIC supports our profession in a number of ways, many of which are featured throughout this edition. Timely risk management programs, financial contributions to dental societies and more than a dozen dental schools, and education and support for dental students are just a few of the ways EDIC remains active in the dental community. After all, that is why EDIC is about more than insurance; EDIC is about protecting and improving the field of dentistry.

To successfully maintain this mission and drive the company into the future, EDIC's

(Continued on page 6)

Calling All EDIC Dentist Insureds... Do you have what it takes to be a new EDIC Board Member?

Go to page 6 to learn more.





FYI: EDIC CASE STUDY

Acting Within the Standard of Care Can Sometimes Result in a Complication of Treatment

Barry Regan | Vice President of Claims and Risk Management bregan@edic.com

The patient in this matter is a 43-year-old divorced female. She presented to our insured, a board certified endodontist, on referral from her general dentist due to a complaint of pain from tooth #18. The insured diagnosed an acute, irreversible pulpitis in tooth #18, and recommended root canal therapy. The patient agreed with the diagnosis and treatment plan, and signed a written informed consent form.

The insured performed first stage root canal therapy on tooth #18 in the usual manner by removing the pulp, irrigating the area with sodium hypochlorite, and placing Pulpdent into the canal. The root canal was not completed that day due to hyperemic pulp. The following day the patient reported numbness to the lower lip, teeth and gum. The insured prescribed decadron, and explained that the problem would most likely resolve in a few weeks. One week later, when the patient presented with continued complaints of numbness in her lower left lip, the insured referred the patient to an oral surgeon.

The oral surgeon saw the patient on postop day 20. He performed a CT scan and reported the existence of a small amount of dense material located in the area of the left mandibular canal just inferior to the roots of tooth #18. Approximately one month later, the oral surgeon, using an extra-oral approach, accessed the mandibular canal, debrided and decompressed it, and placed a collagen tube around what the oral surgeon described as an intact nerve. The pathology report listed the foreign material as "granular material consistent with canal cement." The decompression of the nerve was successful. The patient was in-patient over one night. The surgical site was healing within normal limits and the lip was moving three weeks post op. There was no pain and she was appointed for review in six weeks regarding sensation. At six weeks, she still had no hot/cold feeling and sharp was perceived like dull. At four months post-op, she had no changes in sensation.

As the operation was performed extra-orally, the patient was left with a scar on the underside of the left chin/neck area about four inches in length.

The patient filed suit. The claimant's expert was a Board-certified endodontist. He opined that the insured over-instrumented the canal creating an opening in the apical foramen venting into the radiographic projection of the mandibular canal; that the insured injected Pulpdent and calcium hydroxide into the canal; that the insured failed to identify the patient's symptoms of nerve damage and undertake

"The patient agreed with the diagnosis and treatment plan, and signed a written informed consent form."

immediate examination procedures taking x-rays when she returned one day after the nerve damage; and that the insured delayed the referral to an oral surgeon. He concluded that this all resulted in a permanent paresthesia and facial scarring secondary to corrective surgery.

EDIC had the case reviewed by a board certified endodontist as well. He opined that the pre-treatment radiographs clearly showed a very large mandibular canal coursing directly in contact with the roots of the tooth in question.

He opined that any treatment to tooth #18 was going to be difficult and involve significant risk for just such an injury that the patient sustained. He further stated that the radiographs also showed that the apical foramina were abnormally large in tooth #18, making it predisposed to a complication such as what occurred. He further opined that with such large canals and open apices, hydrostatic pressure alone from placing the Pulpdent would have been significant enough to cause the flow of the calcium hydroxide from within the root canal system into the periapical tissues. Our expert concluded that whereas an injury did occur, the insured acted fully within the standard of the average qualified endodontist and the resulting paresthesia, subsequent surgery, and scarring

were all the result of an unfortunate complication of treatment.

The patient alleged she was out of work for one week after the corrective surgery and alleged lost wages in the amount of \$1,600. She had medical expenses in the amount of \$24,700. She further testified in her deposition that she continues to suffer from a permanent paresthesia and has a permanent visible four inch scar on her neck. At the close of discovery, the patient issued a demand in the amount of \$265,000. EDIC made no offers, as we believed we had an 80% chance to win the case at a trial.

Due to a long delay in getting an actual trial date, both parties agreed to submit the case to binding arbitration in front of a neutral mediator. Both sides presented their case, and the mediator ruled that the patient had proven by a preponderance of the evidence that our insured performed below the standard of care of the average qualified endodontist, and the arbitrator awarded the patient \$140,000 in damages.





CASE STUDY Risk Management Comments

This was a very unfortunate result for this endodontist. The insured did absolutely everything right, and made an excellent witness, testifying confidently and intelligently. Sometimes, even this is not enough to avoid a judgment. The patient had a credible expert, and the defense had a credible expert. The patient also was a good witness, coming across as sympathetic without overplaying her disability. Both sides had excellent attorneys advocating for them. Our defense counsel gave us an 80% chance to win, and in hindsight, we don't think we would have changed anything about the way we put the case in to the arbitrator, it just wasn't our day in court. The good news is that of all the cases that go to a jury or arbitration, EDIC wins 92% of the trials. This just happened to fall in the other 8%.

75% of all EDIC claims reported,

are closed with no indemnity payment.

EDIC FACT -

EDIC has prevailed in the vast majority of cases we have tried to a conclusion. Of the 56 cases EDIC has tried to conclusion, we have received a verdict for the defendant in 51 of them for a 92% win ratio.

Total Cases EDIC Has Tried to Conclusion. 92% Cases Won by EDIC

I had an untoward incident in my office. What should I do?

Call the EDIC 24 HOUR HOTLINE AT 800-898-3342 to report the incident and to seek guidance.

I pulled the wrong tooth, should I tell the patient?

Yes, by all means. It will only complicate matters later if you fail to tell the patient at the time of the incident. Document your record that you informed the patient and discussed corrective options.

I did endodontics on the wrong tooth; can I still charge for it?

No, the implied contract here between you and the patient was to perform endodontics on another tooth. Since you did not live up to your end of the bargain, there should be no obligation for the patient to pay for this mistake on your part.

Am I liable if there is an anesthesia incident in my office even though I did not administer the anesthesia?

The question presumes that there is another dentist or there are other dentists working in your office and that one of them made a mistake in administering anesthesia. The question of your liability revolves around the legal relationship between you and that dentist. If you, in any way, supervised his/her work on a regular basis, you could be held liable under a theory of negligent supervision. Another aspect is that if that dentist was considered to be your employee, you may be held liable for his actions on the theory of what is called "vicarious liability," i.e., liability for the acts of another person, who is subject to your direction and control in the work that he/she is performing.

My patient has filed a complaint with the Board of Registration in Dentistry (BORID), what can I expect?

Initially, you will receive a letter from the Board with a copy of the complaint filed by the patient, requiring you to respond in writing to the Board with an explanation of the incident from your point of view. Call the EDIC 24 HOUR HOTLINE AT 800-898-3342 and a claim representative will review your response prior to submission. If your explanation satisfies the Board that you didn't do anything wrong, the Board will, more than likely, inform the patient that it has determined that there was no wrong doing on your behalf. The Board could dismiss the complaint with no further action. If the board wants more information, then they may schedule a hearing. You should report all complaints from a dental professional licensing Board to EDIC to determine if there is coverage available to assign an attorney to represent you at the hearing.



WITHIN YOUR CONTROL Ethics in Dentistry

Debra Udey | Risk Manager dudey@edic.com

Debra K. Udey is the Risk Manager at EDIC. Her many years of experience plays a significant role in the development of their annual Risk Management Educational Program. Ms. Udey has been in the Medical Malpractice field for over 30 years, 12 of which were spent in medical malpractice claims for a physician-owned company as well as in a hospital setting. Since then, she has put her claims experience to good use on the Risk Management side of professional liability insurance for doctor- and dentist-owned professional liability insurance companies.

Ethics has always been a mainstay of dental professionals who are bound by an ethical code of conduct that is above and beyond nonprofessional's ethical codes. Unfortunately, we have recently seen numerous reports of dentists who have behaved unethically. While this represents a very small number of practitioners, the notoriety it has generated for the profession is unwelcome.

It is unpleasant to hear any report of a dentist practicing in an unethical or non-professional manner. In the not too distant past, there seemed to be a flurry of reports about dentists who were charged and sentenced for such things as diagnosing non-existent cavities, committing Medicaid fraud, performing unnecessary dental procedures on healthy teeth, or allowing unlicensed assistants to perform root canals. A Frontline documentary titled "Dollars and Dentists" aired in 2012 was particularly unflattering. It not only detailed the difficulty of obtaining dental care for many people including those on Medicaid, but also examined allegations of unnecessary and "predatory" care provided by some corporate dental clinics.

A second and even more frightening account was an ABC television special report, also in 2012, which concerned a dozen children who died after receiving sedation in dental offices. The report delved into dentists who administer sedation to "make it safer to work on children." It concentrated on dentists who were administering sedation after having learned how in a weekend course. Billed by course instructors as an "easy thing to do" that would "markedly increase the dentist's bottom line," the report raised concerns about the ability of such dentists to properly administer sedation or deal with potential emergencies.

All of this is no doubt offensive to properly trained dentists who render safe, effective and ethical care. For these dentists, the two basic ethical questions, "What should I do, and why should I do it?" are easily answered. Ethics, the conscience of the profession, involves integrity, professional self-respect, and societal trust. While laws are black and white, ethics have more gray areas. For some, this can lead to attempts to justify unethical behavior.

The current day and age has brought added stresses that can challenge ethical behavior. Economic stresses can affect dentists and patients alike, raising circumstances that involve ethical choices. Economically challenged patients may defer or refuse treatment, insist that dentists perform care beyond their training, or at worst, ask a dentist to alter billing in their favor.

Economics have also led professionals to potentially practice in a manner they may never before have considered. Worried about the loss of a job, a dentist might over-treat to satisfy an employer-imposed quota. Another might consider performing a procedure beyond the scope of expertise to avoid losing the patient to a referral. Economic circumstances could lead dentists to market new advancements without proven science, or provide clinical practices outside the dental arena to enhance profits. No matter what stresses affect patients or clinicians, the patient's best interests should always be the driver of clinical treatment choices.

It is recognized that most dentists make ethical and professional decisions, even in light of outside pressures. If a treatment choice is blurred by outside pressures, the ADA Ethical Rule 5.B.6 concerning unnecessary services, "A dentist who recommends and performs unnecessary dental services or procedures is engaged in unethical conduct" should be an effective reminder to practice properly and ethically.

Dentists should use ethics and risk management, working hand in hand, to render the best care possible for patients. While risk management is sometimes seen as protecting the doctor, it does so only as a by-product of providing safe and effective care for patients. That manner of care results in good patient outcomes. Good patient outcomes lead to fewer claims. Ethical practice, along with good risk management, will result in excellent patient care. This will stand any dentist in good stead and continue to bring respect to a fine profession.



The Hartford: Are You Sure You Have the Right Amount of Insurance to Protect Your Dental Office?

If your equipment is damaged by an unexpected event such as a storm, fire, or plumbing leak, preparation can keep it from becoming a disaster.

- When was the last time you assessed the replacement cost of your dental equipment?
- Have you added or upgraded any equipment since then?
- Is your equipment assessed at its market value or replacement cost?
- Can you afford to replace your most expensive equipment if it's damaged?

Business Insurance Coverage Checkup



How has your practice changed over the past year?

Caring for your patients keeps you busy each day, leaving little time to think about your insurance coverage and how changes in your practice over the past year may impact the type and amount of insurance coverage needed to protect it. checklist below. Answering these questions will help to identify whether your existing business insurance coverage is appropriate or if changes are necessary when speaking with a licensed insurance agent.

It's a good idea to review your insurance needs annu ally, so please take a few moments to complete the

Coverage checklist		
General Information		
2. Have you restructured your practice's ownership (e.g., gone from sole proprietorship Y		
4. Has the nature of your practice operations changed? For example: Y a. Have you changed to an Electronic Health/Medical Records system? Y b. Have you changed or expanded the types of services you offer? Y 5. Have you changed new locations, expanded into new states or outside of the United States? Y 6. Have you closed or moved any locations? Y		
8. Has the physical location of your practice changed or have you expanded or remodeled your practice's office space? Y		
Business Property		
1. Do you own the building your practice is located in? Y If yes		N□
		N
		N
		N
		N
Business Liability		
. The first sector of the sect		NO
Workers' Compensation		
 Has there been any increase/decrease in your practice's payrol? This information is necessary Y because the price you pay for workers' comp is based, in part, on annual gross payroll. 		N□
2. In the past 12 months, has your employee headcount increased or decreased? Y		
	ū	

Your equipment is one of the most important and most expensive parts of your practice. That's why The Hartford goes beyond the basics to help you protect it and replace it when disaster strikes.

• Replacement Cost Coverage

Business property insurance from The Hartford provides replacement cost coverage up to the policy limits to replace dental equipment with a like-kind new one, against risks of direct physical loss on equipment your practice owns and leases.

• Equipment Breakdown Coverage

This coverage helps protect against losses related to dental equipment damage caused by a covered mechanical breakdown or artificially generated electrical current.

• Business Income and Extra Expense

Pays for the actual loss sustained of business income and necessary extra expense during the period your dental equipment is being repaired or replaced due to a covered loss, such as a storm, fire or plumbing leak.

• Computers, Data and Software

The Hartford understands that your computer equipment, electronic patient data and software for patient scheduling and billing are all critical to keeping your practice running smoothly and efficiently. Computer and Media endorsement's, coverage for damaged computer equipment, and the cost to research, replace or restore lost or damaged data and software arising from a direct physical loss, including power failure, head crash or computer virus.

• Data Privacy

With the increased usage of computerized scheduling, electronic health records, and online reimbursement methods comes an increase in Data Privacy exposures. The Hartford's optional Data Breach endorsement provides coverage to help you pay for expenses associated with responding to a data breach and to help pay for defense costs and any awards, settlements or judgments you're legally obligated to pay resulting from the loss, theft, or accidental publication of personal health information or personally identifiable information.

Look for our NEW Cyber Liability and Data Breach Webinar that will be posted on the EDIC website to view online this Fall 2014!

(Speaking With Hope, Continued from page 1)

Board is seeking dentists to replace two retiring board members in 2015. These openings provide you, our dental colleagues, with a very exciting opportunity to share your experiences and give back to the dental community. Further information can be found below this article.

As always, we thank over 5,500 policyholders for their continued loyalty and membership in EDIC. If you aren't currently insured with EDIC, I encourage you to participate in our fall webinar series, and learn more about the benefits of belonging to the "By Dentists, For Dentists" insurance company.

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Hope Maxwell President & CEO, EDIC hmaxwell@edic.com



CALL FOR DIRECTORS: Be the Active Voice EDIC Needs

EDIC is currently looking to fill positions on its Board of Directors. If you are from any of the 11 states in which EDIC currently writes, insured with EDIC, and would like to serve on the board in various levels of commitment, please forward a cover letter and resume to Maureen Manna by November 15, 2014.

Maureen Manna EDIC, 200 Friberg Parkway, Suite 2002 Westborough, MA 01581

The Dental Professional Review and Evaluation Program

In October, EDIC sent a clinical e-burst to all dentists highlighting a PIAA article about the new D-PREP Program developed by the American Association of Dental Boards. This will affect all states. The article was published in the *PIAA Inside Medical Liability* Magazine and is co-written by one of EDIC's defense attorneys who shares information about a particular case that took place in Massachusetts where the D-PREP program came into question.

The Dental Professional Review and Evaluation Program, or D-PREP, was recently developed by the American Association of Dental Boards (AADB) as a tool for evaluating the competency of dental professionals. The program may be a good idea in theory, but a recent MA case highlights the serious legal issues and difficulties that its application poses for dental professionals and insurers alike.

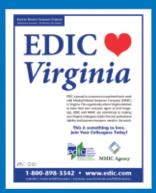
D-PREP presents unique challenges for professional licensing defense. The sanction is so severe—and the results of it so unpredictable that taking a matter to a hearing will likely prove more desirable than agreeing to D-PREP as a settlement term.

If you would like to continue reading this article further, or didn't get the original e-burst go to www.edic.com/status/iml3q2014 Issue_pp16-18.pdf to download a PDF file.

Reprinted from the Third Quarter 2014 issue of Inside Medical Liability, PIAA. Copyright, 2014.

New Campaign Announces MMIC Partnership in VA

EDIC is proud to announce our partnership to work with Medical Mutual Insurance Company (MMIC) in Virginia. This opportunity allows Virginia dentists to have their own exclusive agent at their fingertips. EDIC and MMIC are committed to making sure Virginia colleagues obtain the best professional liability and business insurance needs in the south.



Five High Profile NC Dentists Endorse EDIC and The EDIC Mission in Dentistry

EDIC's NC Advisory Committee has been actively involved in supporting our "By Dentists, For Dentists"® mantra since the committee's inception in 2013. We are happy to share their enthusiasm in supporting our NC colleagues and being able to represent NC dentists. Dr. John Olmsted, an EDIC board member, Dr. Morris Griffin, Dr. Richard Hunt, Dr. Evan Miller, and Dr. Jack Teague, all serve on EDIC's NC Advisory Committee which formally meets to discuss emerging dentistry issues, and how EDIC can



At UNC Best of Dentistry Event 2014 EDIC/NC Advisory Committee (L to R) Dr. John Olmsted, Greensboro; Dr. Evan Miller, Charlotte; Dr. Richard Hunt, Rocky Mount; Dr. Morris Griffin, Durham; Dr. Jack Teague, Asheville.

best serve our NC dental colleagues. Risk management, upcoming dental events and support for UNC and ECU are also ongoing discussion topics. It is our intent to make sure that every NC policyholder is 100% satisfied with the products and services that EDIC provides. Along with our exclusive NC agent, Medical Mutual Insurance Company Agency (MMIC), EDIC and MMIC will continue to service our colleagues for all your professional liability and business insurance needs.

New EDIC Dental School Coordinator

Join us as we welcome EDIC's new Dental School Coordinator, Jessica Chaffee. Jessica has joined EDIC to manage our Dental School Program and act as our full-time liaison with the students in all 15 dental schools we currently have programs with. Jessica earned an MBA from Nichols College and a BS in Business Administration in Accounting & Insurance from the University of Hartford. Jessica holds experience in the insurance industry as well as recruiting experience with the University of Hartford. Jessica will be a great asset to the EDIC marketing team as well as a great resource for the dental schools and students. Jessica is always available to answer any student questions and help guide you to the right insurance path for your future. Look for Jessica at all the 2014-15 dental school events. Jessica can be reached at jchaffee@edic.com.

ASDA National Conference 2014: The Windy City Awaits



As Halloween arrives, ASDA dental students will be gathering in Chicago for the

Annual ASDA National Conference Oct 31 - Nov 2, 2014. Stop by the EDIC booth and speak with Jessica Chaffee, EDIC's Dental School Coordinator, and pick up our newest risk management materials for 2014/15. Register for our Clinical email bursts about RM topics and case studies that benefit all dentists at every career stage. Ask Jessica for more information on EDIC events taking place at the ASDA Annual Session in Boston 2015.



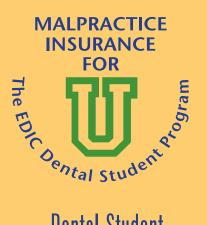
EDIC and MMIC Booth at the UNC Spurgeon Vendor Fair, Sept 17, 2014



EDIC sponsored team at VCU School of Dentistry Alumni/Student Golf Invitational 2014

MDS Eat and Meet Below: International Dentists from BU and TUFTS International Dental Student Program gathered at a bowling event in Boston Sept 20, 2014.

EDIC Student Program



Dental Student Event Calendar 2014/15

Oct 27	UPENN Vendor Fair
Oct 28	Temple Vendor Fair
Oct 29	BU/Harvard Lunch N Learn
Oct 30	TUFTS Fall Vendor Fair
Oct 31	ASDA National Conference
Nov 4	UCONN Lunch N Learn
Nov 5	Buffalo-Niagara Meeting
Nov 13	NYU Fall Vendor Day
Nov 14	Columbia Vendor Fair
Nov 22	UPENN Diwaili Night
Nov 29	Greater NY Meeting
Jan 28	Yankee Dental Congress
Feb 18	ASDA Annual Session
Feb 20	EDIC Harpoon Brewery Event
Mar 4	Bates Day (Boston)
Mar 25	Rutgers Vendor Fair
April 9	NYU Spring Vendor Day

Check www.edic.com for up-to-date listings of events, seminars, and Lunch N Learns at your dental school.





ECU School of Dental Medicine Visit in Spring 2014 (L to R) Jack Dombek; Dr. Charlie Hapcook; Kristen Ward, Director of Development ECU School of Dental Medicine; Dr. Greg Chadwick, Dean, ECU School of Dental Medicine; Dr. John Olmsted.



The theme for this edition of On the Cusp is: It's About More Than Insurance, It's About Dentistry. To make my point, I need to tap into the collective consciousness of the dentists reading this article. Whether it was a couple of months ago or forty years ago, I want each of you to think back to the moment when you were handed your diploma by the Dean of your dental school. Remember all the hard work and sacrifice that went into making that moment a reality. Remember the feeling of accomplishment and gratitude. Remember the pride of your family and friends in the audience that day, as well as your own pride as you were admitted to such a noble profession. Well, my friends, this is what your malpractice liability policy is protecting. Bear in mind that the dentist directors on EDIC's Board share this exclusive ethos with you. And, I can assure you, that over the 22 plus years that I have worked with them, they are dentists and advocates of dentistry first and foremost. Their commitment to dentistry permeates the structure and polices of the company. Our dentist insureds are the company's owners. After adding profits to surplus to protect the stability of the company, all profits are earmarked for dentistry in the form of: dividends to our insureds; support of dental schools; and closely aligning ourselves with the initiatives of organized dentistry. That is why our mantra at EDIC is: It's About More Than Insurance, It's About Dentistry. If you are not yet insured with EDIC, isn't it time to own a piece of this community that came together to protect the similar values and ethics of dentists everywhere?

Sheelo a Angumie

Sheila A. Anzuoni, Esq. Executive Vice President and COO, EDIC sanzuoni@edic.com



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We welcome your comments about *On the Cusp.* Please contact our editor, Sheila A. Anzuoni, at <u>sanzuoni@edic.com</u>, or call at 1-800-898-3342.



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