

Lawyers in rush to beat deadline

By Adam Cresswell

NEGLIGENCE claims sent to Australia's biggest medical defence fund more than doubled last month in an apparent attempt by lawyers to beat new NSW medical negligence laws.

Claim notifications lodged with United Medical Protection reached 106 in June — more than the total number of claims received in June 2000 (46) and June 1999 (50) combined.

The effect of the new laws appears even more dramatic when considering the number of incidents already notified to UMP which "matured" into legal claims.

These rose by 152% — from 95 in the first six months of 2000 to 239 in the same period this year.

Figures compiled by UMP and shown to *Australian Doctor* make it clear the increase began shortly after NSW Health Minister Craig Knowles first flagged the government's intention to reform medical negligence law, in a speech to the state's Parliament on 27 February.

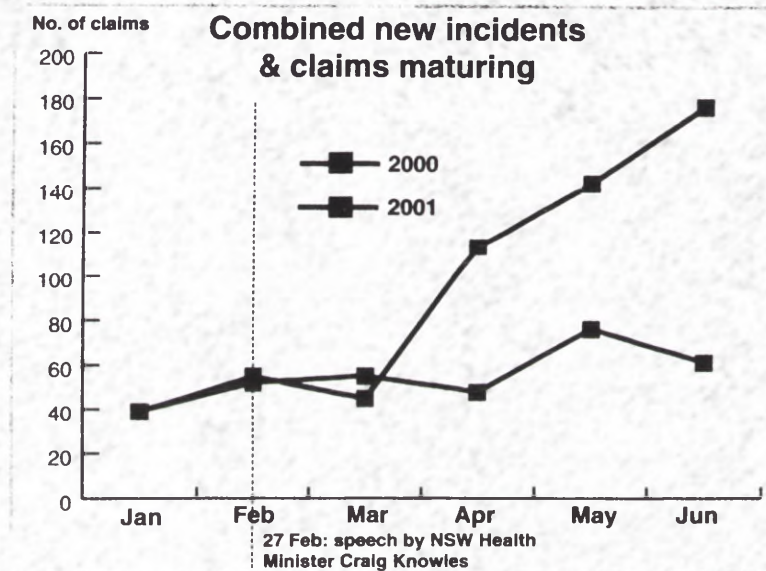
His words were not lost on plaintiff lawyers. As well as agitating vigorously against the legislation — culminating in threats last month of a legal challenge — they appear to have accelerated many claims.

Following Mr Knowles' speech, claims to UMP almost trebled, from 22 in March to 63 in April.

They rose again to 79 in May (up another 25%), and to 106 in June (34%).

A similar rise in claims has also been experienced by the NSW Government's Treasury Managed Fund, which indemnifies public sector doctors and some private rural practitioners.

A spokeswoman for the NSW Health Department said claims to the fund rose from 197 in the first six



months of 2000 to 353 in the same period this year — an increase of 80%.

The problem arose because the Health Care Liability Bill — which received royal assent last week after only 10 days in Parliament — does not apply to claims already in train when the bill became law.

As the new act will reduce payouts to many patients, by including measures to cap payouts for non-economic loss and other categories and by excluding many smaller claims altogether, it created a huge incentive for plaintiffs to file claims before the legislation passed.

One firm — Slater and Gordon — ran a newspaper advertisement two weeks ago warning potential plaintiffs that the laws were changing and they could face reduced compensation unless they filed claims quickly.

Steve James, UMP's general manager, underwriting and finance, told

Australian Doctor it appeared many of the claims had been rushed in order to beat the deadline.

He said UMP had "to work out what this [increase] means to us" after talking with the firm's actuaries.

However, although the rise in claims was dramatic, he said it was a case of claims being brought forward rather than new claims being generated — and so UMP expected to see

"a dramatic drop-off" in claims later in the year.

"These claims still take quite some time to settle," he said.

"We are still looking at a period of over two years [before settlement].

Over the next two years some of these claims will settle more quickly.

"I don't think that will cause us any cash flow problems."

Mr James said even if the rise had been large enough to cause difficulties, UMP's reinsurance would in due course have been activated.

Although the rise in claims was dramatic ... it was a case of claims being brought forward rather than new cases being generated