



**2014 Report on Availability and
Affordability of Health Care Medical
Professional Liability Insurance in
Maryland**

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Executive Summary

The availability and the cost of medical professional liability insurance (hereinafter “medical malpractice insurance”) have far-reaching consequences for Maryland’s health care system. When dramatic premium increases threatened to undermine Maryland’s health care system, the General Assembly intervened in 2004 and 2005 to stabilize the medical malpractice insurance market and, in addition, directed the Maryland Insurance Administration (“MIA”) to collect pertinent data about medical malpractice insurance. The data is summarized in Exhibits A through L.

Medical malpractice insurance is available from admitted insurers, surplus lines insurers and risk retention groups. The number of companies offering medical malpractice insurance in Maryland has remained relatively stable over time. However, this is a highly concentrated market. In 2013, two insurer groups wrote nearly 60 percent of all medical malpractice insurance premiums.

Medical malpractice insurance can be a highly volatile line of business. Medical malpractice insurance premiums increased significantly between 2002 and 2005 then decreased or remained the same through 2013. The largest writer of medical malpractice insurance has not requested any changes to its rates in 2014.

Introduction

The availability and the cost of medical malpractice insurance have far-reaching consequences for Maryland's health care system. While health care providers are not required by law to purchase and maintain medical malpractice insurance, providers cannot participate in health care networks supporting preferred provider organizations, health maintenance organizations or managed care organizations unless they carry medical malpractice insurance. The cost of medical malpractice insurance is a part of the overall practice costs for providers.

Medical malpractice insurance premiums began to increase in 2002 and jumped dramatically in 2003 and 2004. Because of the widespread implications of medical malpractice insurance, the General Assembly intervened in 2004 and 2005 to stabilize this market. In addition, the General Assembly directed the Maryland Insurance Administration ("MIA") to collect data on closed claims and to report annually pertinent facts about this important line of insurance.

This report provides information about the number of insurers actively writing medical malpractice insurance, the premium rates for selected medical specialties, and data regarding closed medical malpractice claims.

Medical Malpractice Insurance Market

Different types of companies are authorized to write medical malpractice insurance in the State. These include admitted insurers, surplus lines insurers and risk retention groups. These companies provide medical malpractice insurance for all types

of health care providers.¹ In 2013, 67 insurer groups wrote medical malpractice insurance in Maryland. Exhibits A1 through A3 provide detailed information about these insurer groups.

Two companies, Medical Mutual Liability Insurance Society of Maryland (“Medical Mutual”) and MCIC VT INC RRG (“MCIC”), wrote nearly 60 percent of all medical malpractice insurance premiums in 2013. This demonstrates how highly concentrated this market is.

Medical Mutual is an admitted insurer created by the General Assembly.² MCIC is a risk retention group organized under Vermont law and is a non-admitted insurer.³ Medical Mutual wrote 47.8 percent and MCIC wrote 11.6 percent of all medical malpractice insurance in 2013.

Exhibit A4 shows the percentage of medical malpractice insurance premium written by the top four companies from 2000 through 2013. Medical Mutual’s market share has exceeded 40 percent every year from 2004 through 2013, and increased by 3.1 percent from 2012 to 2013.

Medical Malpractice Insurance Premiums

Medical malpractice insurance premiums increased dramatically between 2002 and 2005. In response to these increases, the General Assembly created the Maryland Health Care Rate Stabilization Fund which operated to subsidize medical malpractice insurance premiums paid by eligible health care providers to admitted insurers that elected to participate in the program through calendar year 2008.

¹ Refer to the MIA’s *Comparison Guide to Medical Professional Liability Insurance Rates* (“*Comparison Guide*”) for a detailed listing of insurers and premiums across the State.

² See Chapter 544, Section 1, Laws of Maryland, 1975.

³ Examples of the risks insured by risk retention groups are the Johns Hopkins Hospital network and the University of Maryland.

Exhibit A5 shows the percentage change in Medical Mutual's rates between 1996 and 2013. Medical malpractice insurance premiums increased the most between 2002 and 2005 then decreased or remained the same through 2011. Medical Mutual requested and implemented a rate increase (4 percent) for 2012, but has made no changes to its rates since.

Medical malpractice insurance premiums vary by specialty, policy limits and practice location. Exhibits B through E provide premium comparisons for 18 different specialties utilizing a base premium for policy limits of \$1 million per incident/\$3 million annual aggregate for the years 2011 through 2014. Although the premium may differ for a given company in a given specialty, overall these Exhibits indicate stability in medical malpractice insurance premiums over this time period.

These Exhibits also highlight the differences in premiums between companies. To assist providers in shopping for medical malpractice insurance, the MIA annually updates the *Comparison Guide*. This guide is available on the Maryland Insurance Administration's website, www.mdinsurance.state.md.us, as well as in brochure form. The *Comparison Guide* allows health care providers to compare general pricing among the major admitted insurers, surplus lines insurers and risk retention groups offering medical malpractice insurance in Maryland.

Coverage terms, such as the deductible, impact the premium for medical malpractice insurance. By law, medical malpractice insurers are required to offer policies with high deductibles: \$25,000, \$50,000 and \$100,000. Exhibits H and I show that these policies have not been attractive to providers. However, these Exhibits also show that health care providers do, on occasion, purchase policies with deductibles less than

\$25,000. Typically, liability insurance policies, including medical malpractice insurance policies, are issued without deductibles.

Closed Claims

One of the factors driving medical malpractice insurance premiums is claims frequency. Since 2006, admitted insurers have been required to submit certain closed claim information on a quarterly basis to the MIA.⁴ Exhibit J summarizes the data provided to the MIA by company and Exhibit K summarizes the data by specialty.

While closed claims increased overall by 163.5% from 2005 to 2013, there are significant yearly fluctuations. Some of the fluctuation may be attributable to the manner in which this data has been collected by the MIA;⁵ however, from 2008 through 2013, the period of time in which data has been collected uniformly, the number of closed claims increased overall by 92.7 percent. The percentage increase differs significantly among the types of insurers writing coverage: 75.6 percent for admitted insurers, 200 percent for surplus lines insurers and 9.4 percent for risk retention groups. Surplus lines insurers generally provide coverage for higher-risk health care professionals (e.g. those with prior or poor loss history); therefore, it is anticipated that more claims will be filed against these providers and more claims closed by these insurers.

Conclusion

The number of companies offering medical malpractice insurance in Maryland has remained relatively stable over time, and the premiums have remained relatively stable from 2006 through 2013. There was an average premium increase of 4 percent for

⁴ The total number of suits is also reported by company. See Exhibit L. As this Exhibit shows, the total number of suits filed is nearly identical to the total number of closed claims.

⁵ The MIA had initially used one form of on-line reporting, but that tool became unworkable. Since 2009, the data has been collected using a different tool that enables the MIA to access and query the data more easily. This change in systems may have resulted in a change in data collection.

the largest underwriter of medical malpractice insurance in the State in 2012; however, no rate changes were made in 2013 or 2014.

The number of closed claims appears to have increased dramatically between 2005 and 2013. Due to changes in data collection methodology, little credence can be given to the percentage increase over the entire time period; however, between 2008 and 2013, data was collected uniformly and the number of closed claims increased overall by 92.7 percent. This increase is driven primarily by the number of closed claims reported by surplus lines insurers that tend to underwrite higher risk health care professionals.