



**2008 Report on the Availability and
Affordability of Health Care Medical
Professional Liability Insurance in Maryland**

September 2008

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Executive Summary

- This report provides information about the availability and affordability of medical professional liability insurance for the period 2004 to 2007 as well as closed claims data for the period extending through the first six (6) months of 2008.
- While many insurers are authorized to write medical professional liability insurance in Maryland, the top two insurers account for 61 percent of all medical professional liability insurance written in 2007. Medical Mutual remains by far the largest writer of medical professional liability insurance, with 43 percent of the market in 2007.
- As a result of the Consent Order Medical Mutual entered into with the Maryland Insurance Commissioner in January of 2008, the company's insured physicians and surgeons experienced no price increase in calendar year 2008 for their medical professional liability insurance policies. Medical Mutual will decrease its premiums by at least an additional 2% for calendar year 2009.
- From 2004 to 2008, changes in rates have varied by company and by specialty. Rates decreased 15 percent for emergency medicine, family practice and obstetrics/gynecology over this four year period for Medical Mutual. For the Doctors Company, rates are unchanged over the four year period with the exception of obstetrics/gynecology where rates decreased six percent. Unlike its competitors, Medical Protective increased rates between 16 and 28 percent between 2004 and 2008, with the highest increase for emergency medicine with no minor surgery.
- The number of closed claims increased 12 percent between 2004 and 2007 while the number of suits filed dramatically increased by 229 percent over the same three year period.

- Increases in the number of closed claims and suits filed underscores the continued volatility in this line of business.
- Medical professional liability insurance remains available in Maryland. Based on the fact that Medical Mutual dominates the Maryland market and decreased its base rates 15 percent over the period 2004 to 2007, medical professional liability insurance is more affordable for physicians today than it was in 2004.
- Medical professional liability insurance remains a volatile line of business and the Maryland Insurance Administration will continue to monitor the availability and affordability of this insurance and provide information to health care providers to help them shop for this important insurance.

I. Overview

Pursuant to Section 4-405(e) of the Insurance Article, the Maryland Insurance Commissioner is required to report, in accordance with §2-1246 of the State Government Article, the Commissioner's findings as to the impact of Chapter 5 of the Acts of the 2004 Special Session of the General Assembly and Chapter 477 of the Acts of the General Assembly of 1994 on the availability of health care medical professional liability insurance in the State to the Legislative Policy Committee on or before September 1 of each year. This report provides information about the availability and affordability of medical professional liability insurance for the period 2004 to 2007. For closed claims, the period of time extends into the first six (6) months of 2008.

II. Availability

Policymakers have long been concerned about the availability of medical professional liability insurance for health care providers. Indeed, in response to the limited market availability of medical professional liability insurance for physicians and surgeons, Chapter 544, Section 1, Laws of Maryland, in 1975 created The Medical Mutual Liability Insurance Society of Maryland (“Medical Mutual”). This section provides an overview of the insurers authorized to write medical malpractice insurance in the State of Maryland as well as changes in the market since 2004.

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 healthcare providers, not just physicians and surgeons. Examples of other types of

health care providers include dentists, podiatrists, chiropractors, hospitals and nursing homes.

The regulatory authority of the Maryland Insurance Administration (“MIA”) varies by company type. Admitted insurers are subject to the full regulatory oversight of the MIA, including prior approval of rates. Surplus lines insurers and risk retention groups are subject to limited regulation by the MIA and its rates are not subject to prior approval.

The overall number of insurers authorized to write medical professional liability insurance has declined slightly since 2004. In 2004, there were approximately 124 insurers and in 2007 there were approximately 119 writing medical professional liability insurance in Maryland.

Some of Maryland’s admitted insurers are: Medical Mutual Liability Insurance Society of Maryland, The Doctors Company, Medical Protective Company, Medical Assurance Company, Inc., Maryland Healthcare Providers Insurance Exchange, American Casualty Company of Reading PA (a member of the CNA Group), Podiatry Insurance Company of America, National Union Fire Insurance Company of Pittsburgh (a member of the AIG Group), Continental Casualty Company (a member of the CNA Group), Zurich American Insurance Company and Professional Liability Insurance Company of America (“PLICA”). In fact, PLICA is a new insurer admitted to Maryland in 2008. Please refer to Exhibits A1 and A2 for more detailed information.

Medical Mutual remains by far the largest writer of medical professional liability insurance in Maryland, writing 43 percent of the market in 2007. Medical Mutual’s market share has been fairly constant since 2004 (40 percent in 2004, 45 percent in 2005,

43 percent in 2006 and 43 percent in 2007). Exhibits A1 and A2 provide more detailed market share information for Medical Mutual and all insurers in 2007.

The second largest writer of medical professional liability insurance is MCIC VT INC RRG, a risk retention group organized under Vermont law and a non-admitted insurer. This non-admitted insurer's market share was 18 percent in 2007.¹

The two largest writers accounted for 61 percent of all medical professional liability insurance written in the State in 2007.

As a group, admitted insurers had a higher market share in 2007 than in 2004. In 2004, admitted insurers wrote 58 percent of the market increasing to about 71 percent in 2007.

Medical professional liability insurance appears to be available in Maryland to health care providers through nearly 120 insurers. Although a large number of insurers are authorized to sell medical malpractice insurance, two insurers dominate the market (Medical Mutual and MCIC Vermont INC RRG). Thus, any changes in rates or underwriting for these two insurers would be felt throughout the health care community.

III. Affordability

In addition to the availability of medical professional liability insurance, policymakers have been concerned with its affordability. Many contend that premium increases in medical professional liability insurance directly impact the accessibility of health care services. This section reviews the experience of the Maryland Health Care Rate Stabilization Fund, medical professional liability insurance premiums for selected physician specialties and deductible alternatives.

¹ Examples of the risks insured by risk retention groups are the Johns Hopkins Hospital network and the University of Maryland.

Maryland Health Care Rate Stabilization Fund

The General Assembly created the Maryland Health Care Rate Stabilization Fund (“Fund”) in 2004. Premium taxes paid by health maintenance organizations and managed care organizations are credited to this Fund. Monies allocated to the Fund’s Rate Stabilization Account are available to subsidize medical malpractice insurance premiums paid by eligible health care providers through calendar year 2008.² As of fiscal year 2010, all Fund monies and any monies remaining in the Fund’s Rate Stabilization Account will go in full to the Medical Assistance Fund to increase Medicare reimbursement rates.

As a direct result of a hearing that the Maryland Insurance Commissioner held in the Fall of 2007 regarding Medical Mutual’s proposed dividend for policyholders renewing in January of 2008, Medical Mutual entered into a Consent Order that included a reduction in its base rates for all physicians and surgeons by 8% effective January 1, 2008, a dividend being issued to renewing policyholders, full repayment to the State of the monies Medical Mutual received from through the Rate Stabilization Account, and it waived any right to receive any further monies from the Rate Stabilization Account.³

The result was that Medical Mutual’s insured physicians and surgeons experienced no price increase in calendar year 2008 for their medical malpractice insurance policies. Medical Mutual, in accordance with the Consent Order, made a rate filing at the end of July and, based on that filing, the price for physicians and surgeons

² While Medical Mutual has a collective annual renewal date of January 1, other carriers that elected to receive monies from the Rate Stabilization Account have rolling renewal dates. Thus, some physicians whose policies do not renew until the end of calendar year 2008, will still be eligible to receive the subsidy into 2009.

³ A copy of the Commissioner’s Order in the case *Insurance Commissioner for the State of Maryland v. Medical Mutual Liability Insurance Society of Maryland*, Case No.: MIA_2007-09-025 and a copy of the Consent Order entered into thereafter are all available on the MIAs website, www.mdinsurance.state.md.us.

insured by Medical Mutual will decrease by at least an additional 2% for calendar year 2009.⁴

Premiums: Selected Specialties

Based on rate filings, the Maryland Insurance Administration is able to compare premiums by specialty and by company. The base premiums for policy limits of \$1,000,000 per incident/ \$3,000,000 annual aggregate based upon mature claims-made rates for four specialties -- Emergency Medicine, Family Practice, and OB/GYN, and Neurosurgeons – for the top five admitted insurers and by territory for 2008 are displayed in Exhibits B through E. The five tables below provide information on changes in the base premiums for these four specialties for the territory with the highest premiums – Baltimore City and Baltimore County – for the three insurers writing about 57 percent of the total market and 73% of the admitted market.

Obstetrics/gynecology (with surgery) have higher rates than emergency medicine or family practice. Within emergency medicine and family practice, rates are higher for those physicians performing major surgery than those performing no surgery or minor surgery.

From 2004 to 2008, changes in rates, and therefore premiums, have varied by company and by specialty. Rates decreased 15 percent for emergency medicine, family practice and obstetrics/gynecology during this four year period for those insured with Medical Mutual. For those insured with the Doctors Company, rates, and therefore premiums, were unchanged over the four year period, with the exception of obstetrics/

⁴ A dividend is expected to be issued by the company as well so that in calendar year 2009, Medical Mutual's insureds will continue to experience a flat cost for the medical professional liability insurance; that is no dramatic increase or decrease in the cost.

gynecology where rates decreased 6 percent. Unlike its competitors, Medical Protective increased rates, and therefore premiums increased, between 16 and 28 percent between 2004 and 2008, with the highest increases for those physicians engaged in the practice of emergency medicine with no minor surgery.

Table 1: Emergency Medicine, Major Surgery Premiums, Selected Insurers, Baltimore City and Baltimore County

	2005	2006	2007	2008	% Change, 2005-2008
Medical Mutual	78,204	78,204	71,948	66,191	-15%
The Doctors Company	46,731	46,731	46,731	46,731	0%
Medical Protective	49,241	59,724	59,243	59,243	20%

Table 2: Emergency Medicine, No Major Surgery Premiums, Selected Insurers, Baltimore City and Baltimore County

	2005	2006	2007	2008	% Change, 2005-2008
Medical Mutual	46,220	46,220	42,523	39,120	-15%
The Doctors Company	46,731	46,731	46,731	46,731	0%
Medical Protective	41,034	49,770	52,661	52,661	28%

Table 3: Family Practice, Minor Surgery Premiums, Selected Insurers, Baltimore City and Baltimore County

	2005	2006	2007	2008	% Change, 2005-2008
Medical Mutual	33,278	33,278	30,616	28,166	-15%
The Doctors Company	24,427	24,427	24,427	24,427	0%
Medical Protective	0	39,815	30,910	30,910	N/A

Table 4: Family Practice, No Minor Surgery Premiums, Selected Insurers, Baltimore City and Baltimore County

	2005	2006	2007	2008	% Change, 2005-2008
Medical Mutual	18,488	18,488	17,009	15,648	-15%
The Doctors Company	17,448	17,448	17,448	17,488	0%
Medical Protective	16,699	20,254	20,863	19,319	16%

Table 5: Obstetrics/Gynecology, Surgery Premiums, Selected Insurers, Baltimore City and Baltimore County

	2005	2006	2007	2008	% Change, 2005-2008
Medical Mutual	151,602	151,602	139,974	128,314	-15%
The Doctors Company	111,231	104,875	104,875	104,875	-6%
Medical Protective	102,587	134,378	133,299	123,425	20%

The variation in base rates across companies demonstrates the importance of shopping for medical professional liability insurance. To help health care providers shop for this insurance, the Maryland Insurance Administration, as required by §2-303.2 of the Insurance Article, annually updates the *Comparison Guide to Maryland Medical Professional Liability Insurance Rates* (“*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 compare general pricing among the major admitted insurers.

In 2009, the *Comparison Guide* will be expanded to include the same general information for surplus lines insurers and risk retention groups. This will allow health care providers to compare general pricing among all companies offering medical professional liability insurance in Maryland.

Deductibles

In an effort to make medical professional liability insurance more affordable, §19-114 of the Insurance Article requires each insurer that issues or delivers a medical professional liability insurance policy in the State to offer policies with deductibles in the following amounts: \$25,000, \$50,000; and \$100,000. As Exhibit H shows, virtually no health care providers purchase policies with these deductibles.

IV. Closed Claim Data

The Maryland Insurance Administration promulgated regulations, COMAR 31.08.10, Medical Professional Insurers Online Claim Survey Reporting Requirements, to obtain certain claim information from medical professional liability insurers on a quarterly basis. (See Exhibit F.) These regulations became effective May 22, 2006. This

section summarizes the claims experience for physicians and surgeons as reported by many medical professional liability insurers, including the major admitted insurers writing in Maryland, Medical Mutual, PPIC, NCRIC, Inc., Medical Protective, The Doctors Company and OHIC Insurance Company.^{5/6} More detailed information is provided in Exhibits I, G and J.

As Table 6 shows, the number of closed claims increased 12 percent between 2005 and 2007. During this same three year period, as Table 7 indicates, the number of suits filed dramatically increased by 229 percent.

**Table 6: Closed Claims,
2005-2008**

2005	493
2006	376
2007	554
First six months of 2008	274
% Change 2005 to 2007	12 %

**Table 7: Suits Filed & Then Closed,
2005-2008**

2005	42
2006	50
2007	138
First six months of 2008	74
% Change 2005 to 2007	229%

The combination of increases in closed claims and number of suits filed over the period 2003 to 2007 underscores the continued volatility in this line of business.

⁵ OHIC Insurance Company ceased writing new policies for physicians in Maryland effective March 1, 2004 and began withdrawing from the market and non-renewing policies effective March 1, 2005. However, since the company is still closing claims, it will continue to report closed claims in compliance with the new regulation.

⁶ This report does not comment on claims made against self-insured hospitals as these claims are not required to be reported to the MIA under §4-405 of the Insurance Article.

V. Conclusion

Medical professional liability insurance remains available in Maryland. Based on the fact that Medical Mutual dominates this market and has decreased its base rates 15 percent during the period 2004 to 2007, medical professional liability insurance is more affordable for physicians today than it was in 2004.

Medical professional liability insurance remains a volatile line of business and the Maryland Insurance Administration will continue to monitor the availability and affordability of this insurance and provide information to health care providers to help shop for this important insurance.

VI. Exhibit List

- Exhibit A1:** Distribution of Market Share of Medical Professional Liability Insurance in Maryland for 2007 by Insurance Group.
- Exhibit A2:** Distribution of Admitted Carriers Market Share of Medical Professional Liability Insurance in Maryland for 2007
- Exhibit B:** Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine
- Exhibit C:** Comparison of Annual Medical Professional Liability Premiums for Family/General Practice (No OB) Minor Surgery and No Surgery
- Exhibit D:** Comparison of Annual Medical Professional Liability Premiums for Obstetrics/Gynecology - Surgery
- Exhibit E:** Comparison of Annual Medical Professional Liability Premiums for Neurology (including child) Surgery and Minor Surgery
- Exhibit F:** Maryland Regulation COMAR 31.08.10: Medical Professional Insurers On-Line Claim Survey Reporting Requirements
- Exhibit G:** Number of Claims/Suits by Court or Other Jurisdiction from 2005 - 2008
- Exhibit H:** Number of Policyholders Selecting Large Deductibles for 2006 and 2007.
- Exhibit I:** Number of Claims Reported by Specialty for the Years 2005 – 2008
- Exhibit J:** Number of Closed Claims by Company for the Years 2005 - 2008

Medical Professional Liability 2007 Premiums

Exhibit A1

by Insurance Group

Page 1

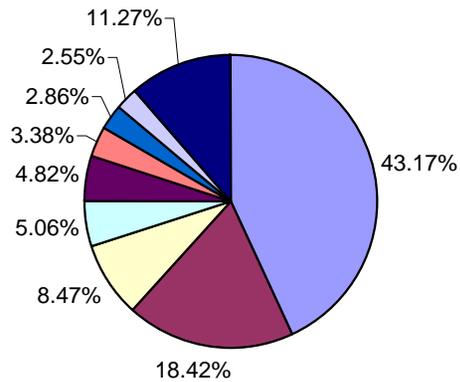
Group Code	Group Name	Insurance Group Premium	Market Share	Admitted Premium	Surplus Lines Premium	RRG Premium
377	MEDICAL MUT LIAB INS SOCIETY OF MD	139,286,262	43.17%	139,286,262		
0	MCIC VT INC RRG	59,431,120	18.42%			59,431,120
831	DOCTORS CO AN INTERINS EXCH	27,333,964	8.47%	26,758,676	575,288	
31	MEDICAL PROTECTIVE COMPANIES	16,315,909	5.06%	14,682,427	1,633,482	
2698	MEDICAL ASSUR COMPANY	15,562,480	4.82%	15,521,598	40,882	
12	AIG GROUP	10,895,601	3.38%	3,384,949	7,510,652	
218	CNA	9,224,730	2.86%	6,525,609	2,699,121	
212	ZURICH	8,243,284	2.55%	2,826,802	5,416,482	
0	MARYLAND HLTHCARE PROVIDERS INS EXCH	7,394,250	2.29%	7,394,250		
785	EVANSTON INS CO	3,514,694	1.09%		3,514,694	
3504	PODIATRY INS CO OF AMER A MUT CO	3,280,887	1.02%	3,280,887		
626	ACE-USA	2,968,390	0.92%	1,265,292	1,703,098	
0	PREFERRED PROFESSIONAL INS CO	2,750,806	0.85%	2,750,806		
501	DARWIN NATIONAL	2,742,945	0.85%	969,191	1,773,754	
761	FIREMANS FUND COMPANIES	2,313,715	0.72%	1,736,228	577,487	
508	FORTRESS INS CO	1,553,104	0.48%	182,462		1,370,642
0	PREFERRED PHYSICIANS MEDICAL RRG	1,548,029	0.48%			1,548,029
1279	ARCH SPECIALTY INS CO	1,363,695	0.42%		1,363,695	
1129	ONEBEACON INS CO	1,360,309	0.42%	133,920	1,226,389	
3494	JAMES RIVER INS CO	868,506	0.27%		868,506	
0	OPHTHALMIC MUT INS CO RRG	777,952	0.24%			777,952
2638	NCMIC INS CO	689,491	0.21%	689,491		
98	WR BERKELY	687,651	0.21%		687,651	
244	CINCINNATI FINANCIAL	407,154	0.13%	407,154		
0	NOVUS INS CO RRG	310,237	0.10%			310,237
0	AMERICAN ASSOC OF OTHODONTISTS RRG	202,518	0.06%			202,518
866	WESTERN WORLD INS CO	199,292	0.06%		199,292	
0	ALLIED PROFESSIONALS INS CO RRG	182,323	0.06%			182,323
0	MEDSTAR LIAB LTD INS CO INC RRG	155,576	0.05%			155,576
0	PEACE CHURCH RRG INC	146,665	0.05%			146,665
0	CONTINUING CARE RRG INC	136,140	0.04%			136,140
0	CAMPMED CAS & IND CO INC MD	128,580	0.04%	128,580		
361	AMERICAN ALT INS CORP	128,203	0.04%	128,203		
3239	ALLIED WORLD ASSUR CO US INC	128,113	0.04%		128,113	
0	APPLIED MEDICO LEGAL SOLUTIONS RRG	101,703	0.03%			101,703
0	EMERGENCY PHYSICIANS INS CO RRG	81,144	0.03%			81,144
0	ASPEN SPECIALTY INS CO	76,945	0.02%		76,945	
984	HOUSTON CAS CO	70,595	0.02%		70,595	

Medical Professional Liability 2007 Premiums by Insurance Group

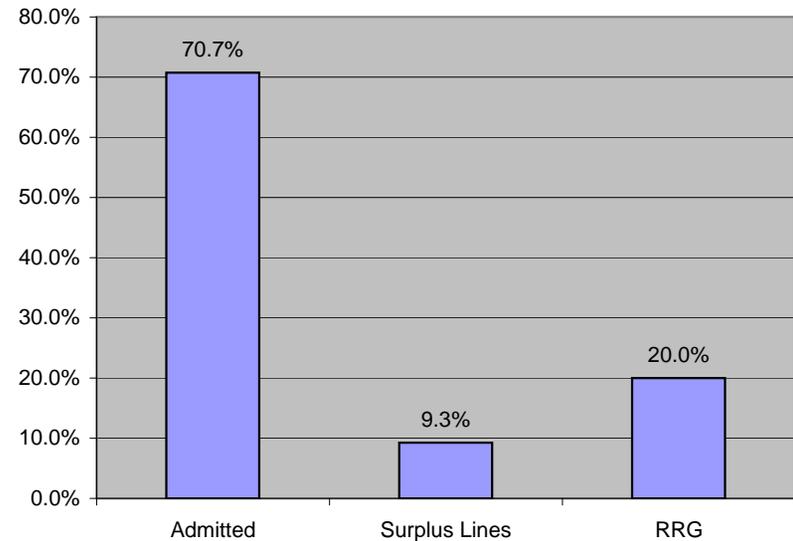
Group Code	Group Name	Insurance Group Premium	Market Share	Admitted Premium	Surplus Lines Premium	RRG Premium
775	PHARMACISTS MUT INS CO	52,109	0.02%	52,109		
0	CHURCH MUT INS CO	43,444	0.01%	43,444		
0	NATIONAL MEDICAL PROFESSIONAL RRG IN	35,592	0.01%			35,592
176	STATE FARM	27,170	0.01%	27,170		
140	NATIONWIDE COMPANIES	17,655	0.01%	17,655		
0	CLINICAL TRIALS RECIP INS CO RRG	11,113	0.00%			11,113
0	WELLSPAN RRG	7,000	0.00%			7,000
163	SAFECO	2,754	0.00%	2,754		
0	AMERICAN EXCESS INS EXCH RRG	850	0.00%			850
0	CARE RRG INC	-3,676	0.00%			-3,676
158	HUDSON SPECIALTY INS CO	-108,706	-0.03%		-108,706	
TOTALS		322,648,267		228,195,919	29,957,420	64,494,928
Percent of Total Premium		100.0%		70.7%	9.3%	20.0%

Premium Percent of the Seven largest Carriers

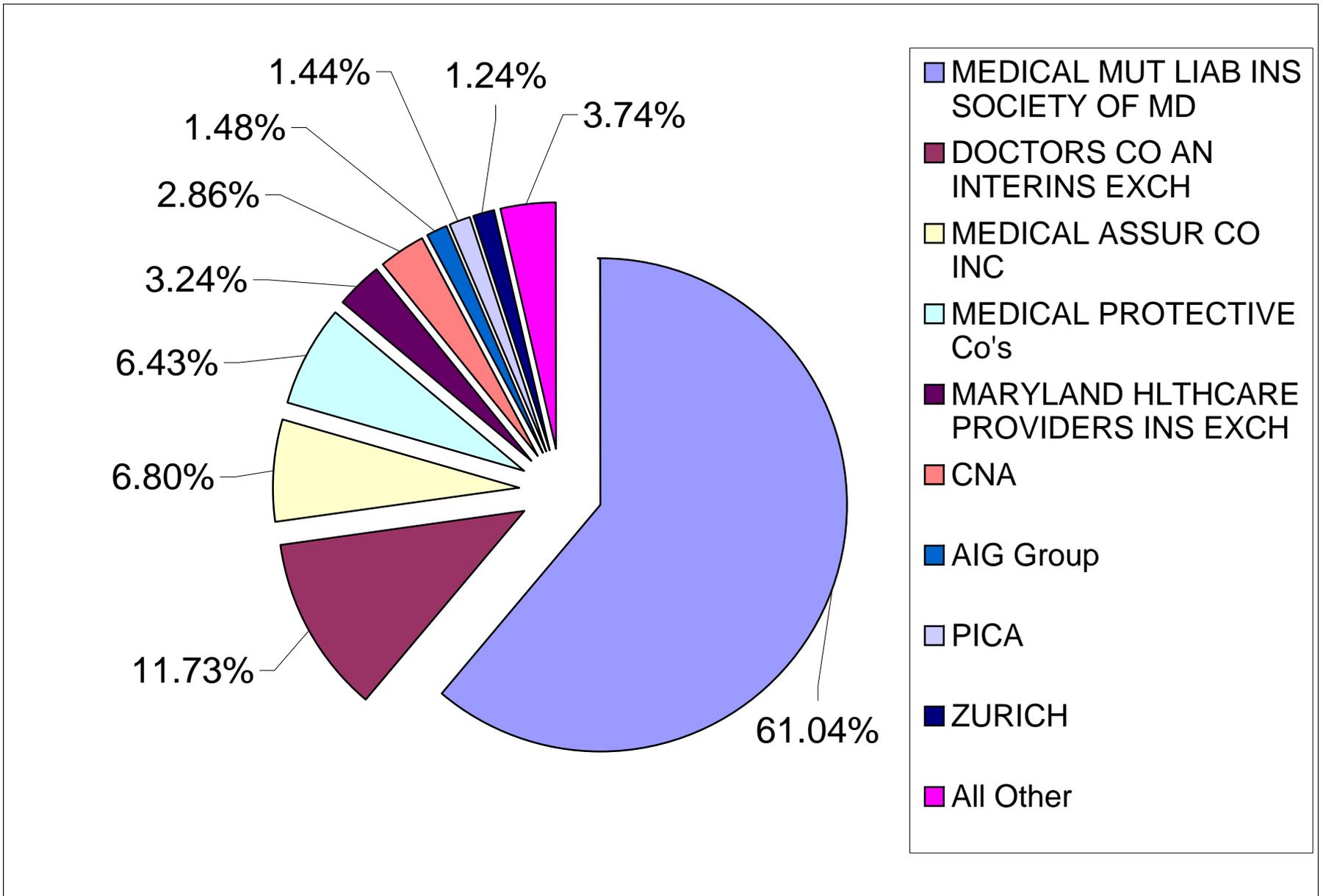
- MEDICAL MUT LIAB INS SOCIETY OF MD
- MCIC VT INC RRG
- DOCTORS CO AN INTERINS EXCH
- MEDICAL PROTECTIVE Co's
- MEDICAL ASSUR CO INC
- AIG Group
- CNA
- ZURICH
- Remaining



Percent of Premium by Type of License



Admitted Carriers 2007 Market Share



Admitted Carriers only. Surplus Lines and RRG's are not included

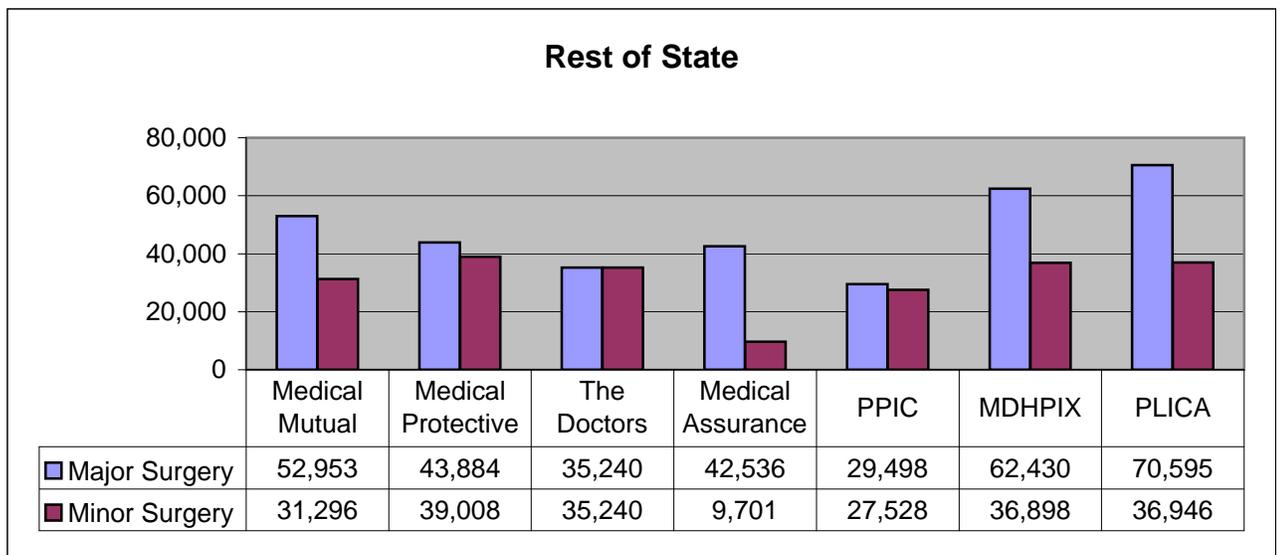
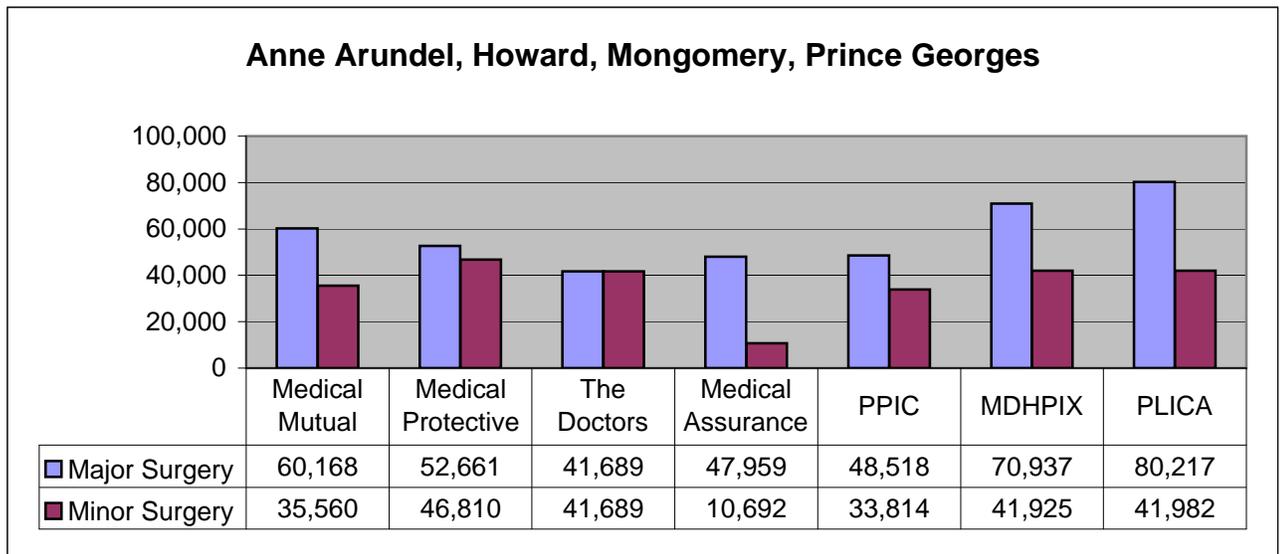
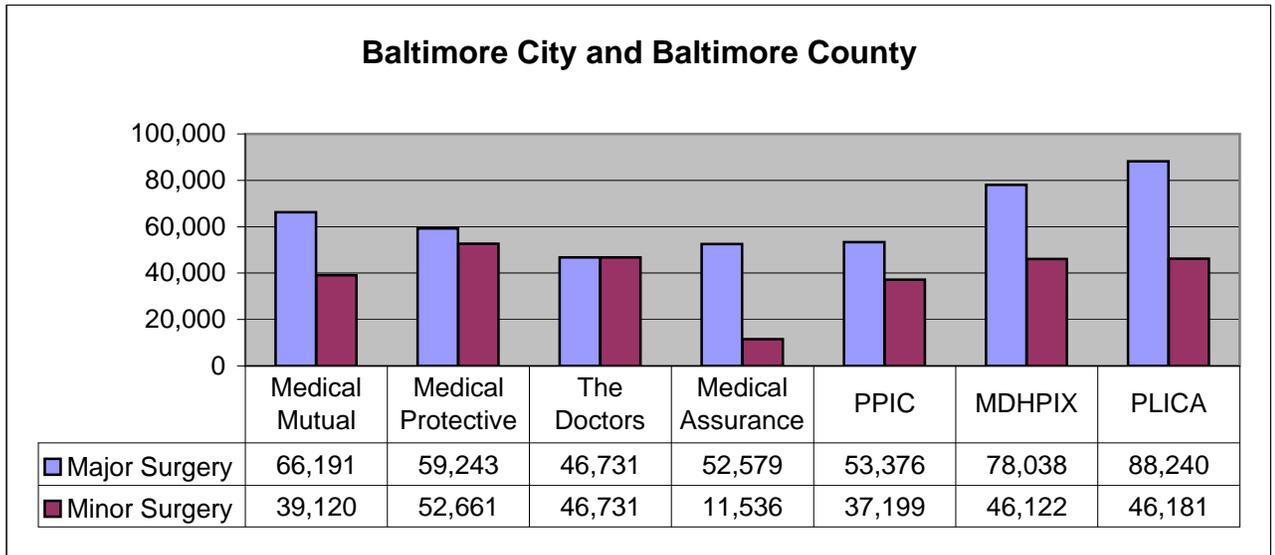
Notes for Annual Premium Charts

The company names have been shortened on the charts for readability purposes

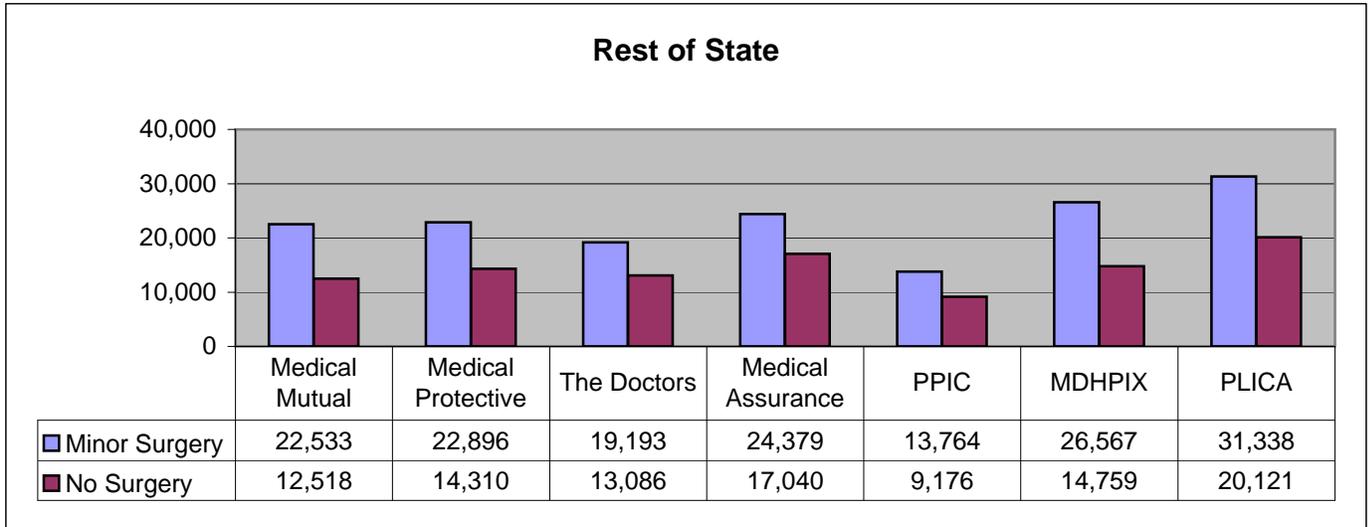
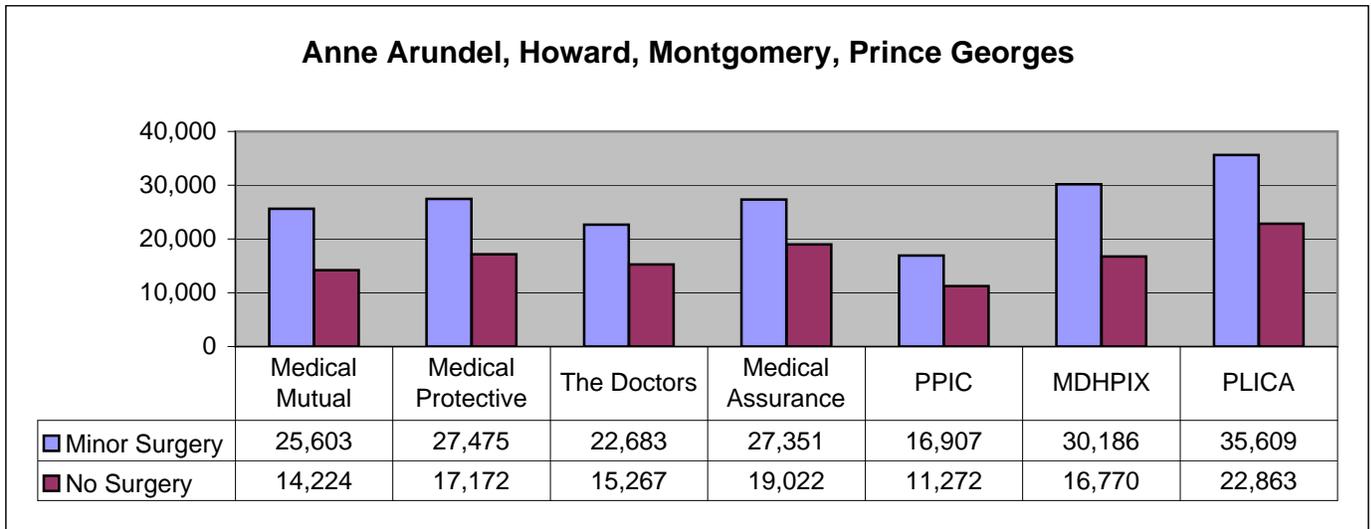
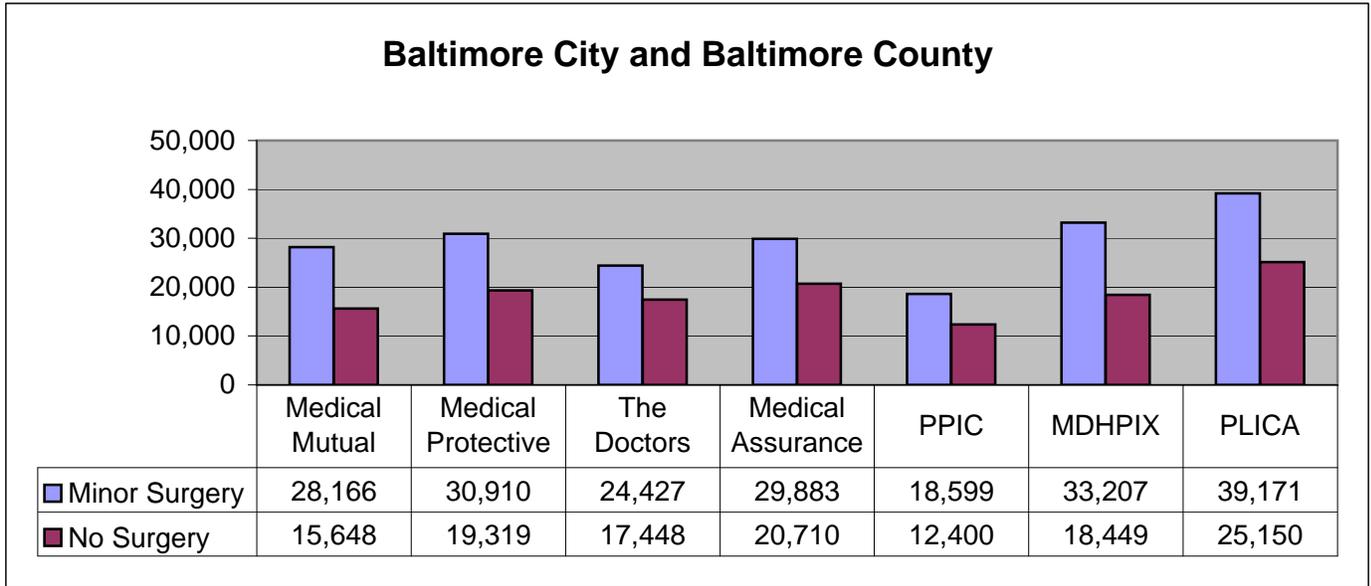
Name on Charts	Full Company Name
Medical Mutual	Medical Mutual Liability Insurance Society of Maryland
Medical Protective	Medical Protective Insurance Company
Doctors	The Doctors Company
Medical Assurance	Medical Assurance Insurance Company
PPIC	Preferred Professional Insurance Company
MDHPIX	Maryland Healthcare Providers Insurance Exchange
PLICA	Professional Liability Insurance Company of America

Annual Premiums for Emergency Medicine Major Surgery and No Major Surgery

Exhibit B

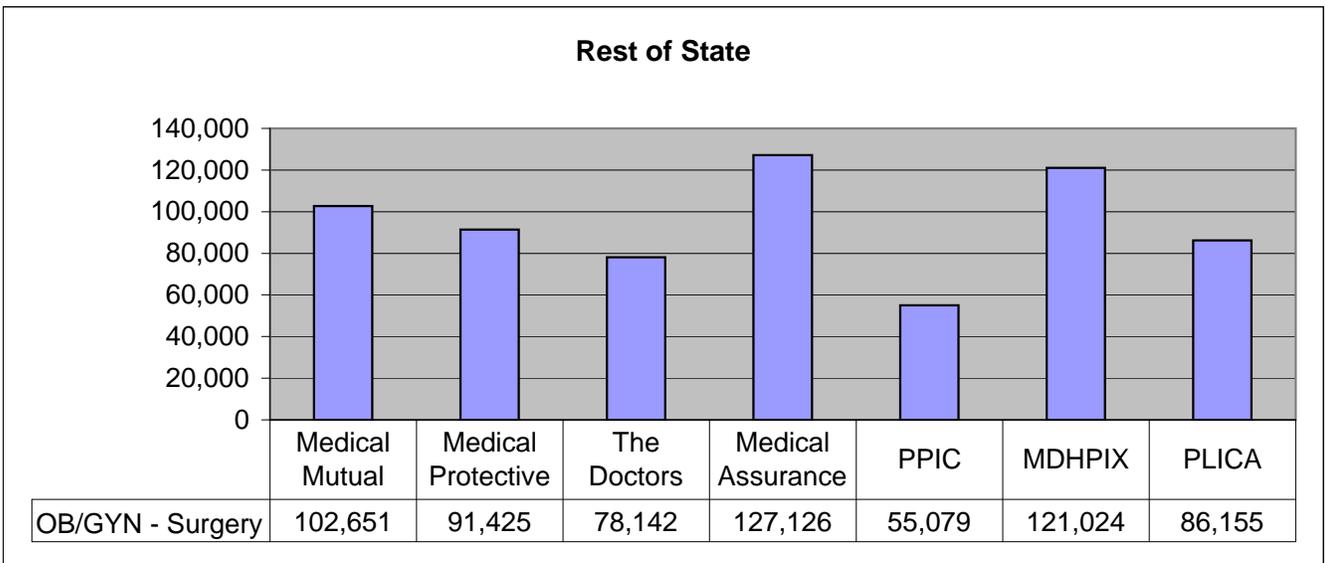
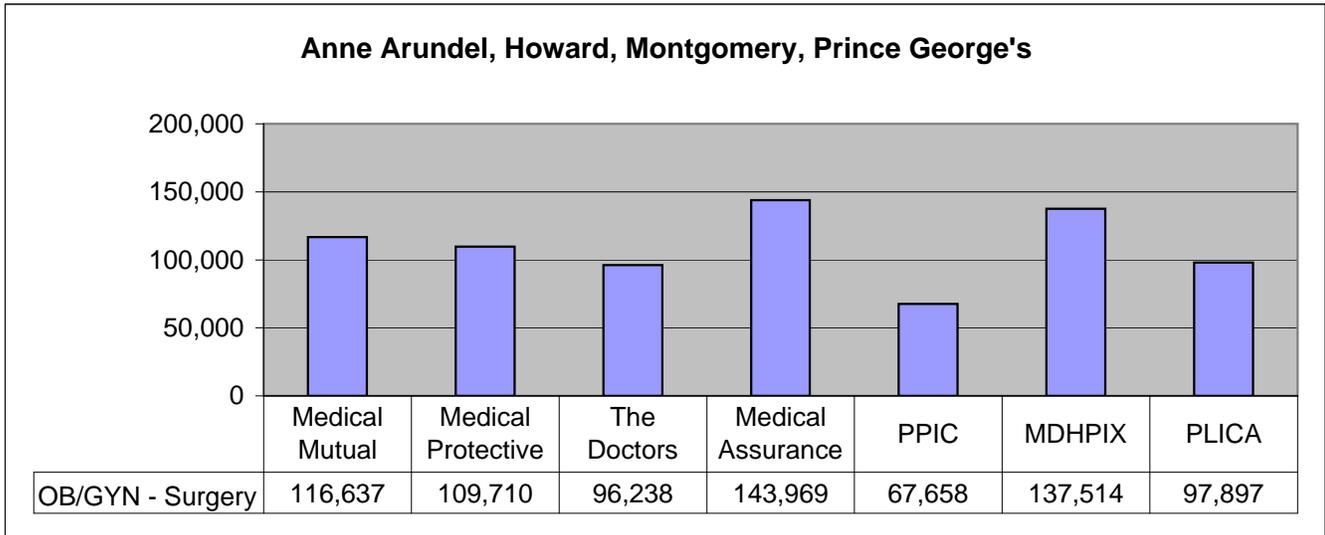
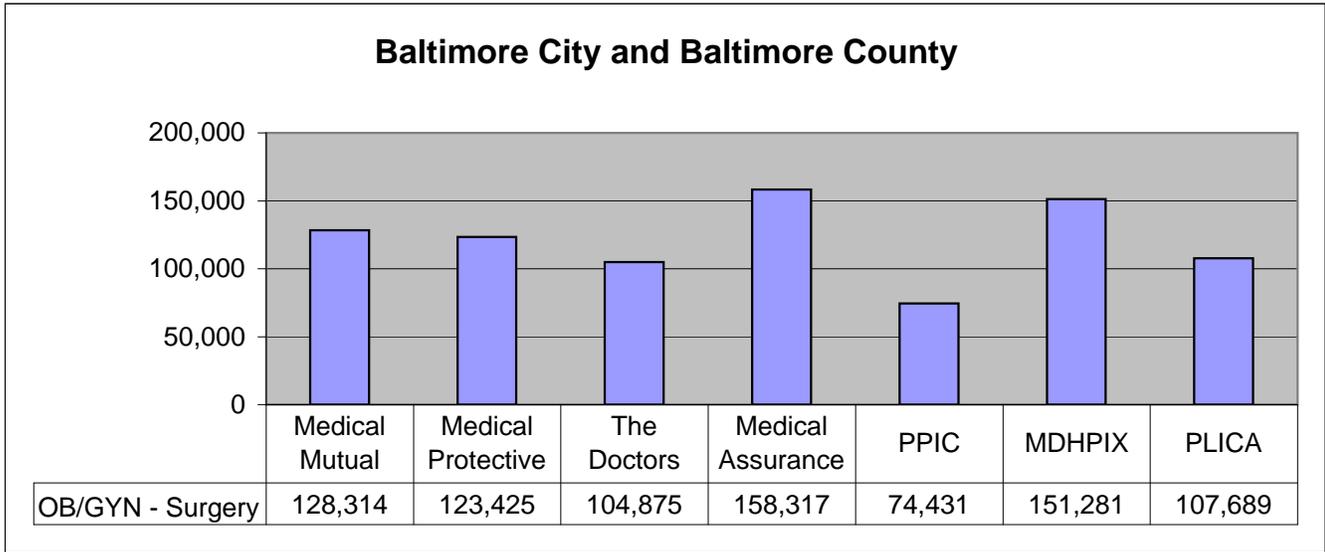


**Annual Premiums for Family/General Practice (No OB) Exhibit C
Minor Surgery and No Surgery**



Comparison of Annual Premiums for Obstetrics/Gynecology - Surgery

Exhibit D



Annual Premiums for Neurology (including child) Surgery and Minor Surgery

Exhibit E

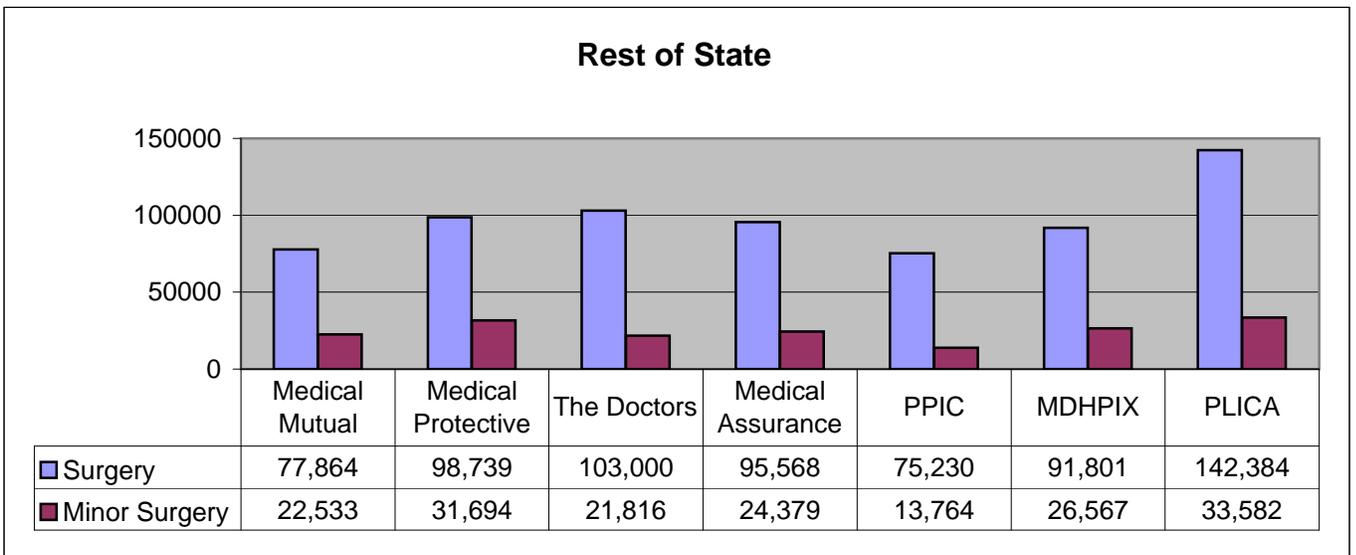
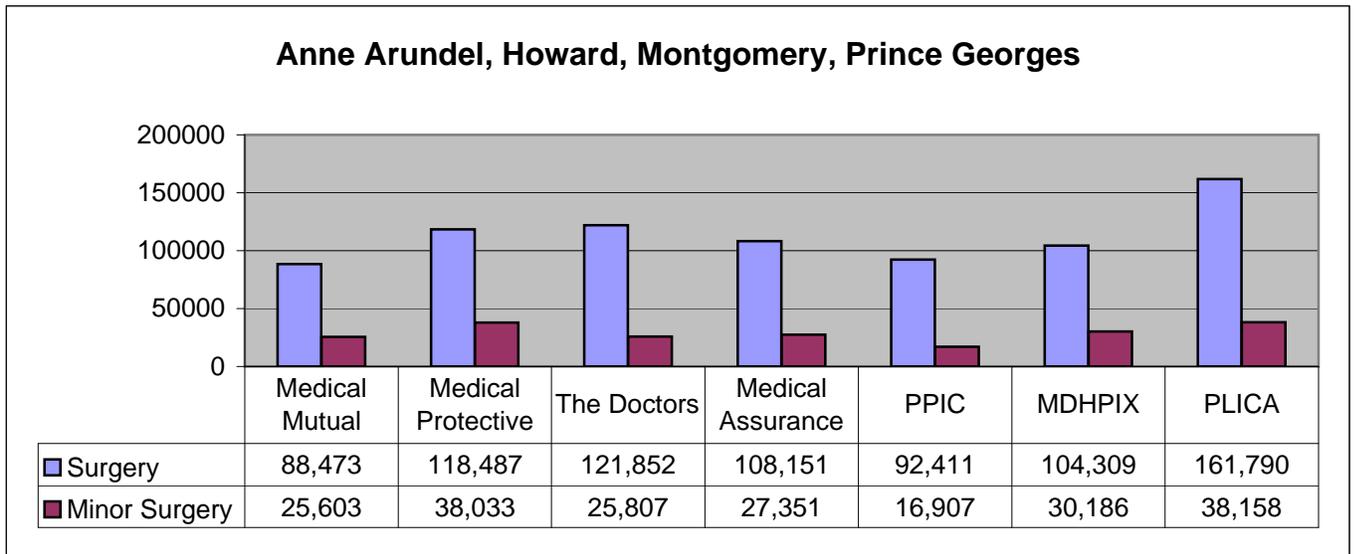
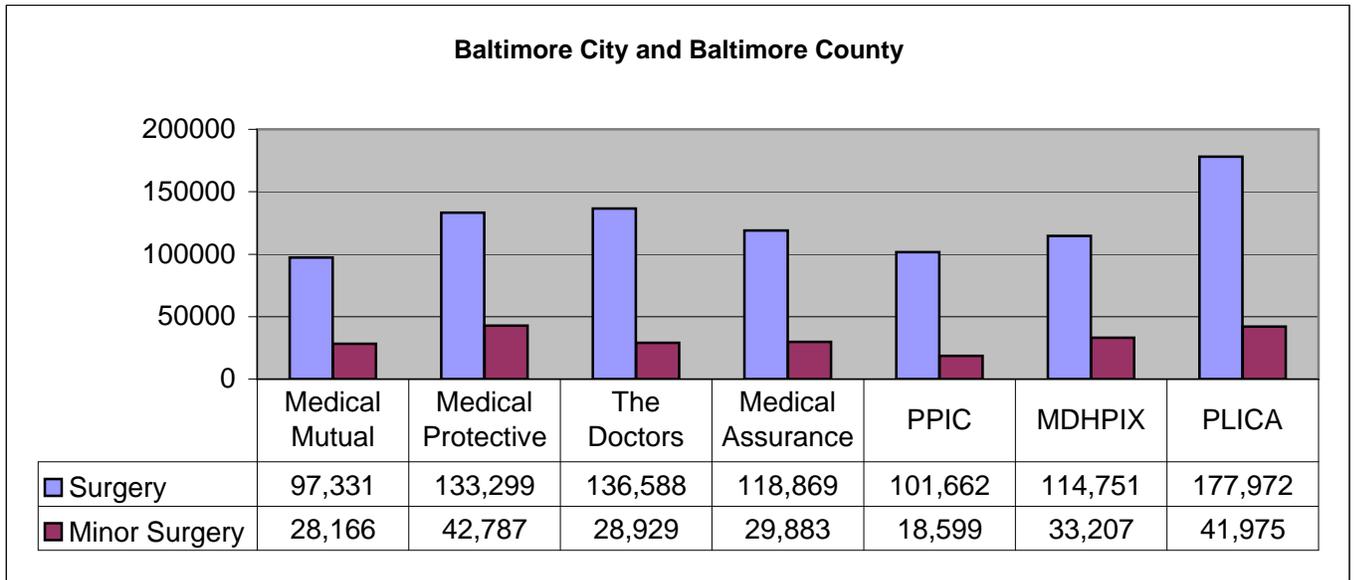


Exhibit F

31.08.10.00

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 08 PROPERTY AND CASUALTY INSURANCE

Chapter 10 Medical Professional Insurers Online Claim Survey Reporting Requirements

Authority: Insurance Article, §§4-401 and 4-405, Annotated Code of Maryland

31.08.10.01

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Amount paid to claimant" means the amount of claim settlements and claim awards.
- (2) "Closed claim" means a claim filed with the Director of the Health Care Alternative Dispute Resolution Office under Courts and Judicial Proceedings Article, §3-2A-04, Annotated Code of Maryland, that has resulted in:
 - (a) A final judgment in any amount;
 - (b) A settlement in any amount; or
 - (c) A final disposition that does not result in payment on behalf of the insured.
- (3) "Confidential information" means "confidential commercial information", "confidential financial information", and "financial information" as those terms are used in State Government Article, §10-617(d) and (f), Annotated Code of Maryland.
- (4) "Financial information report" means an annual report as described in Regulation .02 of this chapter.
- (5) "Insurer" means each insurer that provides professional liability insurance to a physician, nurse, dentist, podiatrist, optometrist, or chiropractor licensed under Health Occupations Article, Annotated Code of Maryland, or a hospital licensed under Health—General Article, Annotated Code of Maryland.
- (6) "Neutral expert" has the meaning stated in Courts and Judicial Proceedings Article, §3-2A-09(d)(2), Annotated Code of Maryland.

31.08.10.02

.02 Financial Information Report.

A. Scope. An insurer that issues professional liability insurance to health care providers in the State shall submit to the Commissioner a financial information report.

B. Confidential Information.

(1) An insurer that submits a financial information report shall notify the Commissioner at the time of the submission of any information contained in the report that the insurer considers to be confidential information.

(2) The Commissioner, in accordance with State Government Article, §10-617(d) and (f), Annotated Code of Maryland, shall deny inspection of any part of a report submitted under this chapter that the Commissioner determines contains confidential information.

C. Filing Requirements.

(1) Insurers shall submit a financial information report by April 30 of each year for the preceding calendar year.

(2) The financial information report shall state, in the aggregate:

(a) The nature and cost of reinsurance for the insurer for the preceding calendar year;

(b) The claims experience, by category, of health care providers insured by the insurer during the preceding calendar year;

(c) The amount paid by the insurer under claim settlements and claim awards in the preceding calendar year;

(d) The amount of reserves for claims incurred and for incurred but unreported claims held by the insurer at the close of the preceding calendar year; and

(e) The number of claims settled by the insurer during the preceding calendar year that included structured settlement payments.

31.08.10.03

.03 Closed Claim Survey.

A. Scope. Each insurer that issues professional liability insurance in the State shall complete and submit to the Commissioner a closed claim survey form, as described in Regulation .04 of this chapter, for each closed claim.

B. Within 90 days after the end of each calendar quarter, an insurer shall complete and submit to the Commissioner the closed claim survey forms for claims closed by the insurer in that quarter.

C. The closed claim survey forms shall be submitted to the Commissioner using an online survey tool made available by the Maryland Insurance Administration.

D. A closed claim that is covered under a primary policy and one or more excess policies shall be reported only by the insurer that issued the primary policy. The insurer that issued the primary policy shall report the total amount, if any, paid with respect to the closed claim, including any amount paid under an excess policy and any amount paid

by the health care provider subject to the claim or by a person other than an insurer on behalf of that health care provider.

E. A closed claim survey form shall be completed and submitted only for a closed claim that arises out of an act or omission alleged to have occurred in the State or that was covered under a policy of professional liability insurance issued in the State. If the act, omission, or injury alleged in the closed claim allegedly occurred outside the State but was subject to resolution under the substantive laws of the State, a closed claim survey form is not to be submitted on that closed claim, unless the closed claim was covered under a policy of professional liability insurance issued in the State.

F. A single closed claim survey form shall be filed for any closed claim that arises out of the same alleged acts or omissions of a health care provider and asserts the same injury, regardless of the number of claimants seeking damages on account of that injury. Any amounts identified on the closed claim survey form in connection with such a closed claim shall reflect all amounts paid to all claimants in that closed claim.

G. If the insurer did not close any claims during a calendar quarter, the insurer need not submit a closed claim survey form but shall so notify the Commissioner in writing within 90 days after the end of the calendar quarter.

31.08.10.04

.04 Required Information.

The following information shall be reported on a closed claim survey form:

- A. Name of insurer;
- B. Name of insurer group;
- C. Claim file identification (ID);
- D. Name of person completing the form;
- E. Telephone number, including area code, of person completing the form;
- F. Date form completed;
- G. Date of injury;
- H. Date injury reported to insurer;
- I. Date claim closed;
- J. Whether the claim was previously reported;
- K. Age of injured person at time of injury;
- L. Gender of injured person at time of injury;
- M. Type of injury, such as wrongful death, permanent disability, or other bodily injury;
- N. Description of injury;

O. Name of health facility where injury occurred;

P. Type of medical professional liability policy, such as occurrence, claims made—basic, or claims made—tail;

Q. Type of patient, such as inpatient, emergency room outpatient, or other outpatient;

R. Physician Insurance Services Office Incorporated (ISO) classification or equivalent classification;

S. Type of health care provider, such as physician-no surgery, surgeon, psychiatrist and related specialties, nurse, nurse midwife, optometrist, pharmacist, chiropractor, podiatrist, psychologist, dentist, hospital, other health care facility, or nurse anesthetist;

T. Physician and surgeon classification, including name of specialty;

U. Health care provider name;

V. Health care provider license number;

W. Policy limits for each claim or medical incident;

X. Policy limits for annual aggregate;

Y. If known, the facility, office, or county where the injury occurred;

Z. Whether the claim is a zero payment claim file;

AA. Full name and location of the court where the suit was filed and the case was tried;

BB. Case or docket number;

CC. Whether settlement was reached or award was made at one of the following stages:

(1) Arbitration;

(2) Mediation before suit was filed;

(3) After suit was filed, but before trial;

(4) During trial, but before court verdict;

(5) Court verdict;

(6) After verdict; or

(7) After appeal was filed;

DD. If settlement was reached or award was made by court verdict, whether the result was:

(1) Directed verdict for plaintiff;

(2) Directed verdict for defendant;

- (3) Judgment notwithstanding the verdict for plaintiff;
- (4) Judgment notwithstanding the verdict for defendant;
- (5) Judgment for plaintiff;
- (6) Judgment for defendant;
- (7) Judgment for plaintiff, after appeal;
- (8) Judgment for defendant, after appeal; or
- (9) Any other;

EE. If there was no final judgment or settlement, the date of the final disposition;

FF. If there was no final judgment or settlement, the reason for the final disposition;

GG. If case did go to trial, whether the case was tried by a jury or tried by a judge;

HH. Total amount paid to the claimant;

II. Amount paid by the insurer;

JJ. Amount paid by the insured due to retention or deductible;

KK. If known, the amount paid by an excess carrier;

LL. If known, the amount paid by the insured due to settlement or award in excess of policy limits, not including deductible or retention amounts;

MM. If known, the amount paid by the insurer due to settlement or award in excess of policy limits, not including deductible or retention amounts;

NN. If known, the amount paid by other defendants or contributors;

OO. A summary of the occurrence from which the claim or action arose;

PP. A description of the misdiagnosis or alleged misdiagnosis made, if any, of the patient's actual condition;

QQ. A description of the procedure giving rise to the claim;

RR. A description of the principal injury giving rise to the claim;

SS. The amount of past medical expenses claimed by the plaintiff;

TT. The amount of future medical expenses claimed by the plaintiff;

UU. The amount of past lost wages claimed by the plaintiff;

VV. The amount of future lost wages claimed by the plaintiff;

WW. The amount of noneconomic damages claimed by the plaintiff;

XX. The amount of other damages claimed by the plaintiff;

YY. Whether a structured settlement or periodic payment was used, and if so:

- (1) The amount of immediate payment;
- (2) The present value of the projected total future payout, that is, the price of the annuity, if purchased;
- (3) The projected total future payout; and
- (4) The cost of the structure;

ZZ. If a neutral expert was used, the findings of a neutral expert witness regarding future medical expenses;

AAA. If a neutral expert was used, the findings of a neutral expert witness regarding future loss of earning;

BBB. If case was tried to verdict:

- (1) The amount awarded for past medical expenses;
- (2) The amount awarded for future medical expenses;
- (3) The amount awarded for past lost wages;
- (4) The amount awarded for future lost wages;
- (5) The amount awarded for noneconomic damages; and
- (6) The amount awarded for other damages;

CCC. The total allocated loss adjustment expense;

DDD. Of the total allocated loss adjustment expense, the amount representing fees paid to defense counsel;

EEE. Of the total allocated loss adjustment expense, the amount of expenses not included in the defense counsel fees;

FFF. Whether there was a claim made for extra contractual damages;

GGG. The amount claimed for extra contractual damages;

HHH. Whether a suit was filed or claim was made for extra contractual damages; and

III. Where the suit for the extra contractual damages claim was filed, including:

- (1) The full name of the court where the suit was filed and the case was tried;
- (2) The case number or docket number;

- (3) Whether the claim settled or was tried;
- (4) If tried, whether the trial was before a judge or jury;
- (5) The amount paid for the extra contractual damages claim; and
- (6) Whether the claim was previously reported to the Commissioner.

31.08.10.05

.05 Penalties.

Failure to report in accordance with this chapter may result in the imposition by the Commissioner of a civil penalty of up to \$5,000.

31.08.10.9999

Administrative History

Effective date: May 22, 2006 (33:10 Md. R. 882)

Number of suits filed by jurisdiction by year

	2005	2006	2007	6 mos 08	Totals
Allegany County Arbitration	2	0	2	0	4
Allegany County Circuit Court	3	4	2	0	9
Allegany County District Court	1	0	0	1	2
Anne Arundel County Arbitration	4	0	0	0	4
Anne Arundel County Circuit Court	36	36	25	15	112
Anne Arundel County District Court	3	2	3	0	8
Anne Arundel - unknown	0	1	0	0	1
Baltimore City Arbitration	3	0	3	0	6
Baltimore City Circuit Court	48	23	41	30	142
Baltimore City District Court	0	1	1	0	2
Baltimore City, MD - Other	1	4	0	1	6
Baltimore County Arbitration	5	0	0	0	5
Baltimore County Circuit Court	70	37	42	11	160
Baltimore County District Court	2	5	1	0	8
Baltimore County - unknown	2	6	0	0	8
Baltimore MD Circuit Court	4	10	5	4	23
Baltimore, MD unknown which court	1	5	1	0	7
Calvert County Circuit Court	8	1	8	1	18
Caroline County Circuit Court	0	1	0	0	1
Carroll County Circuit Court	3	2	4	3	12
Cecil County Circuit Court	3	1	0	0	4
Charles County Circuit Court	7	6	4	3	20
Charles County District Court	1	0	0	0	1
Dorchester County Circuit Court	1	0	2	0	3
Dorchester County District Court	0	0	0	1	1
Frederick County Arbitration	0	0	1	0	1
Frederick County Circuit Court	21	5	6	6	38
Frederick County District Court	1	0	1	0	2
Frederick County - unknown	0	1	0	0	1
Frederick MD State Circuit Court	0	1	0	0	1
Garrett County Circuit Court	2	1	0	0	3

Year is based on the year the claim is closed

Number of suits filed by jurisdiction by year

	2005	2006	2007	6 mos 08	Totals
Harford County Arbitration	1	0	0	0	1
Harford County Circuit Court	9	4	10	2	25
Howard County Arbitration	1	0	0	0	1
Howard County Circuit Court	6	5	3	4	18
Howard County District Court	0	0	4	0	4
Kent County Arbitration	0	3	0	0	3
Kent County Circuit Court	1	1	2	1	5
Montgomery County Arbitration	2	0	7	15	24
Montgomery County Circuit Court	40	14	28	23	105
Montgomery County District Court	1	0	1	2	4
Montgomery County Small Claims Court	0	2	0	0	2
Prince George's County Arbitration	3	3	2	1	9
Prince George's County Circuit Court	49	32	48	28	157
Prince George's County District Court	2	0	0	2	4
Prince George's County - unknown	0	5	0	0	5
Queen Anne's County	0	0	0	1	1
St. Mary's County Circuit Court	6	1	4	1	12
St. Mary's County District Court	0	0	0	1	1
Somerset County Circuit Court	0	0	1	1	2
Talbot County Circuit Court	11	10	9	1	31
Washington County Arbitration	3	0	2	0	5
Washington County Circuit Court	13	3	2	1	19
Wicomico County Arbitration	0	0	0	1	1
Wicomico County Circuit Court	14	3	7	5	29
Worcester County Circuit Court	3	0	0	0	3
Grand Totals	397	239	282	166	1084
Claims not resulting in a suit	52	86	126	40	304

Year is based on the year the claim is closed

Number of suits filed by jurisdiction by year

	2005	2006	2007	6 mos 08	Totals
OTHER COURTS or JURISDICTIONS					
Maryland Health Claims ADR	13	21	41	18	93
Maryland Board of Physicians	0	0	1	0	1
Maryland Dental Board	0	0	1	0	1
Maryland Court of Special Appeals	1	0	1	1	3
US District Court for Maryland	17	24	74	45	160
US Supreme Court	0	0	1	0	1
Out of State Courts	4	3	10	4	21
Other Courts	7	2	9	6	24
Total Other Courts	42	50	138	74	304

Year is based on the year the claim is closed

Number of policies by Deductible Amount and policy year

Company Name	2006	2006	2006	2007	2007	2007
	\$25,000	\$50,000	\$100,000	\$25,000	\$50,000	\$100,000
ACE-USA (ACE American Insurance Co.)	0	0	0	0	0	0
American Home Assurance Company (AIG)	0	0	0	0	0	0
American Insurance Company (FFIC)	0	0	0	0	0	0
Chicago Insurance Company (FFIC)	0	0	0	0	0	0
Church Mutual Insurance Company	0	0	0	0	0	0
Erie Insurance Exchange	0	0	0	0	0	0
Fireman's Fund Insurance Companies (FFIC)	0	0	0	0	0	0
Fortess Insurance Company	0	0	0	0	0	0
Granite State Insurance Insurance Company (AIG)	0	0	0	0	0	0
Interstate Fire and Casualty (FFIC)	0	0	0	0	0	0
Maryland Healthcare PIX	0	0	0	0	0	0
Medical Assurance Company	0	0	0	0	0	0
Medical Mutual Liability Insurance Company	0	0	0	0	0	0
Medical Protective Company	0	0	0	0	0	0
National Casualty Company	0	0	0	0	0	0
National Union Fire Insurance Company (AIG)	0	0	0	0	0	0
NCMIC Insurance Company	0	1	1	2	1	1
PICA Group	0	0	0	0	0	0
Preferred Professional Insurance Company	0	0	0	0	0	0
Professionals Advocate Insurance Company	0	0	0	0	0	0
Professional Liability Insurance Co of America	n/a	n/a	n/a	n/a	n/a	n/a
Professional Solutions Insurance Company	n/a	n/a	n/a	n/a	n/a	n/a
The Doctors Company	0	0	0	0	0	0

n/a - Company started writing business in 2008

Company Name	Additional Deductible Information
Chubb	Wrote a \$100k deductible policy in 2007 on a non-admitted basis
Medical Protective Company	Three consent to rate with high deductibles
Medical Mutual Liability Insurance Company	Two consent to rate policies with deductibles of \$10,000 and \$25,000
Medical Assurance Company	2007 - one policy with a \$10,000 indemnity deductible
National Union Fire Insurance Company (AIG)	2006 - 7 policies with deductibles less than \$25,000
National Union Fire Insurance Company (AIG)	2007 - 6 policies with deductibles less than \$25,000

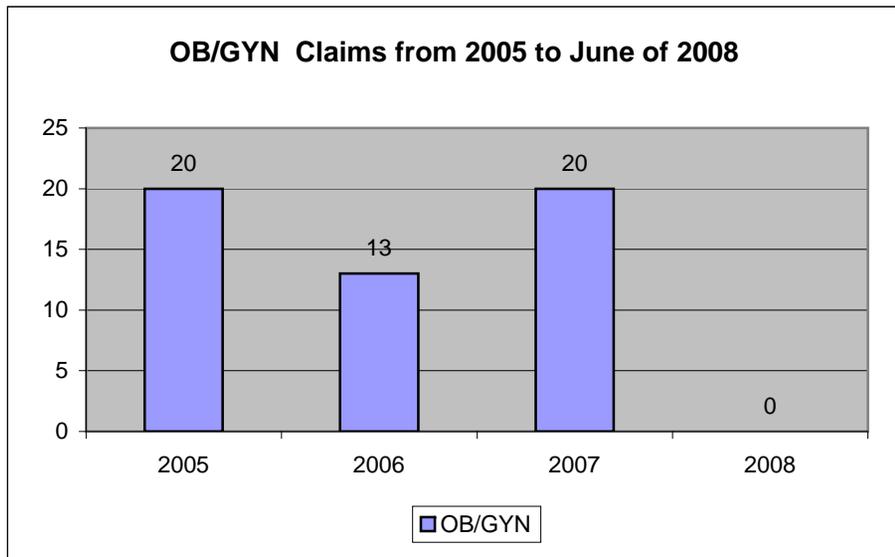
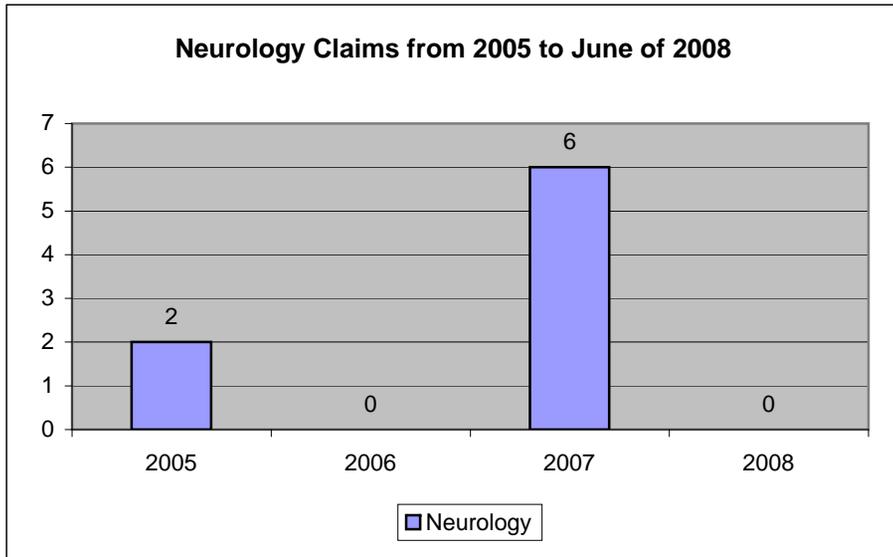
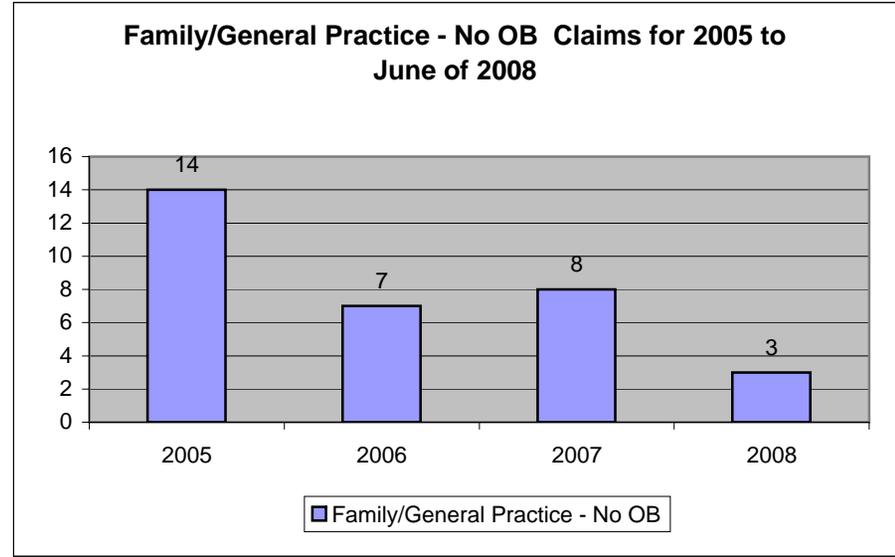
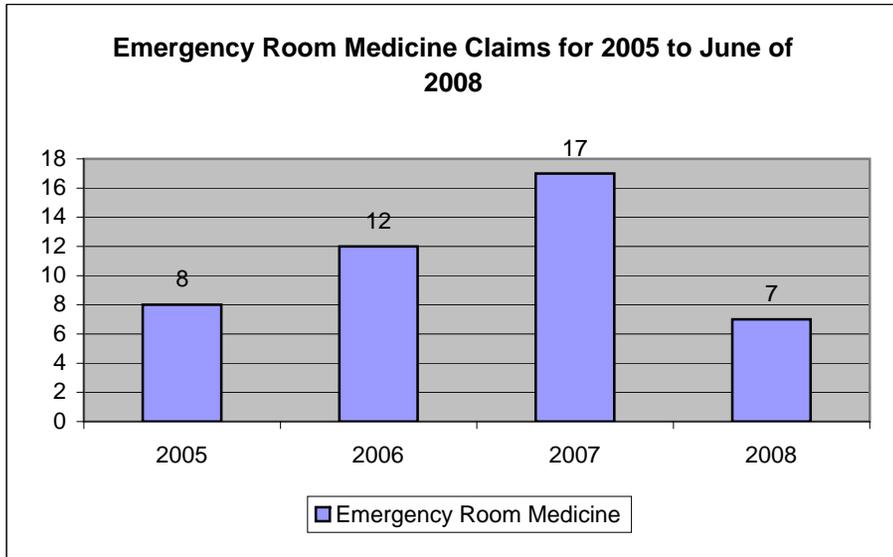
**Number of Claims by Specialty
For Claims where a payment is made**

SPECIALTY	2005	2006	2007	6 mos 08	TOTALS
Administrative Medicine	0	6	1	0	7
Anesthesiology	6	2	5	2	15
Cardiology	5	4	7	4	20
Corporation	0	0	0	1	1
Emergency Room Medicine	8	12	17	7	44
Family/General Practice - No OB	14	7	8	3	32
Gastroenterology	0	3	5	1	9
Gynecology	6	2	0	0	8
Hospitalist/House Staff	1	0	1	0	2
Intensive Care Medicine	0	0	2	0	2
Internal Medicine	15	8	11	13	47
Neoplastic Diseases	1	0	0	0	1
Neurology	2	0	6	0	8
Not a physician/surgeon	7	10	44	18	79
OB/GYN	20	13	20	0	53
Obstetrics	3	1	0	0	4
Oncology	0	0	1	0	1
Ophthalmology	1	2	0	0	3
Orthopedic	13	6	3	10	32
Otorhinolaryngology	0	1	1	0	2
Pathology	2	0	1	0	3
Pediatrics	5	3	2	0	10
Physician - not otherwise classed	4	2	4	3	13
Pulmonary Diseases	2	1	0	1	4
Radiology	7	1	7	1	16
Surgeon - not otherwise classed	13	5	12	5	35
Thoracic	4	0	1	0	5
Urology	3	5	5	1	14
Vascular	5	0	4	0	9
(blank)	9	4	1	2	16

Emergency Room Medicine does not include Emergency Room visit counts

Excludes Allocated Loss Adjustment Expense only claims

Number of Closed Claims by Certain Specialties for 2005 to June of 2008



All Closed Claims by Company for 2005 to June of 2008

Exhibit J
Page 1

COMPANY	1st half 2005	2nd half 2005	1st half 2006	2nd half 2006	1st half 2007	2nd half 2007	1st half 2008	TOTALS
American Casualty Co. of Reading, PA							1	1
American International Specialty Lines Ins. Co.	3	2	3	3	4		1	16
AMN - as Self-Insured Carrier							1	1
Arch Insurance Company						1		1
Arch Specialty Ins. Co.					3			3
Chicago Insurance Company			1				1	2
Cincinnati Ins Co		3						3
Columbia Casualty Company	1	3	3	1	2	1	3	14
Continental Casualty Company			2	3	7	10	11	33
Darwin Natl Assur Co							1	1
Doctors Company An Interinsurance Exchn	21	23	30	35	30	50	40	229
Everest Indemnity Insurance Company	8	4	7	24	69	38	50	200
Everest National Insurance Company	1			2				3
Executive Risk Indemnity Inc.				1	3		1	5
FutureCare Health & Management Corp.							1	1
Interstate Fire & Casualty Company					1			1
Lexington Insurance Company	17	14	19	11	14	20	18	113
Medical Mutual Liability Insurance Society of Md	143	169	44		24	67	74	521
Medical Protective Insurance Company	21	30	30	19	46	38	24	208
MFA Physicians Insurance Company, Ltd.				2	2	1	1	6
National Fire & Marine Insurance Company						1	2	3
National Union Fire Insurance Company of Pittsburgh			1					1
NCMIC Insurance Company						1	1	2
NCRIC, Inc	11	2	45	33	25	32	15	163
OHIC Insurance Company		2	23	24	12	23	7	91
Podiatry Insurance Co. of America (PICA)	1	1		2	10	4	8	26
Preferred Professional Insurance Company	3	1	1	5	5	3	6	24
Professionals Advocate Ins Co						3	3	6
RDA Sterling Healthcare - as Self-Insured Carrier	2	3			1			6
Saint Paul Fire & Marine Insurance Company		1						1
TIG Ins Co							1	1
Travelers Ind Co							1	1
Farmers Insurance/Truck Insurance Exchange	1	2	1	1	1		1	7
Various Underwriters at Lloyds			2			1	1	4
Other/Unknown						1		1
Totals	233	260	212	166	259	295	274	1699

Includes claims with no payment.