

**Impact of Health Care Trends on
Medical Professional Liability**

Commitment Beyond Numbers



Timothy C. Mosler, FCAS, MAAA
September 15, 2014

Agenda

- Disclaimer
- Hospital employment of physicians
- Transition to EHRs
- Possibility of significant shifts in MPL costs
 - Upward shifts
 - Downward shifts

PINNACLE

1

Disclaimer

Throughout this presentation, I will discuss the potential impacts of changes in health care. I can only speculate as to the impacts and, as we are in the initial implementation phases of the Affordable Care Act (ACA), it is too early to discuss the impacts with certainty. Ultimate long term impacts will depend on many factors including the actions of claimants, lawyers, insurers, regulators and health care providers.

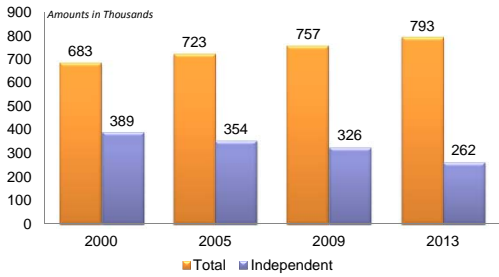
PINNACLE

2

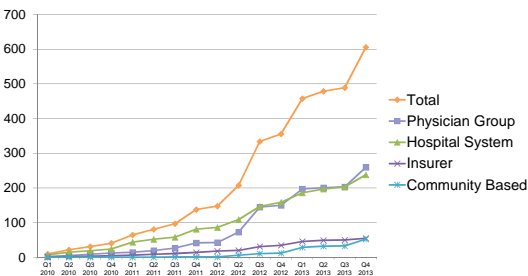
Increased hospital employment of physicians

- Recognition of scale advantages
 - Control of quality
 - Revenue advantages
 - Smaller administrative load
- Corresponding decrease in solo practitioners
- Increasing number of accountable care organizations (ACO)

Decreased number of solo practitioners



Number of ACOs has tripled since Q2 2012



Effects of doctors becoming part of a system

- Favorable
 - Consistent risk management approach
 - Focus on patients, not on managing the practice
 - Motivation to succeed: ACOs that succeed in both quality care and lower costs can share in savings that may result
- Unfavorable
 - Physicians may take less responsibility as hospital employees than as independent practitioners
 - Poor performers could take longer to be detected in large health care systems

PINNACLE 6

Effects of physician employment on claim resolution

- Improvement in claims handling with multiple defendants sharing a common employer
- Different claim handling practices between hospital programs and physician insurers
 - What happens when the hospital wants to settle and the doctor wants to defend
 - Higher limits
 - Closed claim reporting to regulators

PINNACLE 7

Other liability issues

- Employment practices liability
- Tail liability

RY	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
2009	CM1	CM2	CM3	CM4	CM5					
2010		CM2	CM3	CM4	CM5					
2011			CM3	CM4	CM5					
2012				CM4	CM5					
2013					CM5					
2014										
2015										
2016										
2017										
2018										

Claims reported 09 – 13 are covered by the doctor's insurer

Accidents in 2014 and after are covered by the hospital's policy

Who insures these cells?

Assumes the doctor's practice began 1/1/2009 and shut down on 1/1/2014 when the doctor went to work for a hospital

PINNACLE 8

As a result of increased hospital and ACO employment of physicians, MPL costs are

- A** Very likely to increase
- B** Somewhat likely to increase
- C** Equally likely to decrease or increase
- D** Somewhat likely to decrease
- E** Very likely to decrease

Pinnacle
Pinnacle Health Services, Inc.

This is how the Pinnacle APEX audience voted (79 responders)

- A** Very likely to increase – 6.3%
- B** Somewhat likely to increase – 20.3%
- C** Equally likely to decrease or increase – 32.9%
- D** Somewhat likely to decrease – 38.0%
- E** Very likely to decrease – 2.5%

Pinnacle
Pinnacle Health Services, Inc.

EHRs

- ACA offers incentives for “meaningful use” of EHRs
- An individual’s EHR is a digital record of their health information and can include
 - Medical history
 - Allergies
 - Prescriptions
 - Test results
 - Radiology results
 - Vital signs
- Can potentially be shared by all of the individual’s health care providers
- Viewed as a key component in achieving quality outcomes

Pinnacle
Pinnacle Health Services, Inc.

EHRs are expected to reduce the number of bad outcomes

- Better access to information
- Include a complete history which will allow for detection of conditions that are growing worse
- Can be shared across health providers

PINNACLE
FOR THE HEALTHCARE INDUSTRY 12

But, how will the EHR affect costs once there is a bad outcome?

- MPL claim payment requires four steps
 - Bad medical outcome
 - Filing of a claim
 - Settlement or finding of negligence
 - Damages awarded
- Use of EHRs moves the latter three out of four toward higher costs
- Also
 - Potentially higher standard of care given that more information is available to the doctor
 - Privacy concerns

PINNACLE
FOR THE HEALTHCARE INDUSTRY 13

As a result of the transition to EHRs, MPL costs are

- A** Very likely to increase
- B** Somewhat likely to increase
- C** Equally likely to decrease or increase
- D** Somewhat likely to decrease
- E** Very likely to decrease

PINNACLE
FOR THE HEALTHCARE INDUSTRY 14

This is how the Pinnacle APEX audience voted (73 responders)

- A** Very likely to increase – 5.5%
- B** Somewhat likely to increase – 15.1%
- C** Equally likely to decrease or increase – 28.8%
- D** Somewhat likely to decrease – 42.5%
- E** Very likely to decrease – 8.2%

Pinnacle
Pinnacle CLE
Pinnacle Insurance Group

Possibility of Significant Changes

- The impacts discussed previously could lead to moderate changes
- Is there the potential for real game-changing shifts like a doubling or halving of costs over the next 5 years
 - Seems more likely for MPL than other lines because of its proximity to the health care system

```
graph LR; A[Accident leading to injury] --> B[Treatment of the injury]; B --> C[Finding/awarding of damages];
```

For MPL, healthcare system impacts the first two steps

Pinnacle
Pinnacle CLE
Pinnacle Insurance Group

Are there trends that could lead to significant upward shifts in MPL costs?

- Diminished relationship between patients and their doctors could affect jury attitudes during MPL trials
 - Affects amount of settlements
 - Affects frequency of claims
- Coordinated standards of care within health systems could lead to large multi-claimant actions

Pinnacle
Pinnacle CLE
Pinnacle Insurance Group

Are there trends that could lead to significant upward shifts in MPL costs?

- A** Probably yes
- B** Maybe
- C** Probably no

Pinnacle
Pinnacle CLE
Pinnacle Health Services, Inc.

18

This is how the Pinnacle APEX audience voted (80 responders)

- A** Probably yes – 48.8%
- B** Maybe – 36.3%
- C** Probably no – 15.0%

Pinnacle
Pinnacle CLE
Pinnacle Health Services, Inc.

19

Are there trends that could lead to significant downward shifts in MPL costs?

- Greater access to health care and the focus on quality could lead to a significant reduction in bad outcomes for patients
- Technology advances in health care could facilitate prevention and patient safety
 - Health monitoring devices
 - Sensor data
 - Smart bandages
 - Smart prescriptions

Pinnacle
Pinnacle CLE
Pinnacle Health Services, Inc.

20

Are there trends that could lead to significant downward shifts in MPL costs?

- A** Probably yes
- B** Maybe
- C** Probably no

Pinnacle
ACTUARIAL RESOURCES, INC.

21

This is how the Pinnacle APEX audience voted (80 responders)

- A** Probably yes – 38.8%
- B** Maybe – 36.3%
- C** Probably no – 25.0%

Pinnacle
ACTUARIAL RESOURCES, INC.

22

Thank you for your time and attention

Tim Mosler
tmosler@pinnacleactuarial.com
678-894-7254

Commitment Beyond Numbers

Pinnacle
ACTUARIAL RESOURCES, INC.
