

Medical Malpractice

Pre Covid-19 State of the Market and
Post Covid-19 Possible Impact



Speakers

• Tracy Valentine



• Erik Johnson



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Agenda



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State of the Market

- Negative outlook from AM Best
- Insurance companies seek diversification
 - Mono-line physician expansion
 - Moving away from hospital heavy portfolios
- Underlying exposures
 - Industry consolidation
 - Private equity in healthcare



State of the Market

Increasing concentration of market share with top writers.

Exhibit 1
U.S. Medical Professional Liability – Top 20 Writers
Ranked by 2015 direct premiums written (DPW)

Rank	2015	2019	Company	DPW (\$ Millions)	Change
1	1	1	Berkshire Hathaway Insurance Group	465.8	8.4%
2	2	2	Doctors Company Insurance Group	377.3	-2.4%
3	3	3	OMA Insurance Companies	336.0	-4.3%
4	4	4	Physicians Insurance Group	333.3	-1.3%
5	5	5	Medical Liability Mutual Insurance Co.	320.5	-16.2%
6	6	6	Country Companies	304.3	-7.1%
7	7	7	Affiliated International Group	292.7	0.3%
8	8	8	MOGAL Group	315.3	-1.3%
9	9	9	Physicians Reciprocal Insurers	298.6	-21.3%
10	10	10	MAL Mutual Group	254.4	2.5%
11	11	11	Steadfast Insurance Company, Inc.	215.9	-4.4%
12	12	12	IGME Mutual Group	192.7	-13.2%
13	13	13	MMML Insurance Group	181.6	-2.4%
14	14	14	State Volunteer Mutual Insurance Company	133.9	-6.2%
15	15	15	Medical Mutual Group (MAG)	127.0	-6.4%
16	16	16	ACE WA Group	126.8	7.1%
17	17	17	Continental Risk Insurance Co. of NY, Inc.	103.6	0.2%
18	18	18	Mutual Insurance of Arizona Group	114.2	-0.6%
19	19	19	Medical Corporation Group	104.5	-7.6%
20	20	20	Medical Mutual Group (MCG)	101.4	4.6%

Results represent companies that have filed with AM Best as of 4/18/19 including MFCI and MLAG.
Source: A.M. Best data and research.

Exhibit 1
US MPL – Top 20 Writers
Ranked by 2019 Direct Premiums Written

Rank	2019	2019	Company	DPW (\$ Thousands)	% Change
1	1	1	Berkshire Hathaway Insurance Group	1,095,142	8.1
2	2	2	Doctors Company Insurance Group	822,339	1.2
3	3	3	OMA Insurance Companies	594,495	8.8
4	4	4	Physicians Group	493,342	1.1
5	5	5	Country Companies	483,301	5.5
6	6	6	MOGAL Group	339,344	8.8
7	7	7	MAL Mutual Group	314,344	8.3
8	8	8	Liberty Mutual Insurance Companies	217,770	20.4
9	9	9	Physicians Reciprocal Insurers	199,871	-0.9
10	10	10	Continental Insurance Group	188,529	1.4
11	11	11	Continental Risk Insurance Co. of NY, Inc.	147,230	5.4
12	12	12	IGME Mutual	139,413	1.8
13	13	13	Continental Risk Insurance Group (MAG)	146,216	16.8
14	14	14	Chubb NA Group	135,713	4.0
15	15	15	W. R. Berkley Insurance Group	129,813	20.3
16	16	16	Argonaut Insurance Holdings Group	125,274	4.2
17	17	17	State Volunteer Mutual Insurance Company	119,947	-0.5
18	18	18	Physicians Insurance Mutual	112,500	25.1
19	19	19	American International Group	104,294	12.4
20	20	20	Mutual Group	95,269	-0.5

Results are calculated on companies that have filed their annual statements with AM Best as of April 30, 2020.
Source: AM Best data and research.



State of the Market

Exhibit 5
US MPL Composite – Financial Ratios, 2015-2019

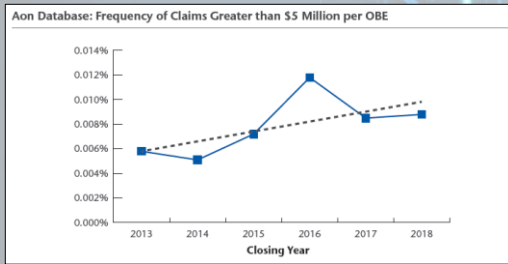
	2015*	2016	2017	2018**	2019
Loss & LAE Ratios	88.0	72.8	71.7	74.3	83.6
Underwriting Expense Ratios	23.7	24.2	24.2	23.7	25.6
Policyholder Dividend Ratio	6.1	5.5	4.5	4.3	4.1
Combined Ratio After Dividends	97.8	102.3	100.3	102.3	113.3

Note: Results are for companies in the MPL composite whose financials were filed with AM Best as of April 7, 2020.
* Financials for Texas Medical Liability Insurance Underwriting Association are excluded for 2015.
** 2018 financials reflect adjustments to offset the impact of the risk portfolio transfer of Medical Liability Mutual Insurance Company to affiliate National Indemnity Company based on information in MLAG's 2019 NAIC.
Source: AM Best data and research.



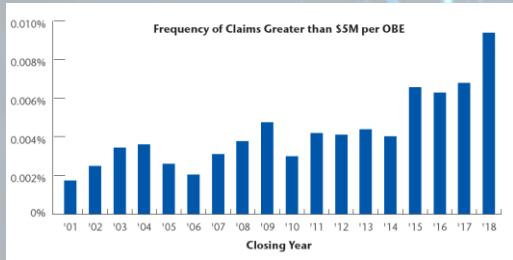
“Frequency of Severity”

- Aon reports a 5+ year increase in the number of “very severe” claims



“Frequency of Severity”

- Beazley (2019) data shows a significant increase in “very severe” claims 2015-2018



Frequency of Severity

Factors contributing to the trend

- Batch Claims
- Life Care Plans and Experts
- Erosion of Tort Reforms (FL)
- Expansion of Vicarious Liability (ED)

Cause of Loss	Unlimited Average Claim Cost (Indemnity + Expenses)	Unlimited Average Indemnity Cost	% of All Claims
Labr & Delivery Related Issue	466,000	1,121,000	6.4%
Diagnosis Error (Delay/Failure)	268,000	683,000	11.4%
Surgical Error	245,000	483,000	12.3%
Medication Related Issue	238,000	376,000	5.7%

Closing Year Band	Number of Claims - \$5M per 10K OBEs	Average Indemnity Paid - Unlimited
2013-2015	0.602	8,600,000
2016-2018	0.969	10,000,000



Retrenchment & DeRisking

- Carriers seek return to profitability.
- Underwriting:
 - Risk appetite
 - Capacity deployment
 - Rate
 - Retentions/Deductibles
- Clarity of coverage:
 - Increasing complexity of risks
 - Cyber, SAM, Opioids
 - Batch Provisions



Reinsurance

- “Willis 1st View”
 - MPL industry tightened over course of the year, although ample capacity remained in the sector.
 - Pressure on segments where rate levels have not kept up with loss trends.
 - Large losses have resulted in increased focus on excess limit pricing and premium balance.
- “Guy Carpenter-January 1, 2020 Renewal: An Asymmetrical Market”
 - Pressure was once again particularly acute in the US commercial auto market, but prior year development can now be seen in other liability classes including D&O, MPL and GL.



Medical Professional Liability Mid-Year 2020



State of the Market

- Too early to say
- Location, location, location
- Delay of elective/well visits and procedures
- Effects of remote workers on
 - Insurance policy placement
 - Speed of claims handling
- Financial solvency



Exposures and the COVID-19 Environment

- Dramatic decreases to hospital volumes
 - Proportionality to risk
 - Effect of revised exposures for 2020-21
- Alternative data for understanding 2020-21 exposures
 - COVID case loads
 - Employee cases, hospitalizations, deaths
- Timing of claims
 - Delays in claim reporting and progression



COVID-19: Direct and Indirect Claim Trends

- Direct Claim Trends
 - Claims associated with transmission of COVID, negligent treatment of COVID patients
 - An increase (new exposure) relative to previous
- Indirect Claim Trends
 - Impact of lower healthcare utilization (lower volumes)
 - Impact of economy on claim reporting and settlement



Retrenchment & DeRisking

Hospitals/IDS Physician/Surgeon/Dentist Miscellaneous Facilities Long Term Care Facilities


- Impacts vary by segment and specialty
- Focus on Underwriting & Rating
- Evolving exposure & standard of care
- Wording-exclusionary wording, batch provisions
- Coverage-i.e. Telehealth
- Need for additional information-supplemental apps
- Claims
 - Court/discovery on hold
 - Opportunistic settlements
 - Social Media & Perception
- Evaluation of potential Immunities-Federal & State



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Federal and State Immunities


- The Coronavirus Aid, Relief and Economic Security (CARES) Act establishes a specific limitation on liability for “volunteer” health care providers during the COVID-19 emergency declaration. Exceptions: willful or criminal misconduct, gross negligence, reckless misconduct, or “conscious flagrant indifference” to the patient’s rights or safety or care rendered under the influence of drugs or alcohol.
- The Public Readiness and Emergency Preparedness (PREP) Act Declaration-a “covered person” is immune from suit or liability under State or Federal law with respect to all claims resulting from the administration of a “covered countermeasure” during a declared disease-related public health emergency (retroactive to 2/4/20) Exception-claims of “wilful misconduct”
- State Specific Provisions
- Good Samaritan Laws
- Nursing Home Industry pushing for immunity



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Long Term Care

- Increasing frequency and severity of professional and general liability claims resulted in substantial rate increases, increased retentions & capacity constriction pre-Covid
- More than one-third of the nation’s COVID-19 deaths have been linked to long term care facilities (NY Times, 5/12/2020 update)
 - “As of May 12, 2020, the number of facilities with cases of the virus had jumped to 8000 facilities (out of estimated 15,600 facilities in the US) with more than 163,000 residents and staff members having contracted it and 30,400 deaths.”



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Reinsurance

Evaluation of Infrastructure Management

Evaluation of Underwriting, Coverage & Costing

Evaluation of Risk Management & Claims Support

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Questions?

Thank you!

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