

Arizona Department of Insurance

2009 Market Monitoring

Volume 7, Issue 2

Medical Malpractice

April, 2009

	Index:	Page
I	Rate System	1
II	Market Monitoring Methodology	1
III	Annual Statement Data	1
IV	Survey Responses	1
V	Major MM Trends	2,3
VI	Conclusions	3

I. Rate System:

Arizona's "open competition" law, applicable to medical malpractice ("MM") insurance, prohibits insurers from charging excessive, inadequate or unfairly discriminatory rates or rates that will destroy competition or establish a monopoly. By statute, a rate is not excessive if "a reasonable degree of price competition" ("RDPC") exists. A competitive market is presumed to exist unless the Director of the Arizona Department of Insurance ("ADOI"), after a hearing, determines that a RDPC does not exist. In determining whether a RDPC exists, the Director is required to consider relevant tests of competition pertaining to market structure, performance and conduct, including:

- The number of insurers actively engaged in the class;
- Insurers' market share and market share changes;
- The existence of rate differentials in a particular class; and,
- The ease of entry and latent competition of insurers capable of easy entry.

II. Market Monitoring Methodology:

The ADOI relies upon insurers' rate filings, annual statements, responses to an annual survey; current trade press; various studies published by interested parties; and, A.M. Best data to monitor the market. The annual statements provide the per-company, state-specific losses and premiums. Survey responses provide insurers' input about their activity in and their perception of the market. ADOI collects and compiles the data and statistics; analyzes all information; identifies trends; and summarizes its findings.

III. Annual Statement ("AS") Data:

On Line 11 of their AS "Exhibit of Premiums and Losses," insurers report Arizona MM writings for the calendar year. Line 11, "MM," embraces all categories of MM including, but not limited to: MM for dentists, hospitals, nursing homes, physicians, etc. The compiled AS data for all these MM segments evidence that overall in 2008:

- Premiums and incurred losses decreased.
- Fifty-six insurers reported some MM written premium in their annual statements.
- Only nine insurers wrote more than 1% of the market and 37 wrote \$100,000 or more.
- The number of insurers exiting and entering the market remained relatively stable.

Historical Experience (All Insurers Line 11, Annual Statement Data, Year Ending December 31)

	1	2	3
CY	Written Premium	Earned Premium	Paid Losses
2008	\$223,846,314	\$229,927,975	\$85,499,555
2007	\$230,114,649	\$221,255,355	\$82,266,894
2006	\$225,011,189	\$223,687,978	\$77,479,151
2005	\$211,247,407	\$196,184,237	\$111,831,802
	4	5	
CY	Incurred Losses	Incurred Loss Ratio (Col 4/ Col 2)	
2008	\$49,163,627	21.4%	
2007	\$93,745,826	42.2%	
2006	\$106,901,853	47.8%	
2005	\$111,300,735	56.7%	

The information above includes all MM segments, although this summary focuses on Physicians and Surgeons ("PS") and Hospitals ("HOSP") segments, which constitute 88% of the reported premium in Line 11.

IV. Survey Responses:

Thirty-four insurers, with 100% of the market, responded to the 2009 survey. While the level of competition increased slightly in the PS market, competition in the HOSP market is extremely limited. The insurers reported the following information:

Table A: Historical Physicians and Surgeons Experience

1	2	3	4	5	6	7	8	9	10
CY	Written Premium	Policy Count for Active Insurers	Average Premium (Col 2/Col 3)	Paid Losses	# of Paid Losses	Average \$ Paid Claim Col 5/6	Incurred Losses	Incurred Loss Ratio	Combined Ratio
2008	\$177,637,520	7,009	\$25,344	\$56,391,661	210	\$268,532	\$40,526,843	22.0%	49.5%
2007	\$188,949,699	7,068	\$26,733	\$59,619,770	204	\$292,254	\$70,795,456	38.3%	78.2%
2006	\$187,342,906	7,168	\$26,136	\$51,303,479	236	\$217,388	\$86,956,658	49.1%	86.0%
2005	\$173,334,408	6,950	\$24,940	\$86,141,845	315	\$273,466	\$103,671,827	66.9%	110.2%
2004	\$156,316,279	6,710	\$23,276	\$57,664,066	227	\$254,027	\$90,602,203	66.3%	112.4%

Table B: Historical Hospital Professional Experience

1	2	3	4	5	6	7	8	9	10
CY	Written Premium	Policy Count for Active Insurers	Average Premium (Col 2/Col 3)	Paid Losses	# of Paid Losses	Average \$ Paid Claim Col 5/6	Incurred Losses	Incurred Loss Ratio	Combined Ratio
2008	\$1,934,588	2**	\$967,294	\$8,878,003	14	\$634,143	-\$14,596,813	-713.6%	-704.5%
2007	\$2,940,970	31*	\$898,878	\$7,530,499	16	\$470,656	\$5,575,078	4323.1%	4392.8%
2006	\$3,168,020	10	\$334,534	\$4,791,694	22	\$217,804	\$1,639,857	11.5%	37.5%
2005	\$11,004,317	31	\$352,139	\$14,333,852	38	\$377,207	\$4,415,791	28.7%	103.8%
2004	\$14,332,509	23	\$623,153	\$11,236,462	32	\$351,139	\$23,170,672	136.6%	271.9%

*Twenty-eight policies (with total premium of \$244,337) were written on hospice risks. Discounting these risks, only three hospital policies were written with total premium of \$2,696,633.

**Represents actual hospital policies written.

Other survey results:

- **The majority of surveyed insurers said that:**
 - Price has decreased in 2009 as compared to 2008.
 - Coverage is more available in 2009 when compared to 2008.
- **The majority of the surveyed insurers said that their particular company:**
 - Is not actively seeking new business (i.e., they may write it if it comes to them, but they will not seek it).
 - Is not increasing the number of declinations or nonrenewals in 2009 as compared to 2008.
 - Has, historically, had low underwriting profitability in MM in Arizona.
 - Does not find obtaining reinsurance to be problematic.

V. MM Market Trends:

Trend # 1: The market is extremely concentrated. The PS market is concentrated in the Mutual Insurance Company of Arizona (“MICA”). MICA’s 2008 PS market share was 89.5% (90.5% in 2007). The Medical Protective Company (“MPC”) also lost market share (5.2%, 2008; 5.5%, 2007). Medicus Insurance Company (“MIC”) entered the PS market in 2008, providing additional competition. The Continental Casualty Company (“CCC”) is the only admitted insurer that wrote HOSP policies in 2008. CCC will consider writing risks that meet their underwriting criteria. MPC will also consider writing HOSP business; however, it has not written any HOSP policies in the past three years. In 2008, five insurers controlled 98.8% (99.0% in 2007) of the PS market segment and one controlled 100% of the HOSP segment. With the exception of MICA, MPC, MIC and CCC, other insurers only write certain classes of the market (e.g., only podiatrists; only hospice facilities, etc.).

Trend # 2. Rates continue to stabilize. Between 1/1/08 and 6/30/09, insurers filed PS rate changes averaging -4.0% compared to -8.6% in the previous eighteen month period. One insurer (CCC) filed a -3.9% HOSP rate increase during this time.

Trend #3. Overall incurred loss ratios improved. The 2008 all-company Arizona all-segment MM incurred loss ratio of 21.4% is lower than 2007’s 42.4%. Specifically, the incurred loss ratio of the PS segment was 22.0% down from 38.3% in 2007 and HOSP was -713.6% is down from 4323.1% in 2007. The extreme fluctuation in the HOSP incurred loss ratio is a reflection of an extremely small data base. Severity continues to drive losses. Based on insurers’ responses to the ADOI’s survey, the average 2008 PS paid claim was \$268,532 (\$292,254 in 2007) and \$634,143 (\$470,656 in 2007) for HOSP. While the PS severity decreased in 2008, it remains at a level that continues to impact the incurred loss ratio.

Trend # 4. Combined ratios (“CR”) improve. CR is the total of the incurred loss ratio, loss adjustment expense ratio and the underwriting expense ratio and determines underwriting profitability. The 2008 PS CR of 49.5% is down from 78.2% in 2007, while the 2008 HOSP CR of -704.5% is down from the 4392.8% in 2007. The limited HOSP data base and the long-tail nature of the MM line of insurance must be contemplated in the evaluation of this trend.

Trend # 5: Insurers continue to restrict writings. In 2008, the majority of insurers reported that they will

remain conservative in their MM underwriting approach and limit writings accordingly. This response is the same as given in previous surveys. This is not to say, however, that these same insurers could not immediately chose to begin writing. They remain licensed in the state and most of them have forms and rates on file with the ADOI that could be used without delay. While insurers remain cautious, a few competitors are entering the market. MIC and Campmed Casualty & Indemnity Company ("CCIC") entered the PS market in 2008. CCC wrote two HOSP risks in 2008, and will entertain HOSP risks that meet its underwriting requirements.

Trend # 6: Coverage availability is limited. PS and HOSP coverage is generally still available, but only through a limited number of insurers. MICA, MPC and MIC will write PS business, and ten other insurers limit their writings to one or two specialties. MPC and CCC are the only two admitted insurers positioned to write new HOSP business.

Trend # 7: The number of insurers exiting the market remains relatively stable. One insurer with written PS premium in 2007 exited the market in 2008; however, two new insurers entered the market in 2008. MIC began writing all PS specialties and CCIC wrote podiatrist in 2008. One insurer (CCC) wrote HOSP risks in 2008 and 2007. "Exits" can involve merely curtailing new business writings and/or nonrenewing existing business. None of the exiting insurers turned in their license to write business in Arizona. Therefore, their "exits" are, in fact, self-imposed moratoriums. The reason(s) for the moratorium is particular to each insurer and cover a range of causes (e.g., mergers, acquisitions, losses, changes in business philosophy, etc.).

VI. Conclusions:

Both the PS and HOSP segments are markets with limited competition. These markets are concentrated in a few insurers. While loss ratios have improved and rates continue to stabilize, only a few insurers are writing new business without limitations in all classes and types of risks. Coverage is available on a limited basis as most insurers continue to restrict their writings. As the number of insurers exiting the market has stabilized, PS coverage became more available as two new insurers entered the market. Insurers are decreasing their PS and HOSP rates (reflecting improved loss experience).