

# Arizona Department of Insurance 2010 Market Monitoring

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Nursing Home Liability

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For purposes of this document "nursing home" includes all of the types of facilities identified in Section IV.

## I. Rate System:

Arizona's "open competition" law, applicable to nursing home liability ("NHL") insurance, prohibits insurers from charging excessive, inadequate or unfairly discriminatory rates or rates that will have the effect of destroying competition or establishing a monopoly. As a matter of law, the Department cannot find a rate to be excessive if "a reasonable degree of price competition" ("RDPC") exists at the consumer level. The law presumes a competitive market exists unless the Director, after a public hearing, determines that a RDPC does not exist in the market.

## II. Market Monitoring Methodology:

To monitor NHL, the Arizona Department of Insurance ("ADOI") primarily relies upon, insurers' responses to an annual ADOI survey, industry studies and current trade press articles. Survey responses provide insurers' input about their activity in and their perception of the market. ADOI collects and analyzes all information, identifies trends and summarizes its findings.

The purpose of market monitoring is twofold: to assist the Director in determining whether competition exists; and, assists consumers with their questions and concerns about the availability of NHL insurance.

## III. National Industry Studies:

National studies show that the countrywide annual loss cost per occupied bed decreased significantly in the period of 2001 to 2005 and have stabilized since then. In 2001, the countrywide loss cost per occupied bed was \$1,730 as compared to \$1,280 in 2006, \$1,270 in 2007 and \$1,210 in 2008. This trend appears to be a result of countrywide severity per claim dropping from \$159,000 in 2001 to \$113,000 in 2008. Frequency of losses began to decrease in 2004 and has remained relatively stable through 2008.

## IV. Survey Responses:

Of the 203 insurers that responded to the ADOI's 2010 survey, only two insurers, under extremely limited conditions will write any new business in the following classes.

Skilled or intermediate care facilities – GuideOne Specialty IC writes this class.

Assisted living facilities with on premises care – Church Mutual IC and GuideOne Specialty IC write this class.

Rest homes with health care – no admitted insurers write this class.

Personal care facilities or residential homes with skilled care or other health care including adult foster homes – Church Mutual IC writes this class.

Convalescent homes with continuous nursing or other medical care – no admitted insurers write this class.

Continuing care retirement communities with a NH on campus – no admitted insurers write this class.

Any other adult extended care facility that provides nursing or other medical care – no admitted insurers write this class.

## **V. NHL Market Trends:**

**Trend # 1:** Competition is non-existent in the admitted NHL market. Those insurers willing to write coverage will not write all classes of nursing homes and wrote fewer policies in 2009 when compared to 2008. Coverage for some categories of nursing homes is simply not available.

**Trend # 2:** Most insurers, while possessing the authority to write NHL, are choosing not to write it at any price. Admitted insurers wrote only 13 NHL policies in 2009, compared to 16 in 2008. Of the 13 policies, only one skilled or intermediate care facility was written.

**Trend # 3:** Self-imposed moratoriums is the primary reason for insurers' exit/non-entry in the Arizona NHL market. The most common reason insurers gave for their decision to not seek new business is because of their self-imposed moratoriums. The Arizona 2009 admitted market NHL combined ratio (94.2%) is up from 2.2% in 2008. Direct written premium has remained relatively the same for the past five years (\$285,669, 2005; \$243,328, 2006; \$226,019, 2007; \$172,319, 2008; \$188,365, 2009). With minimal NHL writings, one loss can dramatically impact an insurer's combined ratio.

**Trend # 4:** It is unlikely that admitted insurers will consider entering the NHL market in the near future. No admitted insurers entered the NHL market in 2009. As insurers responded in the survey that they will not change their underwriting stance in 2010, it is unlikely a meaningful number of insurers will enter the NHL market.

**Trend # 5:** Reinsurance is becoming more problematic. One of the two insurers with NHL writings responded in the 2010 survey that obtaining reinsurance is becoming more problematic. This is a change from the 2009 survey when the majority of insurers responded in a neutral fashion on this issue.

**Trend # 6:** Alternative markets for NHL. Risk retention groups, captive insurers and surplus lines insurers provide alternative markets for NHL. While we do not have any way to determine how much of the NH market is self-insured, alternative markets provide coverage for NHL exposures.

## **VI. Conclusions:**

The NHL market remains extremely stressed. Only two admitted insurers will write NHL, and only under very limited conditions. Coverage for some NHL categories is simply not available in the admitted market. Presently, most insurers with the authority to write NHL choose not to write it. NHL loss experience has driven insurers to implement self-imposed moratoriums, which will likely deter new insurers from entering the market in the immediate future. Alternative markets provide viable liability insurance options for nursing homes in Arizona.