

Arizona Department of Insurance

2010 Market Monitoring

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Medical Malpractice

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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 2009:

- Premiums decreased and incurred losses increased.
- Fifty-four insurers reported some MM written premium in their annual statements.
- Only nine insurers wrote more than 1% of the market and 40 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
2009	\$210,388,142	\$208,550,390	67,208,930
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
	4	5	
CY	Incurred Losses	Incurred Loss Ratio (Col 4/ Col 2)	
2009	\$90,949,897	43.6%	
2008	\$49,163,627	21.4%	
2007	\$93,745,826	42.2%	
2006	\$106,901,853	47.8%	

The information above includes all MM segments, although this summary focuses on Physicians and Surgeons ("PS") and Hospitals ("HOSP") segments, which constitute 83% of the reported premium in Line 11.

IV. Survey Responses:

Thirty-one insurers, with 100% of the market, responded to the 2010 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
2009	\$162,609,256	7,038	\$23,104	\$53,474,034	152	\$351,803	\$83,587,384	51.7%	93.5%
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%

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
2009	\$1,094,314	3**	\$364,771	\$1,718,750	6	\$286,458	-\$3,914,451	-356.2%	-334.0%
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%

*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 not substantially changed in 2010 as compared to 2009.
 - Coverage availability is about the same in 2010 when compared to 2009.
- **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 2010 as compared to 2009.
 - Has, historically, had neither high nor 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 2009 PS market share was 89.0% (89.5% in 2008). The Medical Protective Company ("MPC") gained market share (5.6%, 2009; 5.2%, 2008). Medicus Insurance Company ("MIC") entered the PS market in late 2008 and wrote a market share of 0.7% in 2009. Two CNA companies (The Continental Casualty Company and Continental Insurance Company) are the only admitted insurers that wrote HOSP policies in 2009. These CNA companies will consider writing risks that meet their underwriting criteria. In 2009, five insurers controlled 97.9% (98.8% in 2008) of the PS market segment and two controlled 100% of the HOSP segment. With the exception of MICA, MPC, MIC and CNA, other insurers only write certain classes of the market (e.g., only podiatrists; only hospice facilities, etc.).

Trend # 2. Rates continue to stabilize. Between 1/1/09 and 6/30/10, insurers filed PS rate changes averaging -3% compared to -4% in the previous eighteen month period. One insurer, Continental Casualty Company ("CCC"), filed a -3.9% HOSP rate decrease during this time. Its sister company, Continental Insurance Company ("CIC), filed identical rates.

Trend #3. Overall incurred loss ratios deteriorate. The 2009 all-company Arizona all-segment MM incurred loss ratio of 43.6% is higher than 2008's 21.4%. Specifically, the incurred loss ratio of the PS segment was 51.7%, up from 22.0% in 2008 and HOSP was -356.2% up from -713.6% in 2008. Due to an extremely small data base, the HOSP incurred loss ratio has very limited credibility. Severity continues to drive losses. Based on insurers' responses to the ADOI's survey, the average 2009 PS paid claim was \$351,803 (\$268,532 in 2008) and \$286,458 (\$634,143 in 2008) for HOSP. The increase of PS severity in 2009 had a major impact on the PS and overall MM incurred loss ratio results.

Trend # 4. Combined ratios ("CR") deteriorate. CR is the total of the incurred loss ratio, loss adjustment expense ratio and the underwriting expense ratio and determines underwriting profitability. The 2009 PS CR of 93.5% is up from 49.5% in 2008, while the 2008 HOSP CR of -334.0% is up from -704.5% in 2008. Evaluation of this trend requires considering the limited HOSP data base and the long-tail nature of the MM line of insurance.

Trend # 5: Insurers continue to restrict writings. In 2009, the majority of insurers reported that they will

remain relatively 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, CIC filed identical PS and HOSP rates as its sister company, CCC. While these two CNA companies did not have any PS writings in 2009, they wrote three HOSP risks, and will entertain HOSP risks that meet their 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. CCC and CIC are the only two admitted insurers positioned to write new HOSP business.

Trend # 7: The number of insurers exiting the market remains stable. The same insurers (13) had written PS premiums in 2009 and 2008. Of these 13 insurers, MIC (moved from market position nine to six) and Campmed Casualty and Indemnity Company (moved from position 13 to 11) representing the most significant PS market shifts in 2009. Two insurers (CCC and CIC) wrote HOSP risks in 2009, a change from 2008 when only CCC wrote HOSP risks.

While there were no "exits" in 2009, they can involve merely curtailing new business writings and/or nonrenewing existing business. Therefore, "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 rates continue to stabilize, loss ratios have deteriorated and 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. Insurers are decreasing their PS and HOSP rates; however, this trend may change due to deteriorating loss experience and overall economic conditions.