

Arizona Department of Insurance

2011 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 \$1,710 as compared to \$1,360 in 2007, \$1,280 in 2008 and \$1,270 in 2009. This trend appears to be a result of countrywide severity per claim dropping from \$172,800 in 2001 to \$135,000 in 2009. Frequency of losses began to decrease in 2004 and has remained relatively stable through 2009.

IV. Survey Responses:

Of the 217 insurers that responded to the ADOI's 2011 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 2010 when compared to 2009. 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 12 NHL policies in 2010, compared to 13 in 2009. Of the 12 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 2010 admitted market NHL combined ratio (164.2%) is up from 94.2% in 2009. Direct written premium has remained relatively the same for the past five years (\$243,328, 2006; \$226,019, 2007; \$172,319, 2008; \$188,365, 2009; \$169,860, 2010). 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 2010. As insurers responded in the survey that they will not change their underwriting stance in 2011, it is unlikely a meaningful number of insurers will enter the NHL market.

Trend # 5: Reinsurance availability remains about the same. Both of the two insurers with NHL writings responded in neutral fashion in the 2011 survey as to whether obtaining reinsurance is becoming more problematic. This is a slight change from the 2010 survey when one of two insurers responded that obtaining reinsurance is becoming more problematic.

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, we do know that 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.