

Arizona Department of Insurance

2013 Market Monitoring

Volume 11, Issue 1

Medical Malpractice

April, 2013

	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 2012:

- Premiums decreased and incurred losses increased.
- Fifty-eight insurers reported some MM written premium in their annual statements.
- Only 11 insurers wrote more than 1% of the market and 39 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
2012	\$180,686,775	\$184,479,144	\$64,310,967
2011	\$187,194,481	\$189,936,283	\$65,224,652
2010	\$203,441,319	\$207,692,788	\$61,359,239
2009	\$210,388,142	\$208,550,390	\$67,208,930
	4	5	
CY	Incurred Losses	Incurred Loss Ratio (Col 4/ Col 2)	
2012	\$39,430,172	21.4%	
2011	\$29,408,941	15.5%	
2010	\$48,147,416	23.2%	
2009	\$90,949,897	43.6%	

The information above includes all MM segments, although this summary focuses on Physicians and Surgeons ("PS") and Hospitals ("HOSP") segments, which constitute 75.8% of the reported premium in Line 11.

IV. Survey Responses:

Thirty-one insurers, with 100% of the market, responded to the 2013 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
2012	\$135,882,243	8,354	\$16,266	\$51,896,904	210	\$247,128	\$31,682,630	22.7%	68.5%
2011	\$143,819,901	8,301	\$17,326	\$51,589,592	185	\$278,863	\$22,383,041	7.6%	43.3%
2010	\$157,077,554	7,444	\$21,101	\$47,918,190	195	\$245,734	\$39,429,262	24.5%	74.2%
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%

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
2012	\$986,705	8	\$123,338	\$1,275,764	5	\$255,153	\$1,370,346	134.6%	264.7%
2011	\$1,272,541	5	\$254,508	\$1,491,960	5	\$298,392	-\$526,035	-41.9%	-1.1%
2010	\$1,231,424	6	\$205,237	\$2,609,250	6	\$434,875	-\$3,871,795	-311.1%	-285.6%
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%

Other survey results:

- **The majority of surveyed insurers said that:**
 - Price remains about the same in 2013 when compared to 2012.
 - PS and HOSP coverage availability remains about the same in 2013 when compared to 2012.
- **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).
 - Did not increase the number of declinations or nonrenewals in 2012 as compared to 2011.
 - 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 2012 PS market share was 85.2% (85.8% in 2011). The Medical Protective Company ("MPC") lost market share (5.1%, 2012; 6.2%, 2011). Medicus Insurance Company ("MIC") gained market share (3.3%, 2012; 2.1%, 2011). Capson Physicians Insurance Company ("CPIC") also gained market share (0.4%, 2012; 0.1%, 2011). One CNA company, the Continental Casualty Company ("CCC") is the only admitted insurer that wrote HOSP policies in 2012. CCC will consider writing risks that meet their underwriting criteria. In 2012, five insurers controlled 97.9% (97.5% in 2011) of the PS market segment and one controlled 100% of the HOSP segment. With the exception of MICA, MPC, MIC, CPIC and CCC, other insurers only write certain classes of the market (e.g., only podiatrists; only hospice facilities, etc.).

Trend # 2. Rates continue to decrease. Between 1/1/12 and 6/30/13, insurers filed PS rate changes averaging -4.7% compared to -11.3% in the previous 18 month period. There were no HOSP rate changes filed in during the same period of time.

Trend #3. Overall incurred loss ratios increased. The 2012 all-company Arizona all-segment MM incurred loss ratio of 21.4% is higher than 2011's 15.5%. Specifically, the incurred loss ratio of the PS segment was 22.7% up from 7.6% in 2011 and HOSP was 134.6% up from -41.9% in 2011. Due to an extremely small data base, the HOSP incurred loss ratio has very limited credibility. Severity continues to influence losses. Based on insurers' responses to the ADOL's survey, the average 2012 PS paid claim was \$247,128 (\$278,863, 2011) and \$255,153 (\$298,392 in 2011) for HOSP. PS frequency increased (210, 2012; 185, 2011), while HOSP frequency was flat.

Trend # 4. Combined ratios ("CR") increased. CR is the total of the incurred loss ratio, loss adjustment expense ratio and the underwriting expense ratio and determines underwriting profitability. The 2012 PS CR of 68.5% is up from 43.3% in 2011, while the 2012 HOSP CR of 264.7% is up from -1.1% in 2011. 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 2012, 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.

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

Trend # 7: The number of insurers exiting the market remains stable. Twelve insurers had PS written premium in 2012, down from 13 in 2011. Of these 12 insurers, the Top Five remained the same for the past three years; however, MIC moved one market position ahead of The Doctors Company in 2012. American Casualty Company of Reading PA entered the PS market in 2012, while Continental Casualty Company and American Healthcare Indemnity Company exited. Exits 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.).

One insurer (CCC) wrote HOSP risks in 2012. Its sister company Continental Insurance Company exited the market.

VI. Conclusions:

Both the PS and HOSP segments are markets with limited competition, concentrated in a few insurers and rates that have stabilized. While PS loss ratios deteriorated, HOSP loss ratios improved. While HOSP loss ratios improved, limited credibility can be given to this trend due to the extremely limited data base. 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. The number of insurers exiting the market stabilized and PS coverage remains more available than HOSP coverage. Most insurers are not changing their PS and HOSP rates.