Welcome.

Medical Malpractice Insurance Crisis 202? –
Will History Repeat Itself, Again?

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1

Introduction

- What are we talking about and why?
- Trends 20 years ago, trends now
- What drives the cost of Medmal insurance?
- National results, Regional results, Nebraska results
- Nebraska Liability Fund: what's going on there
- Other factors affecting Medmal trends

What Are We Talking About and Why?

- Medmal insurance has lost money on underwriting three years in a row on national basis
- Nebraska not profitable and rates are too low (95% state loss ratio for 2017)
- Nebraska cap is seeing more severity too since cap went up in 2015
- Avoiding the same surprises again that happened 20 years ago
- Lots of emerging trends not favorable for Medmal exposures (ex. opioids)
- Negative outlook for industry per AM Best

Trends 20 Years Ago, Trends Now

- Largest Medmal carriers – 1999
  - St. Paul Companies – DONE
  - Medical Liability Mutual of NY – SOLD
  - Medical Protective – SOLD to Berkshire Hathaway
  - Healthcare Indemnity – SOLD
  - C.N.A. Companies – STILL HERE
  - MIIX-New Jersey – OUT OF BUSINESS
  - PHICO Group – OUT OF BUSINESS
  - Doctors Company (TDC) – STILL WRITING

Trends 20 Years Ago, Trends Now (cont'd)

- Largest Medmal carriers – 2018
  - Berkshire Hathaway (medical protective)
  - Doctors Company (TDC)
  - C.N.A.
  - ProAssurance
  - COVERYS
  - NORCAL
  - MCIC Vermont
  - MagMutual

Trends 20 Years Ago, Trends Now (cont'd)

- What was going from 1999 – 2006?
  - St. Paul leaves market end of 2001 (largest writer in Nebraska)
  - PHICO, other top writer, went insolvent
  - Medmal underwriting losses rose 938% from 1996 – 2001
  - Insurers in 2001 paid $1.65 for every $1 they earned in premiums
  - Average jury award tripled from 1994 – 2000

Trends 20 Years Ago, Trends Now (cont'd)

- Other risk factors at the time
  - Most doctors independent, usually only had $1 million/$3 million limits
  - Medmal insurance was profitable, everyone chased price to bottom
  - Tort reform was falling apart at state level that was enacted 1990 – 1992
  - This all happened before 9/11, which then added reinsurance pressures
  - Lagging of results caught up to everyone in short period of time

What Drives the Cost of Medmal Insurance?

- Supply and demand (shrinking pool of premium)
- Medical and legal cost inflation
- Social inflation (punish business with higher verdicts)
- Tort reform (NE cap increased from $1.75 million to $2.25 million)
- Long time from when charge a dollar and close the books (five to seven years)

What Drives the Cost of Medmal Insurance? (cont'd)

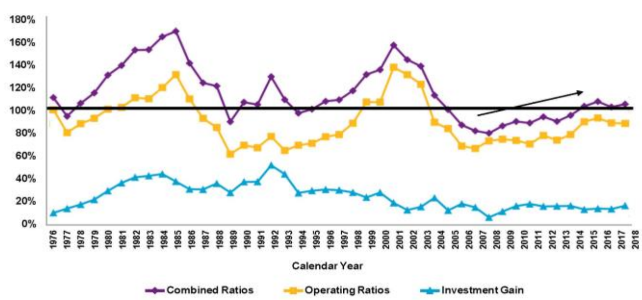
- Current national trends and market cycle
  - Frequency: flat
  - Severity: up
  - Investment returns: decent
  - Capital: excess capacity
  - Reserves: still redundant
  - Reinsurance: already challenging for higher limits

National Results – Medmal Industry Profitability

- Doctors paying less than they did in 2001, without adjusting for inflation
- Rate of claims also dropped in half since 2003
- Huge surplus or investment returns can offset underwriting losses (for years)
- Carriers entering new states, usually cutting rates to gain market share
- Carriers usually setting 84% of claims for zero payment

National Results – Medmal Industry Profitability (cont'd)

MPL Industry Profitability



- For the first time in 10 years, combined ratios crept above 100% in 2015 and have continued at that level through 2018.
- 2018 investment income increased approximately 3 points higher than prior 2015-2017 as a % of premium.
- Overall operating ratios remain at a profitable level.

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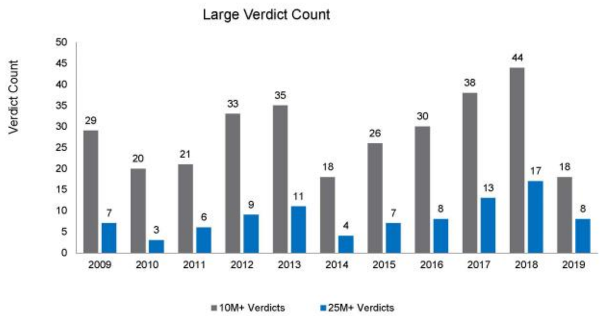
National Results – Countrywide Larger Verdict Count

Countrywide Verdict Count



Source: TransRe as of 7/31/2019

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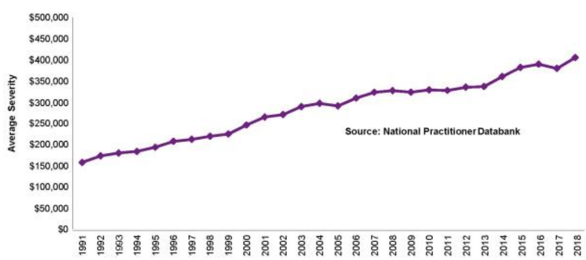
National Results – Medmal Industry Severity Trends – Physicians

Countrywide Severity - Physicians



- Graph includes total limit, indemnity only
- Annual severity trend since 2006 is +2.1%
- Overall annual severity trend is +3.3%

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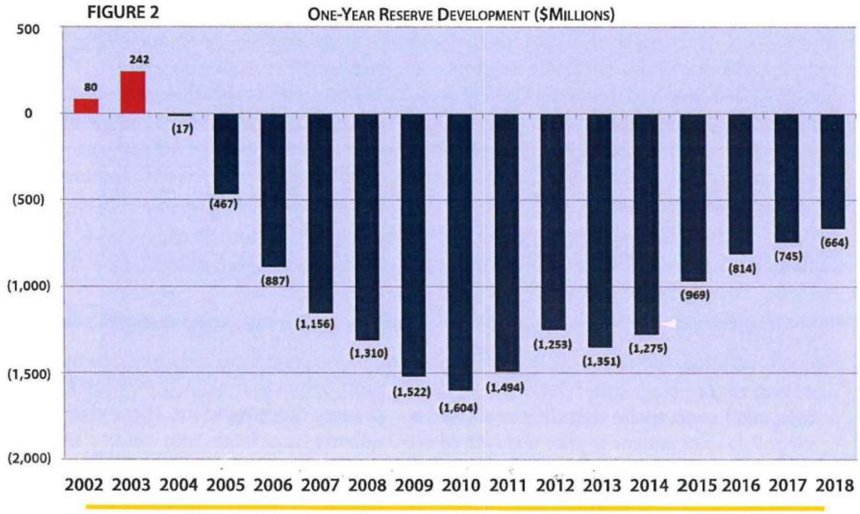
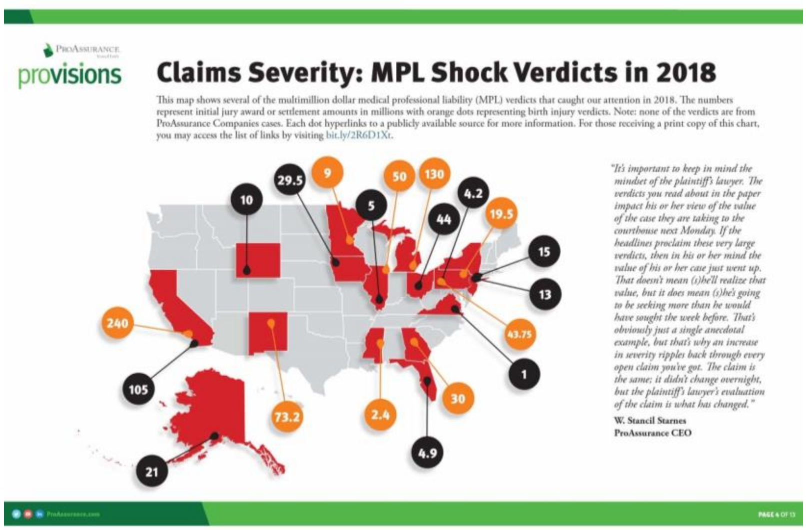
National Results – Changes in Reserve Redundancy



Claims Severity – Shock Verdicts for 2018



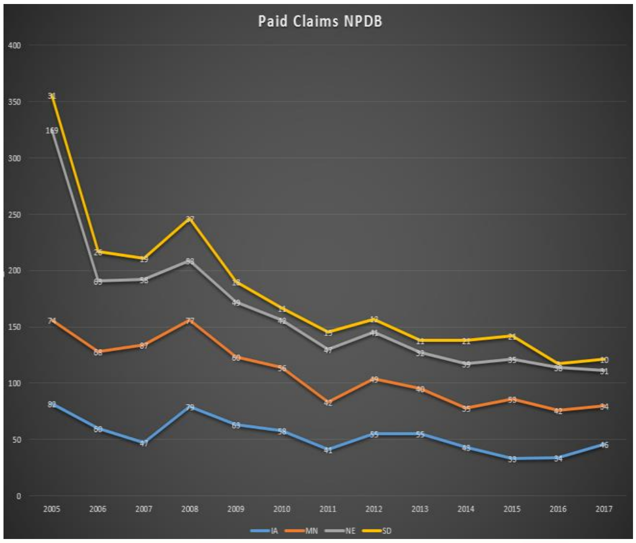
Largest States – 2017 Medmal Premium Volume

- NY: $1,549,238,557
- CA: $760,302,111
- PA: $646,129,908
- FL: $590,429,824
- IL: $442,152,424

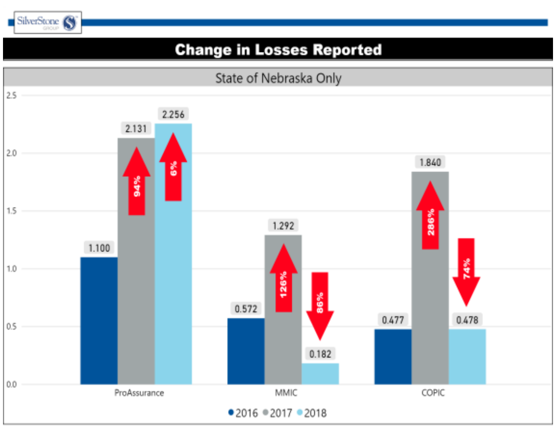
Midwest States – 2017 – Medmal Premium Volume by State

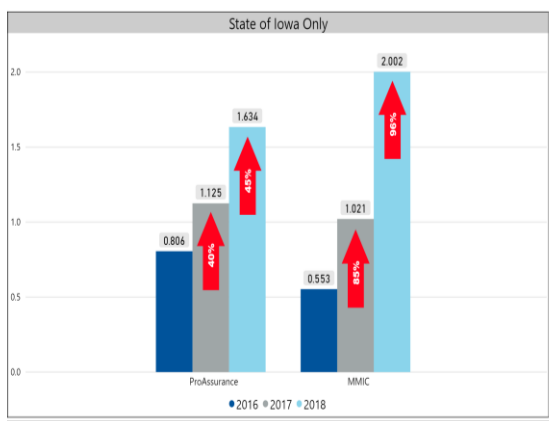
- NE: $32,097,142
- IA: $61,303,635
- SD: $15,305,321

Regional Results – National Practitioner Databank

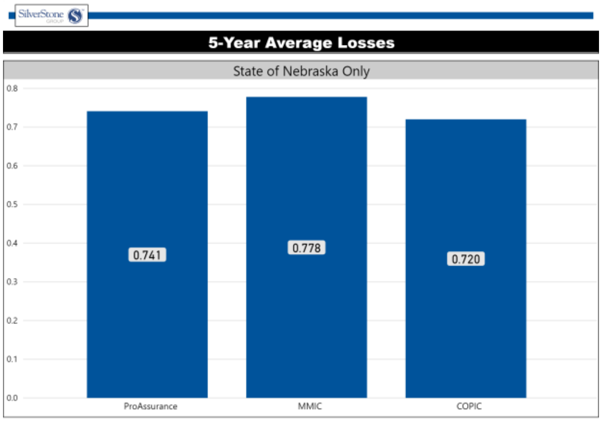


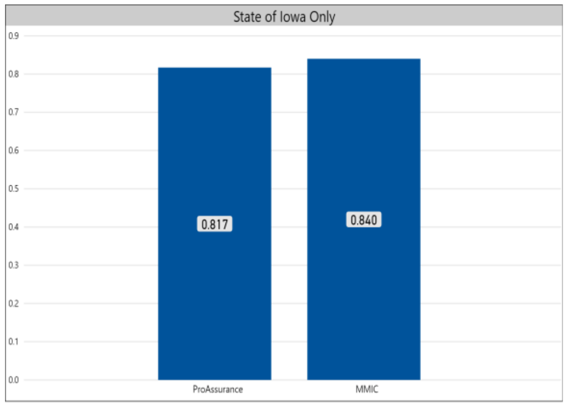
Regional Results – Nebraska and Iowa (Source NAIC)





NE and IA Results – Five-Year Average Loss Ratio (Source NAIC)





Nebraska Liability Fund – What's Going on There?

- NE rate surcharge history – changes over time

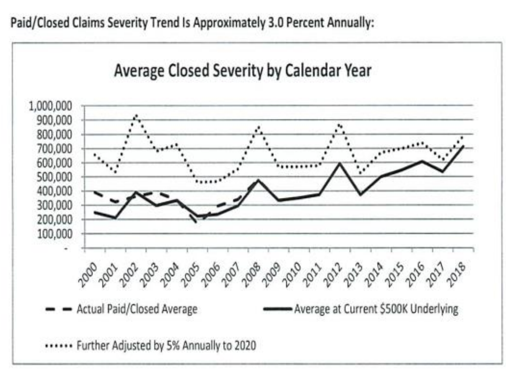
2014	18%
2015	20%
2016	22%
2017	26%
2018	40%
2019	45%
2020	50%

Nebraska Liability Fund – What's Going on There? (cont'd)

- Costs have simply outpaced surcharge increases
- Total premium in Nebraska keeps shrinking (driven by competitive market)
  - Total premium basis: 2010 – $25,401,000
  - Total premium basis: 2018 – $19,899,000
- Consolidation among healthcare providers (feeding shrinking premium basis)
- Even with surcharge at 50%, still forecasting a loss for 2020 per actuaries
- New cap of $2.25 million applies to claims after January 1, 2015
- Reinsurance costs $900,000, prevent future crisis (Hepatitis C outbreak)

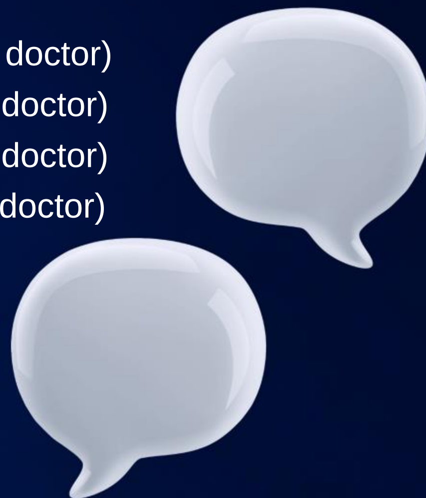
Nebraska Liability Fund – What's Going on There? (cont'd)

- 2017: challenge to cap upheld ($17 million verdict reduced to $1.75 million)
- Continues to be more
- Many private practice groups seeing non-renewals due to loss ratio



Nebraska Results – Frequency of Claims Filed (Source CNS Reports)

- 2015: 106 Medmal suits filed (six against one doctor)
- 2016: 154 Medmal suits filed (19 against one doctor)
- 2017: 136 Medmal suits filed (16 against one doctor)
- 2018: 110 Medmal suits filed (22 against one doctor)



Medmal Rates – Typical Doctors (2009, 2019)

Specialty	2009 Rate	2019 Rate
OB-GYN – Nebraska	$21,608	$15,737
OB-GYN – Iowa	$27,285	$27,285
Internal Medicine – Nebraska	$4,714	$3,434
Internal Medicine – Iowa	$5,953	$5,953

Industry Lingo

- Definition: Hard market denotes cycle of strain for insurance carriers and major change and uncertainty for buyer
  - Has occurred mid-70s, mid-90s and early 2000s
  - Typically lasts 18 months on average
  - Overall P&C industry seeing firming of rates for a variety of reasons
- Definition: Soft market donates widely available coverage and competitive pricing and terms

What does a "Hard" Market Look Like?!?

- Deductibles go up
- Reduction in coverage/capacity/limits
- More disciplined underwriting
- Less use of schedule crediting
- Now: Frequency of severity – 17 mega-verdicts in 2018 ($25 million+); source Conning
- Now: $25 million towers of insurance harder to get for big accounts
- Now: 2018 had largest number of Securities class actions filed… ever
- Now: Walking away from clients with bad loss ratios, even if long-term client

Other Factors Affecting Medmal Trends

- Mass torts: civil action involving numerous plaintiffs
- Employed physicians: now have higher limits to cover a loss
- Physician discipline: 2% of doctors account for 39% of all claims
- Non-economic caps being found unconstitutional (KS, ND, UT, etc.)
- Highest combined ratio since 2002 – current year results
- Investment performance offsetting deteriorating underwriter performance
- Tax Cuts & Jobs Act of 2017: corporate tax rate reduction; positive for carriers

Other Factors Affecting Medmal Trends (cont'd)

- E.H.R and impact on claims (and ability to find claims via big data)
  - 15% system and 21% user factors in diagnosis-related claims
- Opioid litigation: making their way to blaming the provider
  - $9 million claim in Ohio for wrongful patient deaths
- Cyber liability: tying into Medmal products… financial impact?

Other Factors Affecting Medmal Trends (cont'd)

- I'm Sorry Legislation: Sorry not having a financial impact or lessening litigation
- RRGs and alternative risk financial vehicles (captives)
  - All physician specialties getting mailers about newly formed entities
  - Do they have the stamina or financial size to survive?
  - NE cap won't allow non-admitted insurers so non-factor here
- Volume to value-based care: liability implications
- Seeking new procedures or service lines, unknown liability

Conclusion

- Lots of financial capacity out there
- Many liability trends that do not look favorable to providers
- "Limits" inflation and higher cost of healthcare not helping industry when time to assign blame
- Doctors and facilities have higher limits to insure losses versus 1990s
- Midwest is usually protected from severe trends
- We can watch the coasts and financial results and see what happens

Questions?

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Thank You.