



WEST VIRGINIA OFFICES *of the*
INSURANCE COMMISSIONER

2019
Annual
Medical Malpractice
Report

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Insurance Commissioner

Introduction

The West Virginia Offices of the Insurance Commissioner (WVOIC) has prepared this report on Medical Professional Liability insurance to fulfill the requirements and intent of W. Va. Regulations [§114CSR22](#), [§114CSR23](#), W. Va. Code [§33-20B-6](#), and [§33-20B-7](#). The information used in the preparation of this report encompasses the experience found in the statutorily required “filed information” of those insurers with a 5% or greater written premium market share, rate filings, National Association of Insurance Commissioners (NAIC) supplementary information, A. M. Best reports, data collected in accordance with W. Va. Code §33-20B-8, and data from the West Virginia Board of Medicine.

A medical malpractice claim may occur when a hospital, doctor or other health care professional, through a negligent act or omission, causes an injury or harm to a patient. The negligence might be the result of errors in diagnosis, treatment, after care or health management.

In any action for recovery of damages based upon medical malpractice, a claimant has the burden of proving the alleged actions of the healthcare provider represented a breach of, or failure to meet, the prevailing standard of care for that type of healthcare provider. The prevailing professional standard of care for a given healthcare provider is the level of care, skill and treatment that is recognized by industry as acceptable and appropriate.

There were some adjustments made in the calculations and methodology relating to the West Virginia medical malpractice experience outlined within this report. In previous versions of this report, some analyses were performed using licensed, or admitted, reporting while other sections used business written reports. The difference between licensed and business written is that business written includes insurance lines that may not be subject to regulatory authority by the WVOIC such as excess and surplus lines, risk retention groups, etc. For consistency purposes and to ensure this annual report encompasses a whole market overview, business written reporting was used for all report analyses unless otherwise noted.

A reporting anomaly was found for a specific insurer during the medical malpractice current and historical analysis. The insurer’s annual reported data was unusable for data analysis due to the policy structure where there is generally no transfer of risk from the policyholder to the insurer. Further, the insurer stated that the data reporting for 2018 was not consistent with previous years and they would amend if required by the WVOIC. Due to the circumstances relating to the data reporting, and the fact that the insurer data significantly skewed the West Virginia medical malpractice market experience, all annual data reported by the insurer has been excluded from this report and is not used in the premium or loss components for all years shown in all tables and graphs. However, claims reported to the WVOIC from this insurer are used in the Closed Claim section details.

Another notable anomaly occurred in 2019 that affected the West Virginia medical malpractice market when Capson Physicians Insurance Company (CPIC) was found to be insolvent and placed in liquidation by the Texas Department of Insurance. CPIC did not file an annual statement for 2018 so their annual data was not included in this report. However, in 2017 and prior years, CPIC wrote more than \$1M in premium in West Virginia. The non-renewing of CPIC policies did not create upheaval in the market due to a surplus lines insurer, ISMIE Indemnity Company, agreeing to write the CPIC policies at the same rates and premiums as CPIC charged until the next policy cycle when ISMIE Indemnity Company could accurately underwrite the policies and adequately price the physician's and/or facilities medical malpractice coverage. The special deputy receiver of CPIC has approved the Sale of Charter and Certificates of Authority to Ag Workers Mutual Auto Insurance Company. This transaction is not expected to affect the West Virginia medical malpractice market.

The overall West Virginia medical malpractice pure direct loss ratio decreased significantly from 90.5% in 2017 to 62.6% in 2018. The average West Virginia pure direct loss ratio for calendar years 2009 through 2018 is 47.1%; with the lowest ratio of 19.4% occurring in 2012 and the highest ratio of 90.5% occurring in 2017. This report will address the volatility of the West Virginia medical malpractice market as well as the increased loss ratios realized in the most recent years.

This year's report covers the following medical malpractice insurance areas:

- **Section I:** An overview of the countrywide insurance results in 2018 together with a comparison of Industry results and West Virginia results for the medical malpractice insurance line.
- **Section II:** A review of §33-20B-8 closed claim data and the West Virginia Board of Medicine paid claim data.
- **Section III:** A fulfillment of the legislative requirements examining market positions, rating plans and rules, and a comparison of filed information to rate filings and financial statement information.
- **Section IV:** A review of Board of Risk and Insurance Management (BRIM) Medical Liability Fund data and West Virginia Board of Medicine licensure data.
- **Section V:** Summary observations.

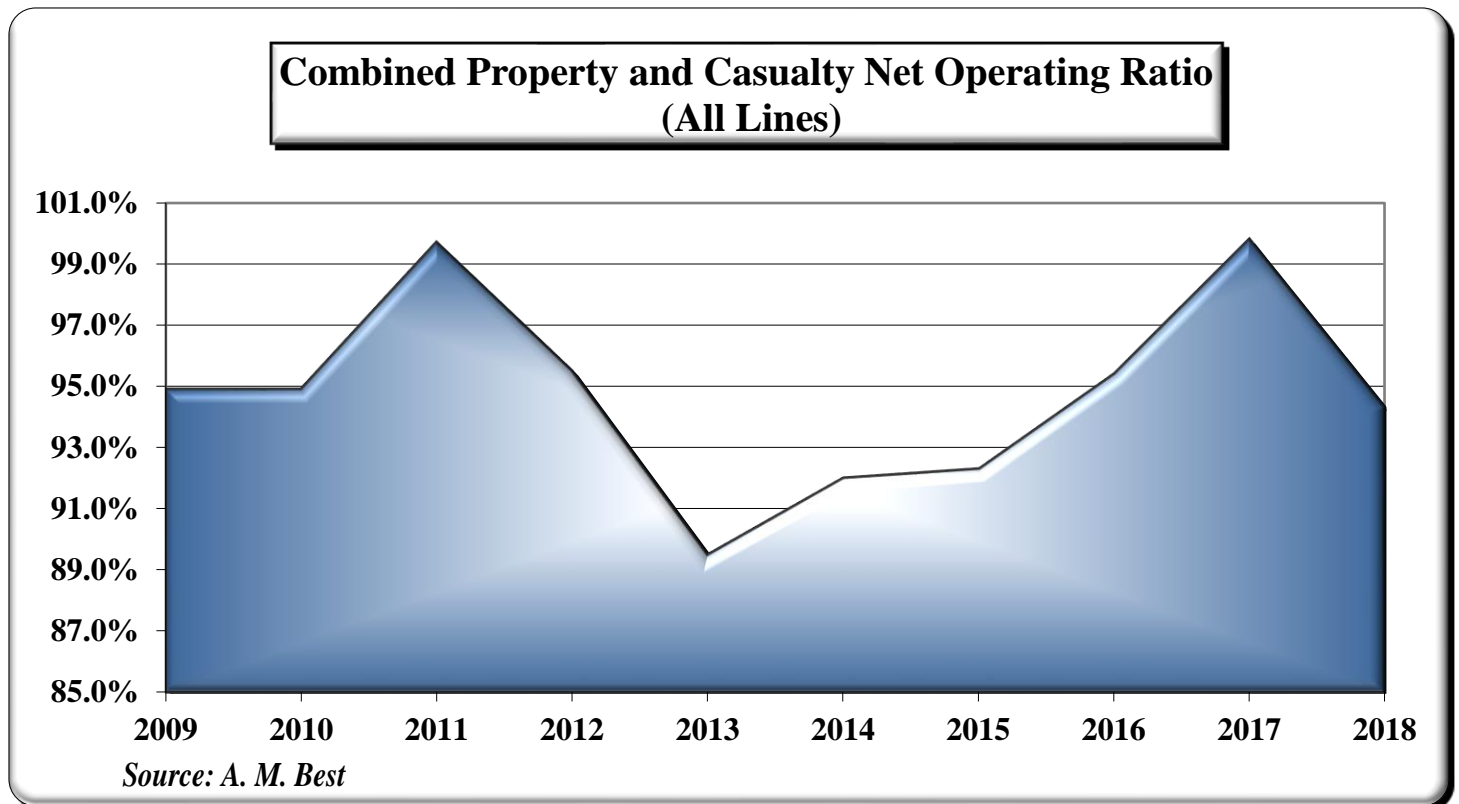
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Section I Overview

Overview of Countrywide Property and Casualty Insurance Industry Results for 2018

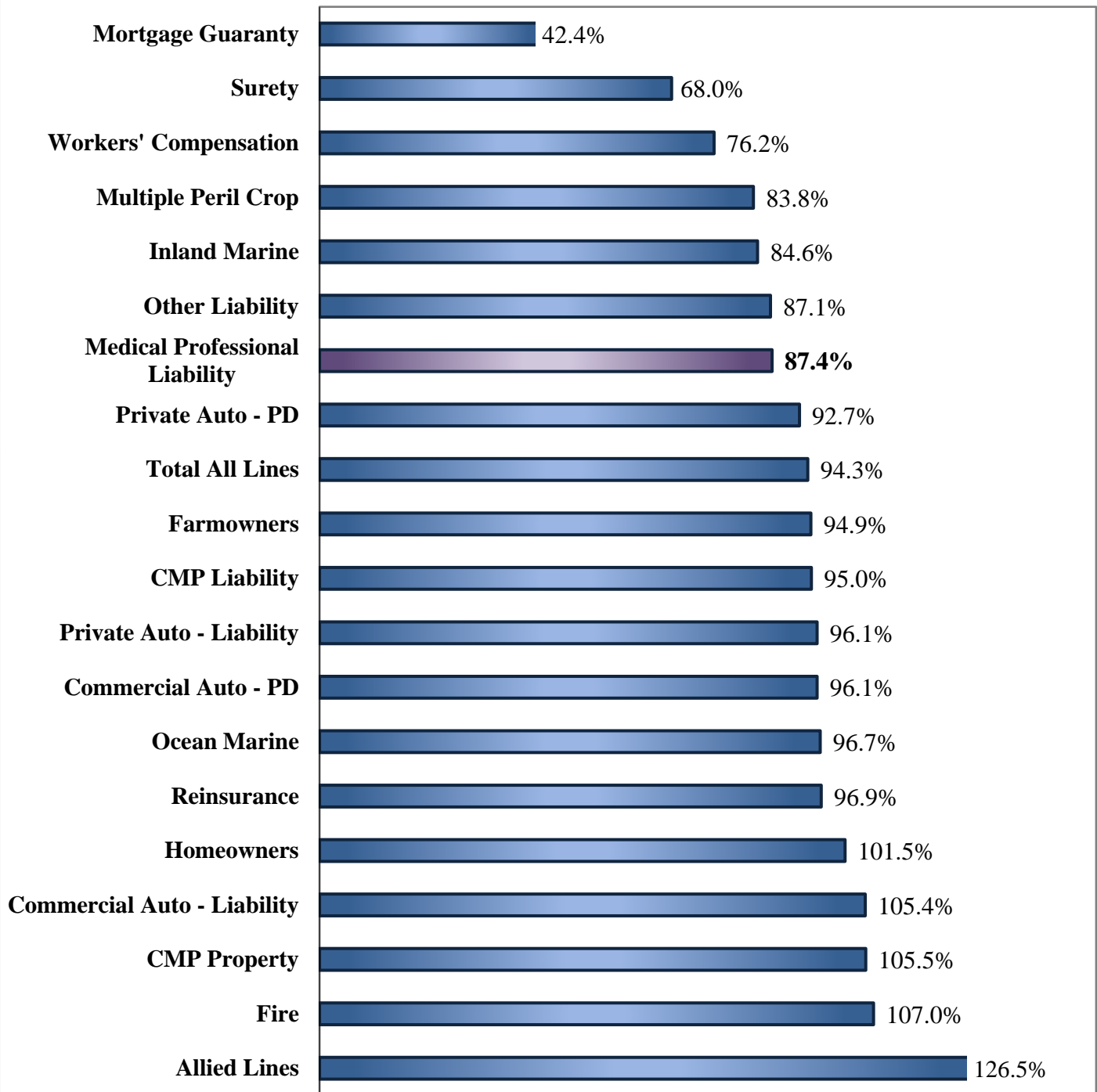
Combined ratios for all property and casualty lines of insurance decreased significantly in 2018 from 2017. The overall net operating ratio was 94.3% in 2018 compared to 99.8% in 2017. This equates a 5.5% decrease for the overall net operating ratio. The countrywide medical malpractice line of insurance experienced a marginal decrease of 0.7% from 88.0% in 2017 to 87.4% in 2018.



The combined property and casualty insurance industry operating ratio for 2018 was 94.3%. This net operating ratio reflects the results after paying and/or reserving for all claims and claim expenses; paying underwriting expenses and dividends; paying and collecting on reinsurance agreements; and accounting for investment gains and/or losses. The 2018 decrease in the combined net operating ratio comes after four (4) years of steady and significant increases. While the majority of property and casualty lines operating ratios decreased, the most noteworthy decreases occurred in Reinsurance, Allied Lines and Mortgage Guaranty insurance lines.

The 2018 net operating experience of the Property and Casualty Industry as compared to some of its key element lines were as follows:

Property and Casualty Net Operating Ratios for 2018



Source: A. M. Best
 PD - Physical Damage

Several points can be noted from the industry results for 2018:

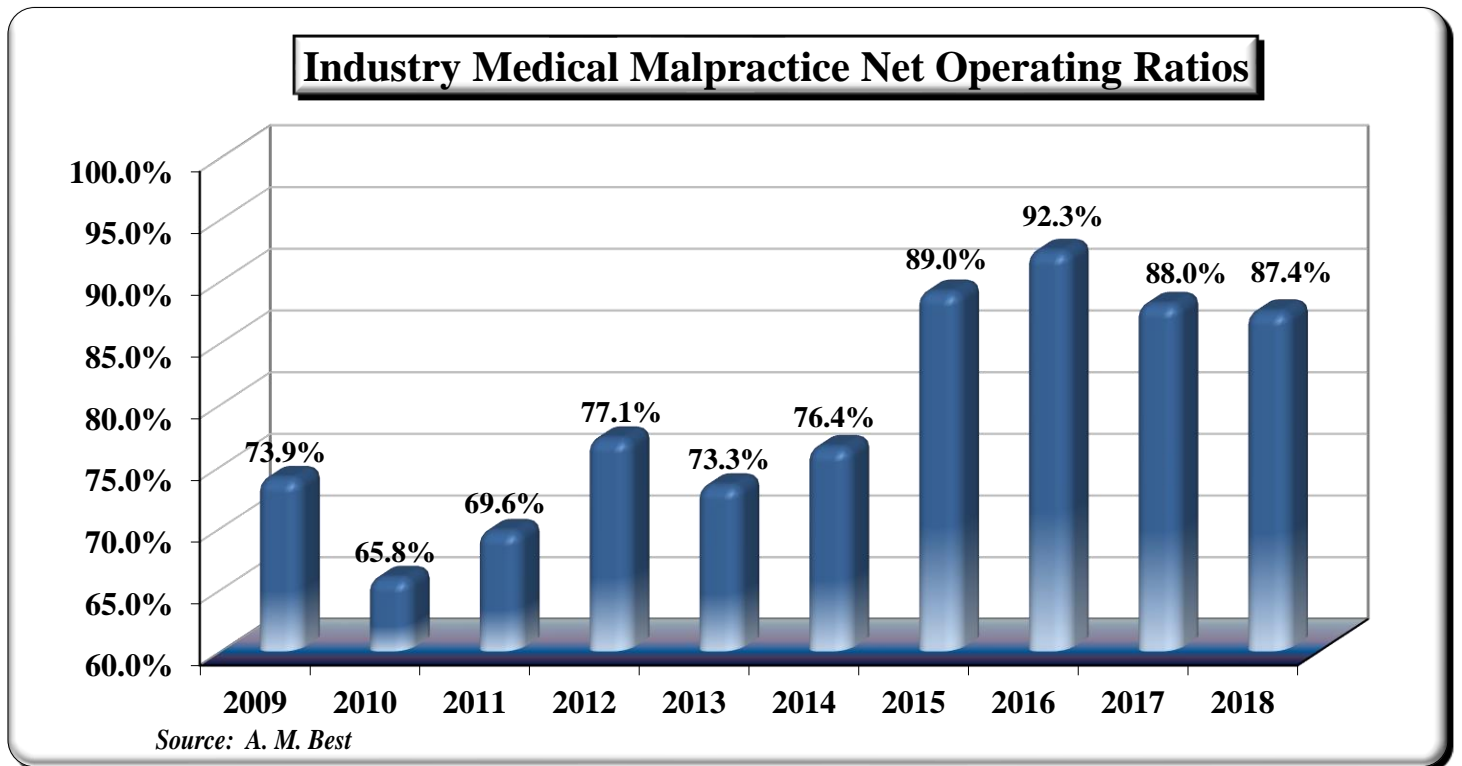
- The results for the countrywide medical malpractice line continue to remain favorable. The 2018 loss ratio is less than the average loss ratio of 89.3% over a 20-year period. It is important to note that the medical malpractice line was the poorest performing line of insurance in 2002 and 2003 with an operating ratio of 129.5% and 121.9%, respectively.
- When considering the most recent ten (10) years of data, medical malpractice operating ratios average 79.3%, with 2016 experiencing the highest ratio at 92.3% and 2010 experiencing the lowest ratio at 65.8%.
- Reinsurance industry results, which can influence future outcomes for other lines of business; decreased significantly from 180.3% in 2017 to 96.9% in 2018. The net operating ratio for reinsurance had been 234.3% in 2005. The need for a healthy reinsurance market is important for a line like medical malpractice with the potential for large losses. The 2018 reinsurance decrease is a welcome outcome as the 2017 operating ratio and tax code changes affecting ceded offshore premiums were previous areas of concern for a pending hardening of the market.
- The total operating ratio for all Property and Casualty lines of insurance decreased from 99.8% in 2017 to 94.3% in 2018. While the 5.5% decrease is significant, the five (5) year average is 94.8% so it appears the 2017 results were abnormally high compared to previous years.

Medical Malpractice Insurance Results for the Countrywide Industry

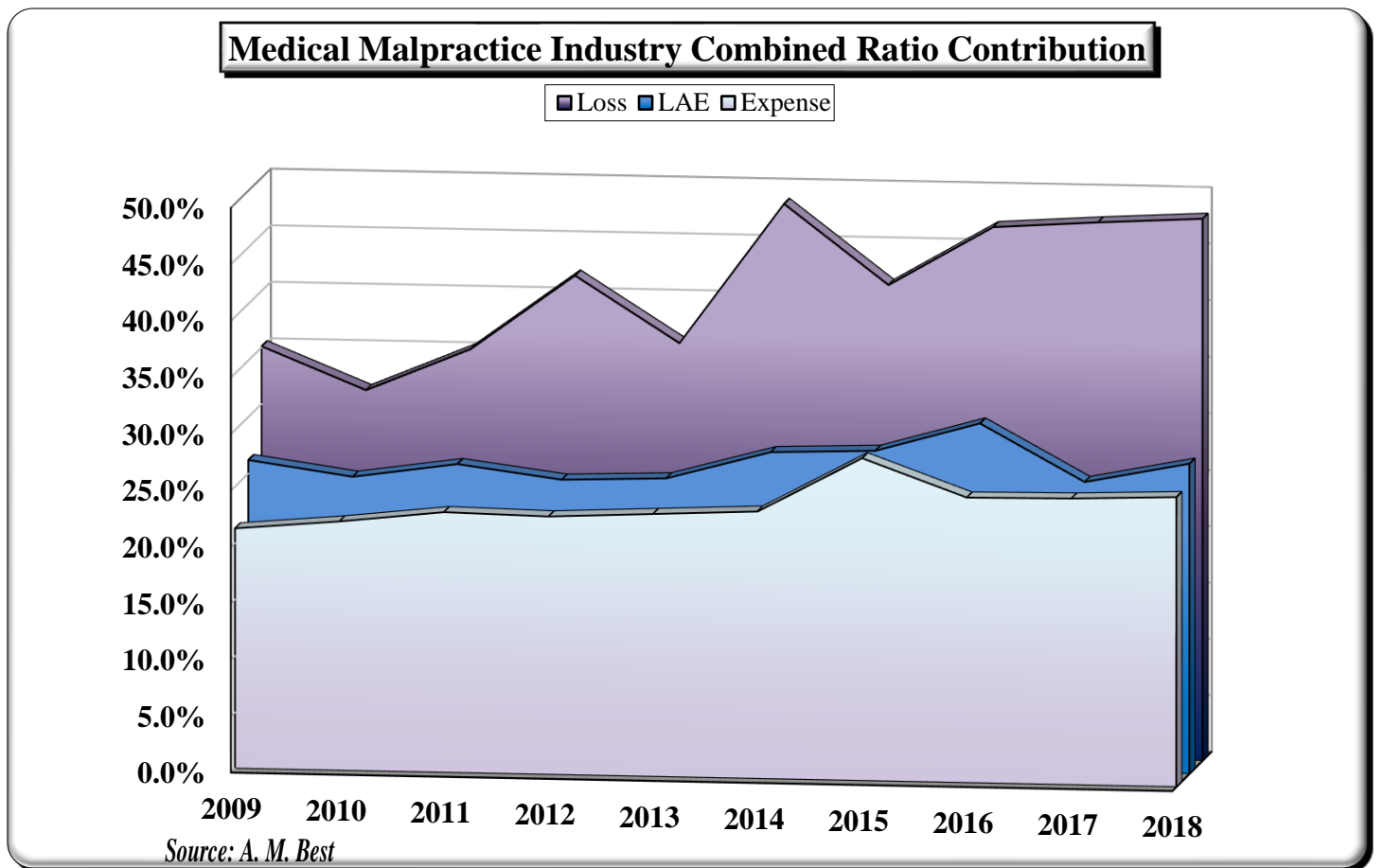
Countrywide medical malpractice insurance has shown overall improvement since the adverse levels in 2001 and is now performing below the total combined property and casualty industry results. When considering the last ten (10) years only, the operating ratio has increased 18.3% from 73.9% in 2009 to the most current 87.4% in 2018. As most insurance lines are cyclical in nature, the most recent increases would indicate that medical malpractice is currently experiencing a “soft market”. A soft market or buyer’s market is generally an increased competition for insurance premiums which may result in the following:

- Lower insurance premiums for the policyholder
- Broader or reduced underwriting criteria
- Increased policy limits
- Increased competition among insurance providers

The graph below displays the industry net operating ratios realized over the last ten (10) years:



This chart displays the combined ratio contribution by component, excluding investment income:



As displayed in the graph, the countrywide loss adjusting expense (LAE) components increased marginally in 2018. Loss includes the monies paid on behalf of claims. LAE includes expenses that are associated with investigating and adjusting claims. Expenses include commissions, taxes, salaries, company overhead, etc. The table below outlines the changes by component of the combined ratio for the countrywide medical malpractice line when considering the ratios to net premiums written as shown in the Best's Aggregates and Averages 2019 Edition.

Year	Loss	LAE	Expense
2017	47.5%	25.7%	25.4%
2018	48.0%	27.5%	25.7%
Difference	1.1%	7.0%	1.2%

Profitability for medical malpractice insurers can be examined in the following table. Profitability can be volatile from year to year; therefore, it is important to look at several years:

Profitability Components (in millions)										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Net Income	\$1,732	\$2,079	\$2,061	\$1,796	\$1,547	\$1,698	\$0.851	\$0.740	\$1,168	\$1,777
Surplus	\$12,464	\$13,549	\$14,601	\$16,111	\$17,788	\$19,445	\$19,418	\$19,969	\$20,826	\$18,611
Return on Surplus	19.1%	17.8%	12.0%	12.4%	11.9%	9.7%	2.3%	5.8%	10.4%	3.0%

Source: A.M. Best

Surplus is one indicator of an insurance company's financial strength. The return on surplus indicates the profit an insurance company can bring in relative to the amount of revenue it generates from underwriting insurance policies and investment proceeds. In basic terms, the return on surplus represents how much an insurer's assets exceed its liabilities. Several factors contribute to increases or decreases in surplus. An insurer's operational profitability directly impacts surplus. The return on surplus continues to be positive but it is notable that the decrease in return on surplus from 2017 to 2018 was over 71%. This decrease may indicate a downturn of the stock market where investments are not performing as well as prior years, underwriting gains may not be as substantial, insurer liabilities may be greater due to systemic or class-action cases or a myriad of other causes.

Medical Malpractice: Industry vs. West Virginia Comparison

The table below outlines the changes by component of the most recent combined ratio for the West Virginia medical malpractice line.

Year	Loss	LAE	Expense	Combined Ratio
2017	90.5%	25.4%	14.3%	130.2%
2018	62.6%	20.0%	15.5%	98.1%
Difference	(30.9%)	(21.3%)	8.6%	(24.7%)

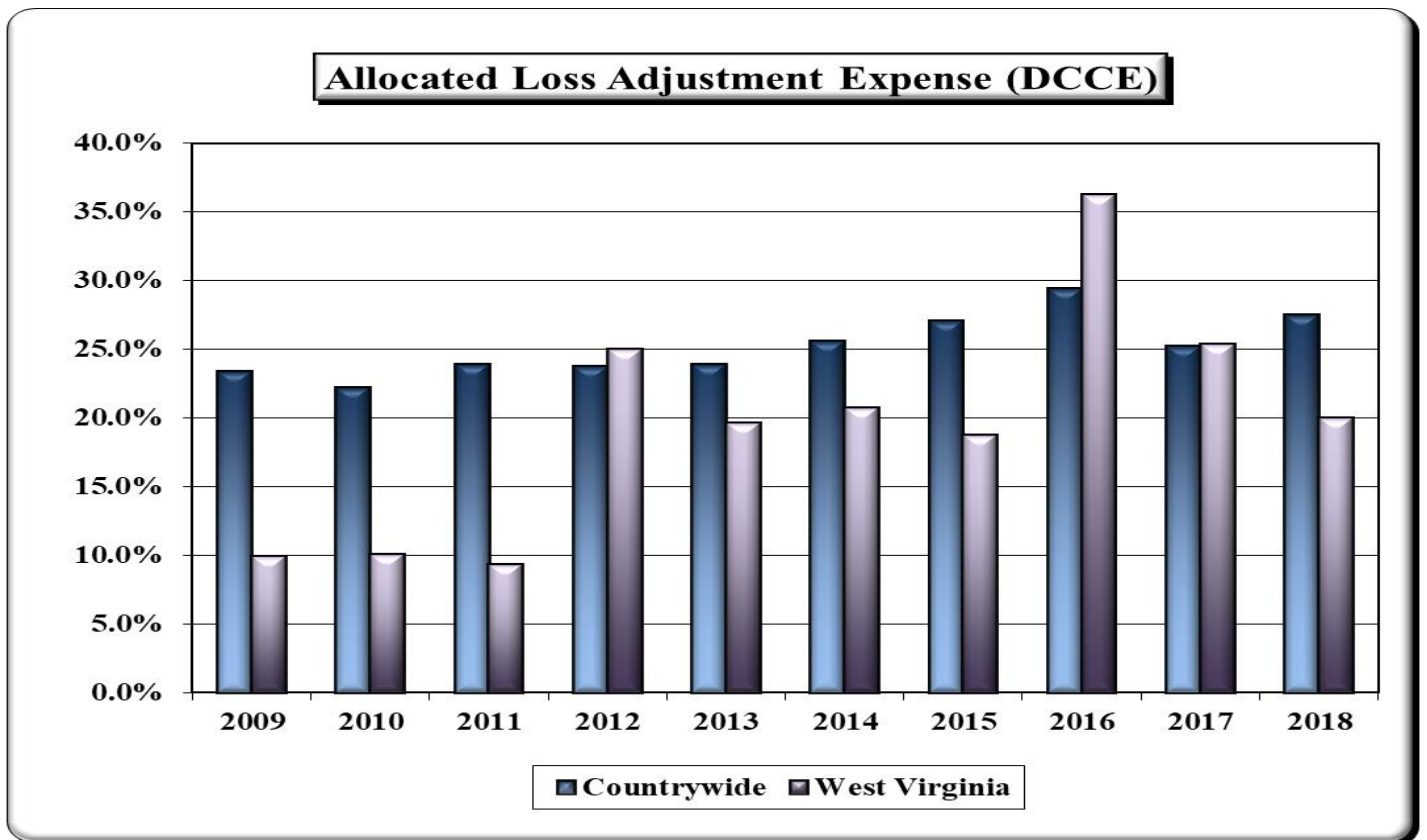
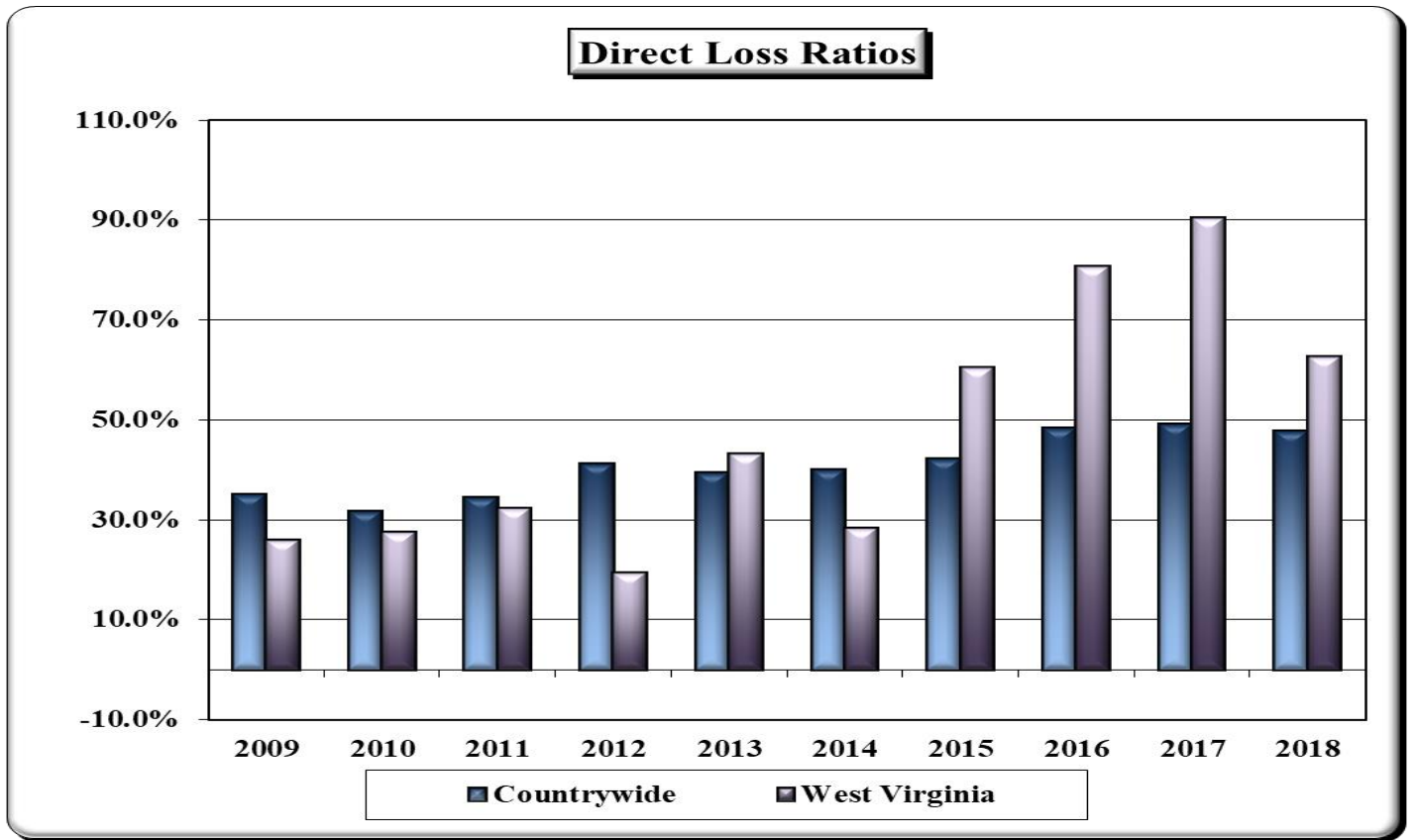
The following observations and exhibits provide a comparison of the Medical Malpractice line of business for the countrywide industry compared to West Virginia experience for the past ten years. In reviewing this exhibit, a few key areas of difference are noted.

- West Virginia medical malpractice written premiums increased 1.3% from the 2017 premium level to the 2018 premium level. However, even with the nominal increase, the 2018 written premiums are 13.2% below the ten-year average written premium amount of \$68,967,000.
- Greater volatility in direct West Virginia loss ratios in part due to the relatively small market size.
- LAE expenses declined from the 2017 level and are currently at the 2015 level.
- After four years of significant increases, the West Virginia loss ratio decreased more than 30%. While the 2018 result is encouraging, loss ratios have traditionally been volatile due to the frequency and severity variances within the relatively small market.

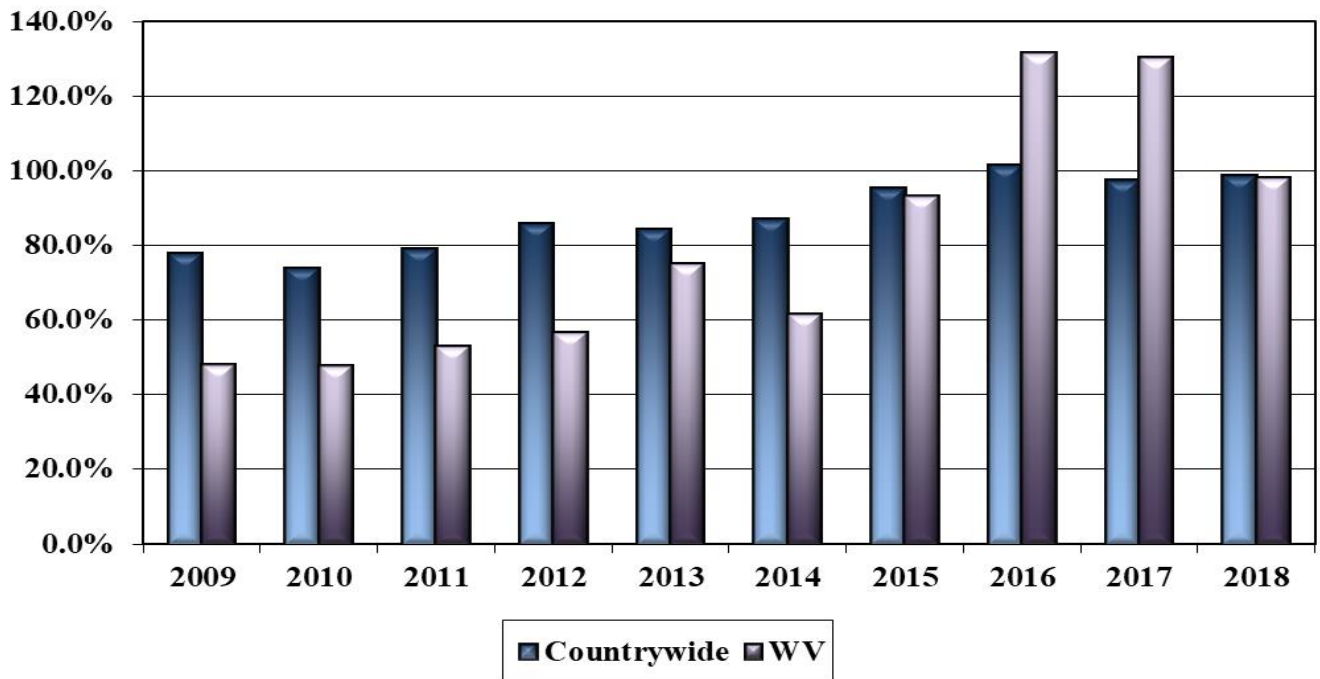
This data is on a calendar year basis. Increases or decreases in loss reserves from previous years will be carried forward to the calendar year on an accounting basis. This can result in incurred loss amounts which may appear inflated or even result in overall negative dollar values for the year.

West Virginia continues to realize higher than industry loss ratios but performs significantly better than industry in both LAE and Underwriting expense categories. Further, the West Virginia combined ratio is equivalent to the industry ratio.

Visually, a comparison of countrywide industry and West Virginia results for medical malpractice utilizing data from the preceding table can be seen in the three graphs which follow:



Direct Combined Ratios

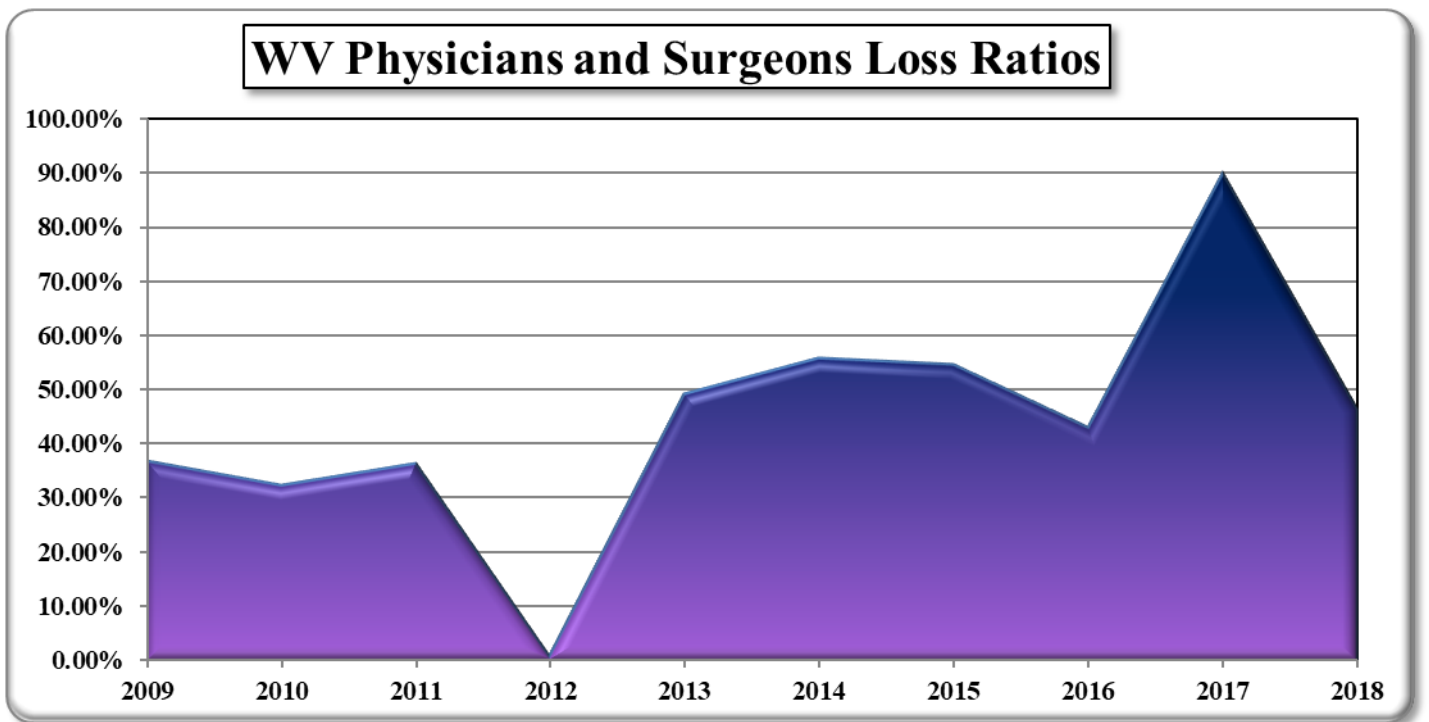
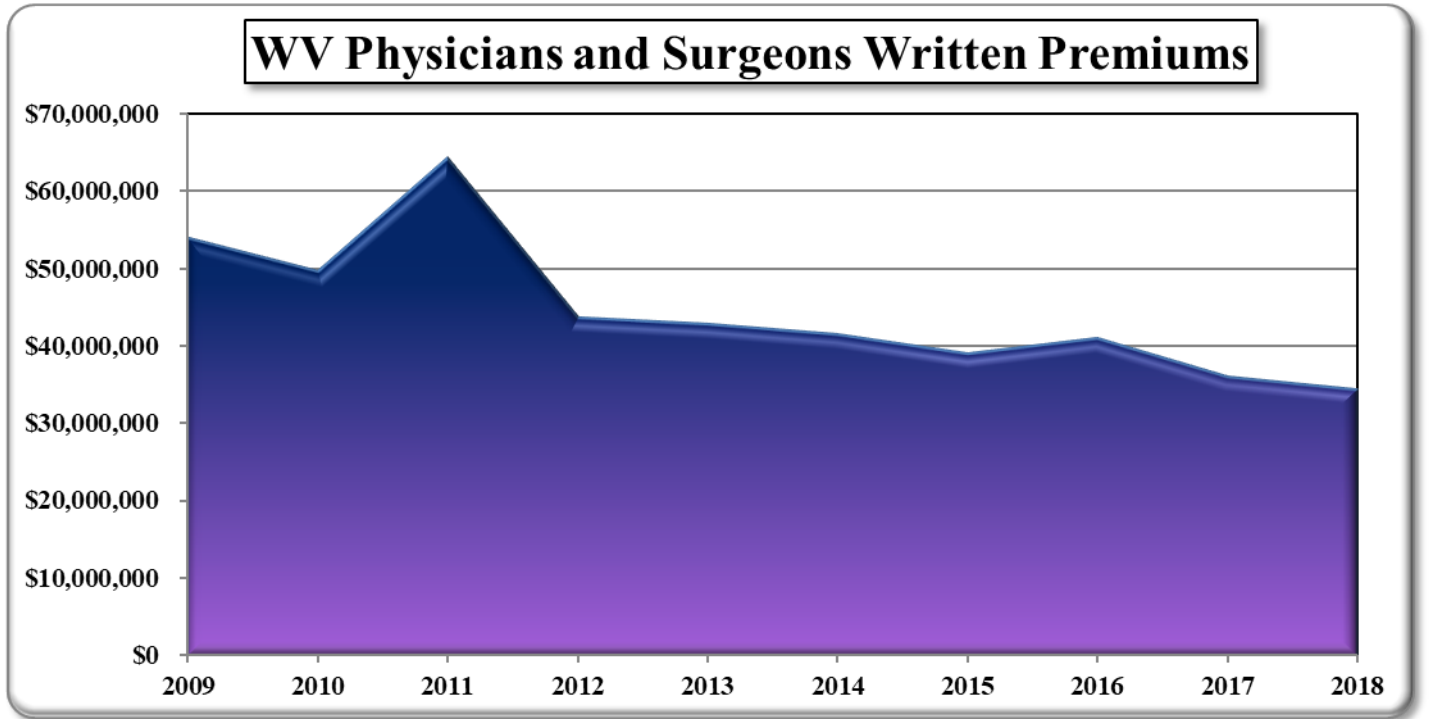


The medical malpractice line of business results above includes aggregated experience for all the various sublines of Medical Malpractice insurance. The sublines consist of four (4) categories of specialization: Physician and Surgeons, Hospitals, Other Facilities and Other Professionals.

Considering only the Physicians and Surgeons subline in West Virginia, the following experience is found:

Year	\$ Written	\$ Earned	Loss Inc	Loss Ratio	# Co's
2009	\$53,932,735	\$54,778,791	\$20,234,613	36.94%	57
2010	\$49,672,860	\$53,656,100	\$17,373,435	32.38%	53
2011	\$64,270,333	\$67,428,066	\$24,647,166	36.55%	53
2012	\$43,657,853	\$44,800,396	\$423,763	0.95%	52
2013	\$42,760,927	\$44,220,828	\$21,776,607	49.25%	55
2014	\$41,537,054	\$41,393,407	\$23,121,508	55.86%	53
2015	\$39,064,366	\$39,351,590	\$21,543,953	54.75%	53
2016	\$40,961,270	\$41,267,089	\$17,831,235	43.21%	52
2017	\$35,968,265	\$39,786,101	\$35,801,319	89.98%	52
2018	\$34,344,541	\$36,640,809	\$16,992,605	46.38%	49

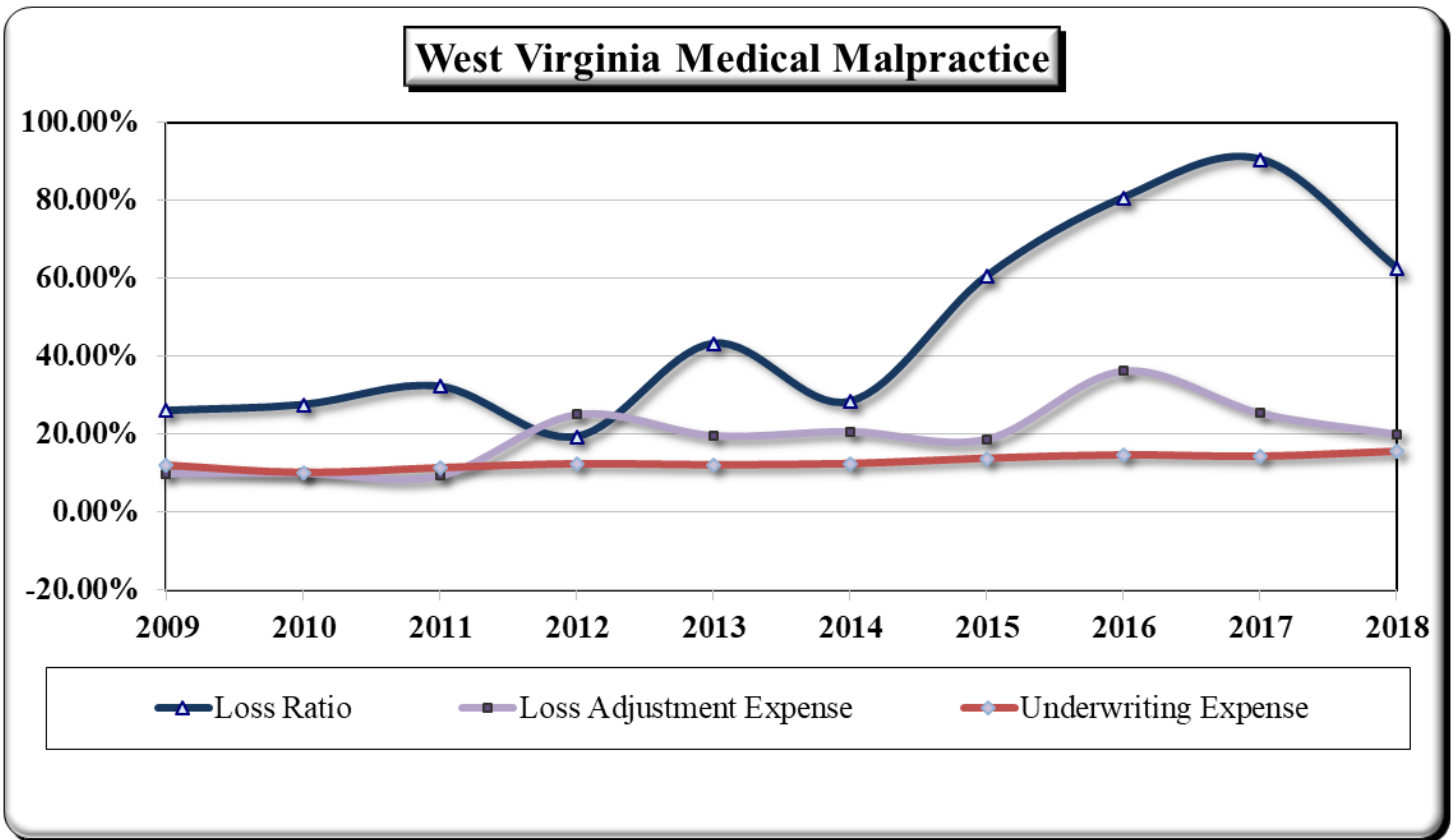
Graphical representation of the written premium data for the Physicians and Surgeons market:



As noted in both the table and the graphs, the Physicians and Surgeons premiums are fairly stable with the exception of calendar years 2011 and 2012 where the premium and direct loss ratios had significant fluctuations. In 2011, there was one insurer that reported written premiums in the amount of \$17M in the Physicians and Surgeons subline while netting the same amount out by posting written premiums of (\$14,165,279) under the Hospital sub-line and (\$3,114,704) in the Other Healthcare Facilities. In general, the Physicians and Surgeons subline premiums have had a slight decreasing trend (not considering the 2011 reporting issue noted above) since 2012. The 2018 premiums followed the downward trend with a 4.5% decrease from the 2017 premiums. The pure direct loss ratio is widely volatile across all years due to a relatively small market size. In 2012, the low loss ratio was due to reductions in previous year's loss reserves as described in Section I. The Physicians and Surgeons loss ratio decreased more than 48% from 2017 to 2018. No known reason or explanation is available other than the claims are sporadic and cyclical in nature. It would not be unusual to have a large decrease followed by a substantive increase next year as medical malpractice claims are varied in both nature of claims filed as well as costs per claim; which is again reliant upon the type of claims that were brought forth in any given year.

I-C: Key Drivers of West Virginia Medical Malpractice Insurance Results

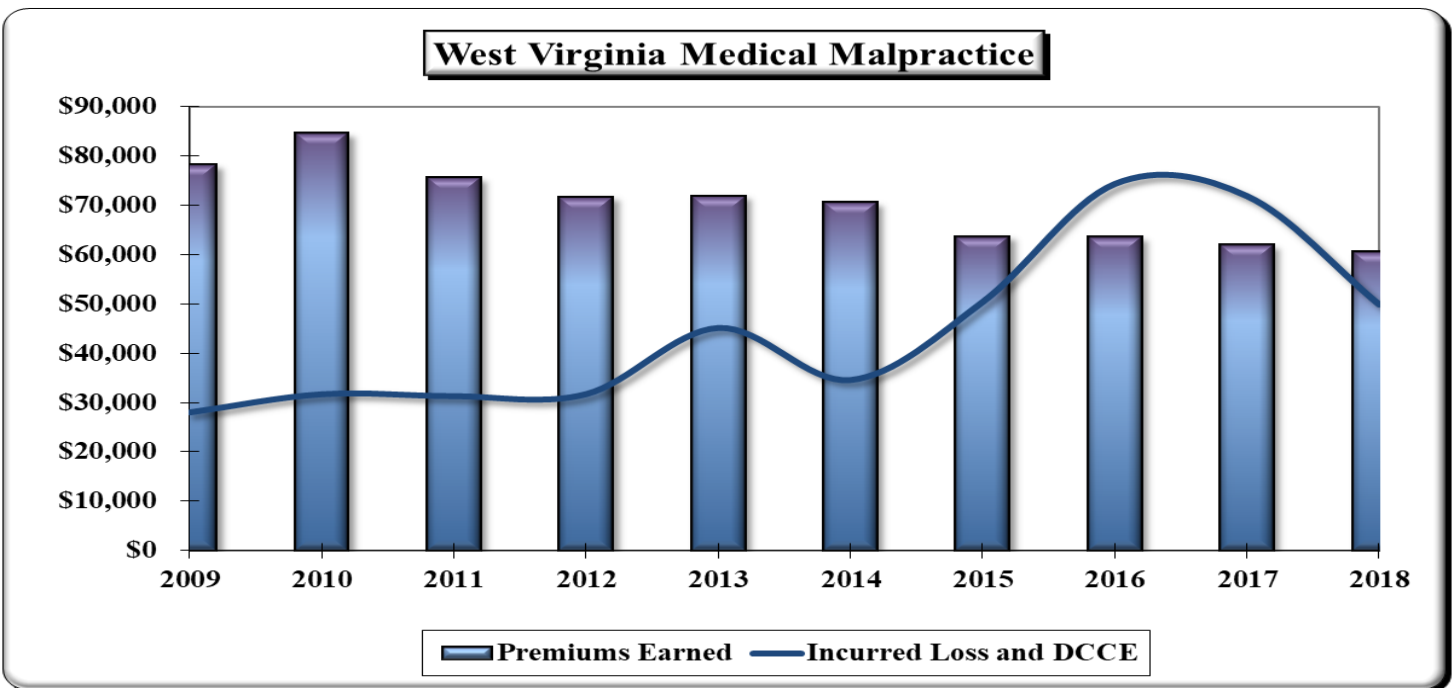
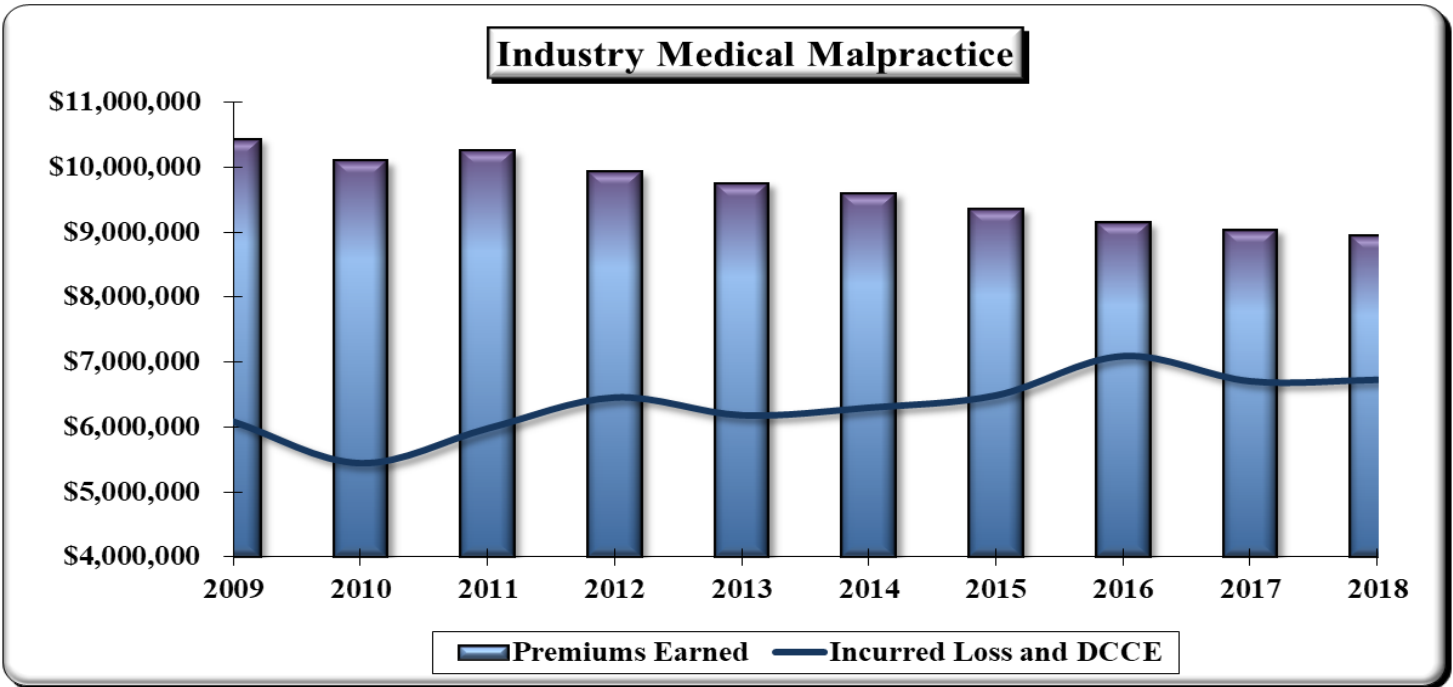
The graph below indicates the West Virginia medical malpractice line continues to exhibit volatile direct loss ratios and loss expenses with stable underwriting expenses. The loss adjustment expenses generally trend similarly to the loss ratio but may vary widely due to the specialized nature of litigation for the medical malpractice line of insurance. The 2017 results appear to be an anomaly where the LAE followed an opposite loss trend.



While both the direct loss ratio and loss adjustment expense fluctuate throughout the years, the underwriting expenses have remained static in the last ten years. The loss ratio indication developed the first decrease since 2015. The 2018 loss ratio decreased more than 30% from the 2017 ratio. The 2015 through 2017 results were well above the trended value while the 2018 is 5% below the trendline.

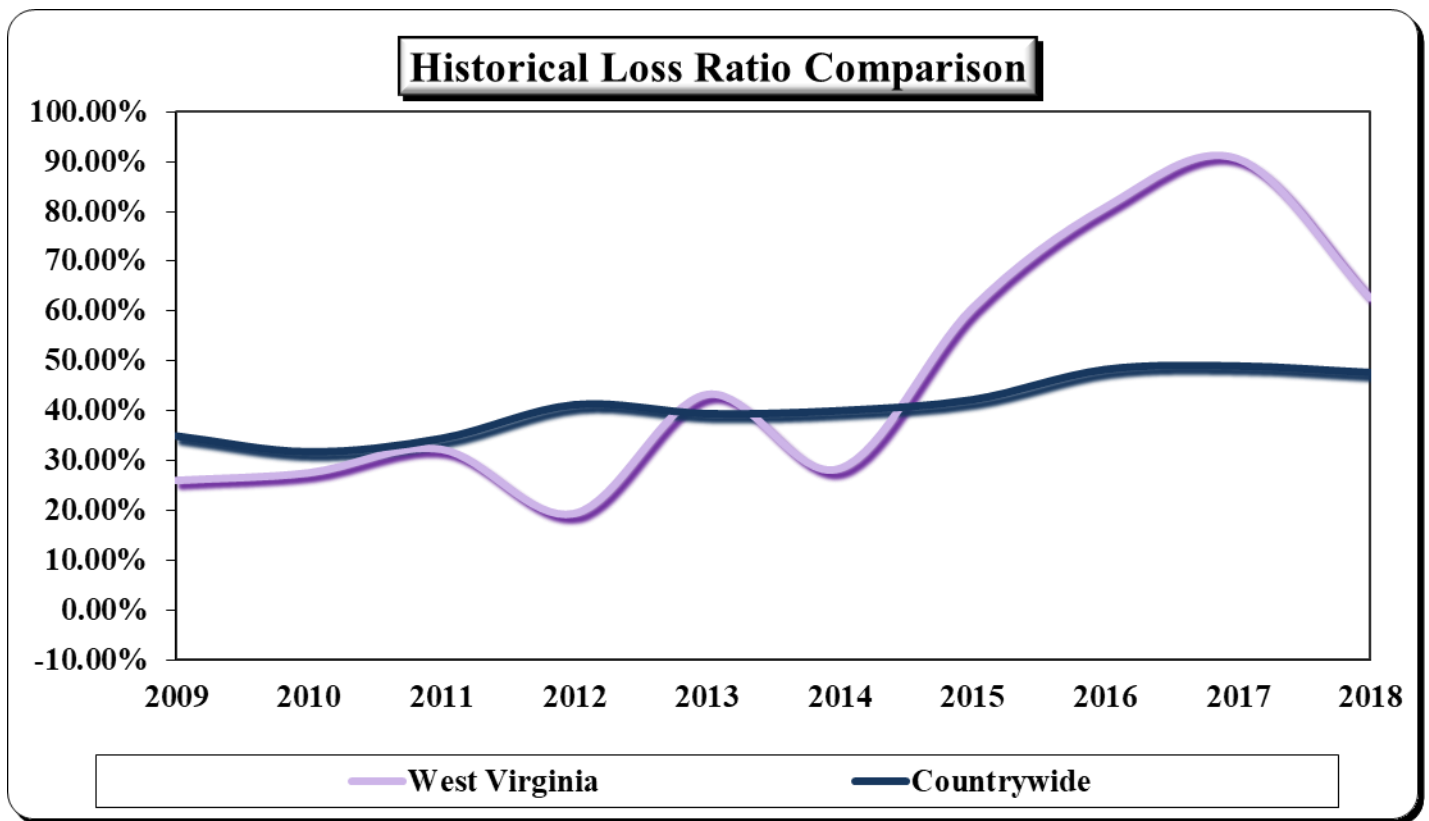
I-D: Loss and Defense Costs Incurred vs. Premiums Earned

The charts below compare pure losses and defense and cost containment (DCCE) for the countrywide industry against the comparable figures for the West Virginia market. The results for loss and DCCE in West Virginia had far exceeded premiums until the turnaround reported for 2003. When considering the last ten years, the loss and defense costs have averaged 66.6% of the premiums earned. 2016 and 2017 are the only years since 2002 where the losses and loss expenses exceeded the earned premiums; the 2018 results are more consistent with the countrywide industry results.



I-E: Historical Loss Ratio Comparison

Recent loss ratio experience in West Virginia for medical malpractice remains an improvement over that experienced in 2002 but has recently trended upward due to the frequency and severity of medical malpractice claims. However, as the graph below that compares the West Virginia direct loss ratios with the countrywide ratios suggests that West Virginia medical malpractice loss ratios are prone to much more volatility due to the small market size whereas the countrywide has the “law of large numbers” and can produce more stable results year to year. The volatility in the West Virginia loss ratio is likely the result of the limited volume of business written in our market and the potential for significant variance will likely increase if overall premium volumes continue their decline.



Section II

A Review of Paid / Closed Claim Data

II: Analysis of Paid Claim Information

The Board of Medicine (BOM) information is not insurance data; rather it is information provided to the West Virginia Board of Medicine about Medical Malpractice claims after their disposition and has not been audited for accuracy. Disposition means claims which have been dismissed, settled, or adjudicated. While not considered insurance data, this information is useful in attempting to identify trends. Even with twenty years of data, the number of claims and loss dollars are still small enough to limit the credibility of the information. Additionally, note that this information does include Board of Risk and Insurance Management (BRIM) claim payments.

The Closed Claim data discussed in Section II-D should not be considered as final experience data for any given year. W. Va. Code §33-20B-8 requires the reporting of data for closed claims reported by the insurer. Open claims are excluded from this dataset, but it is possible that claims which have been administratively closed due to inactivity or claimant abandonment may later reopen and undergo additional development.

The sections below which review both Judgments and Settlements with payment where the data is noted to have been capped at \$1,000,000 differs from that included in reports prior to 2007 due to the application of the \$1,000,000 cap. Specifically, the 2004 report only considered Judgments and Settlements under \$1,000,000 (excluding all those above that amount), the 2005-2006 reports continued to provide the data in this manner but noted it as having been capped at \$1,000,000 as a smoothing procedure. However, only the 2007 and later reports, including this report, apply the noted capping methodologies in order to limit large swings in the data from year to year, yet also fully consider indemnity amounts over \$1,000,000 (counted as capped at \$1M) in order to attempt to identify any notable trend in payments. This creates some disparity between the figures provided within this report and that of earlier reports.

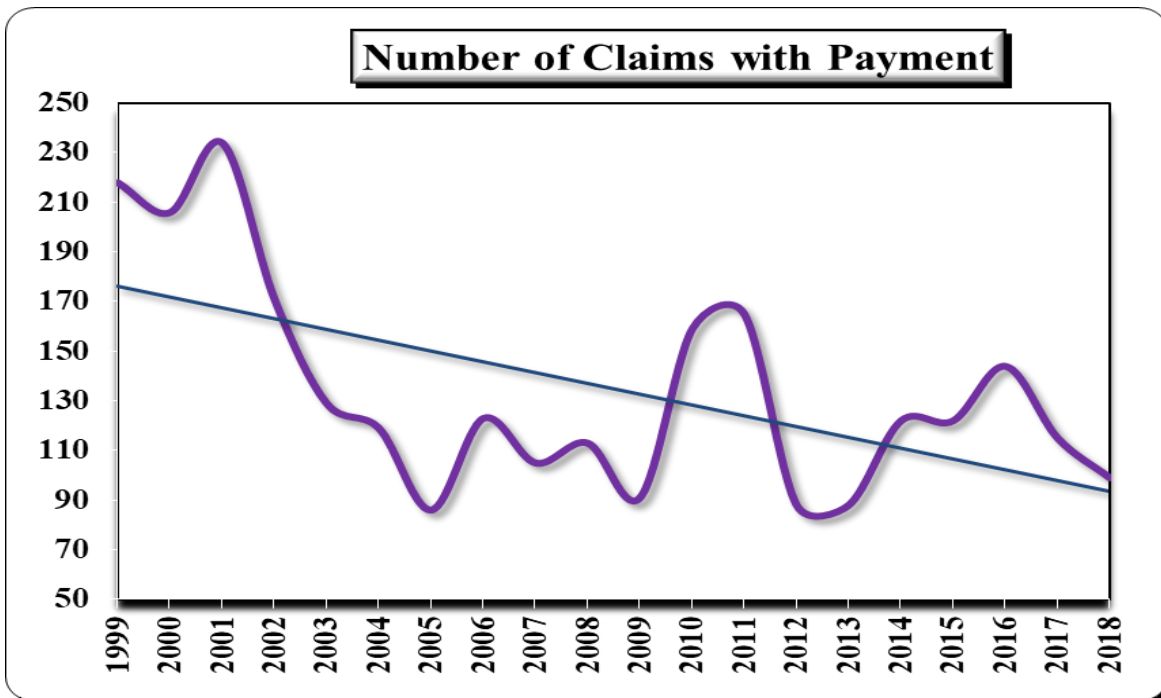
II-A: How Malpractice Claims are Disposed in West Virginia

The exhibit below displays paid claim count information for 1999 – 2018.

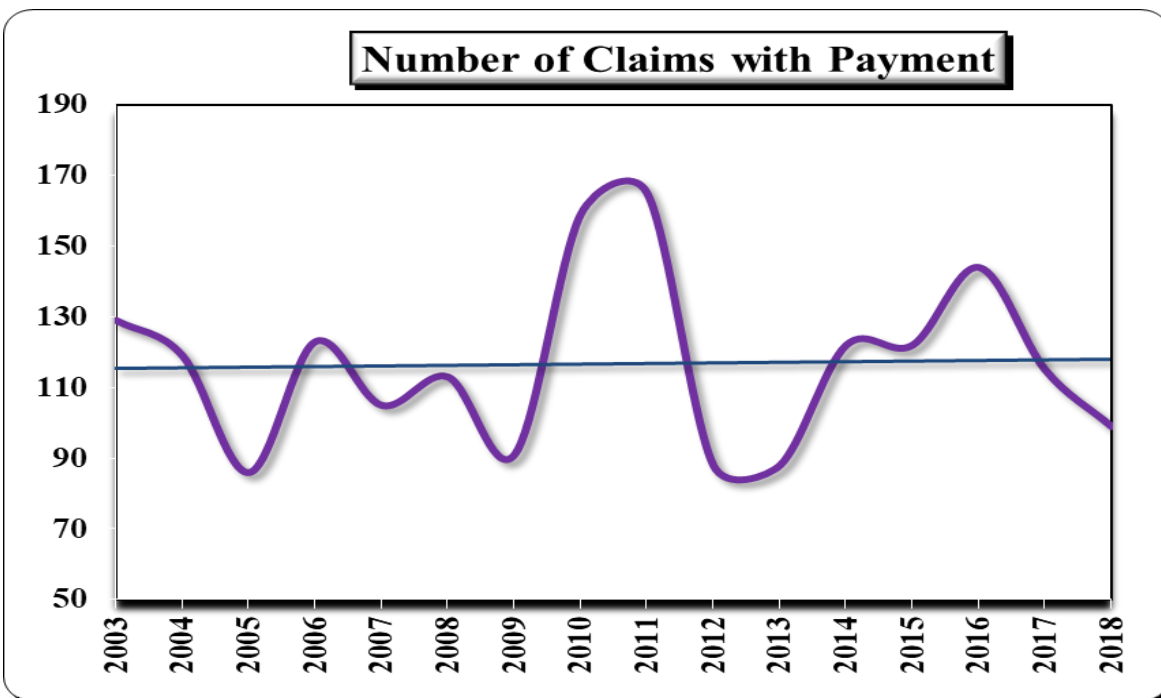
West Virginia Board of Medicine									
Claim Count Review									
Year	Dismissals		Judgments			Settlements			All
	Total	% of Total	Non-Zero	Total	% of Total	Non-Zero	Total	% of Total	Total
1999	99	30%	15	28	8%	203	206	62%	333
2000	104	30%	7	37	11%	199	203	59%	344
2001	112	30%	9	37	10%	225	226	60%	375
2002	122	39%	7	25	8%	164	165	53%	312
2003	108	42%	4	23	9%	125	127	49%	258
2004	87	39%	6	24	11%	113	113	50%	224
2005	77	44%	5	15	9%	81	82	47%	174
2006	72	35%	3	12	6%	120	120	59%	204
2007	40	24%	1	15	9%	104	109	66%	164
2008	73	37%	8	14	7%	105	108	55%	195
2009	71	41%	5	14	8%	86	89	51%	174
2010	23	12%	1	7	4%	158	158	84%	188
2011	21	11%	3	8	4%	162	162	85%	191
2012	0	0%	2	7	8%	86	86	92%	93
2013	1	1%	1	3	3%	87	87	96%	91
2014	0	0%	3	3	2%	119	119	98%	122
2015	0	0%	2	3	2%	120	120	98%	123
2016	0	0%	4	5	3%	140	140	97%	145
2017	0	0%	2	3	3%	113	114	97%	117
2018	0	0%	0	0	0%	99	99	100%	99
Total	1,010	26%	88	283	7%	2,609	2,633	67%	3,926

- In 2001, H.B. 601 was passed. One of its key elements was §55-7B-6, requiring that a “certificate of merit” be obtained prior to the filing of a medical professional liability action against a health care provider. We believe that this screening process explains in part the increase in the percentage of dismissals seen beginning in 2002 and through 2009.
- As of 2011, the West Virginia Board of Medicine indicates that the reporting of dismissals is no longer required. Thus, we can no longer fully consider that portion of their data in this report as this information will be phased out throughout the years.
- In general, the number of claims filed has dropped significantly since the passage of the 2001 legislation. The claim frequency decreased approximately 74% from 2001 to 2018.

- Graphically, note the downward linear trend in the number of paid claims since 1999:



Medical malpractice is generally written on a claims-made basis. Therefore, it is quite possible that claims could arise in the future which relate to incidents that occurred in the past. While the current claim count is much lower than 1999 counts, the claims have been trending higher than anticipated as shown on the graph. However, if you remove the pre-reform data, the trendline and claim frequency becomes more stable with the 2018 decrease in claim count performing better than the linear trendline projection.



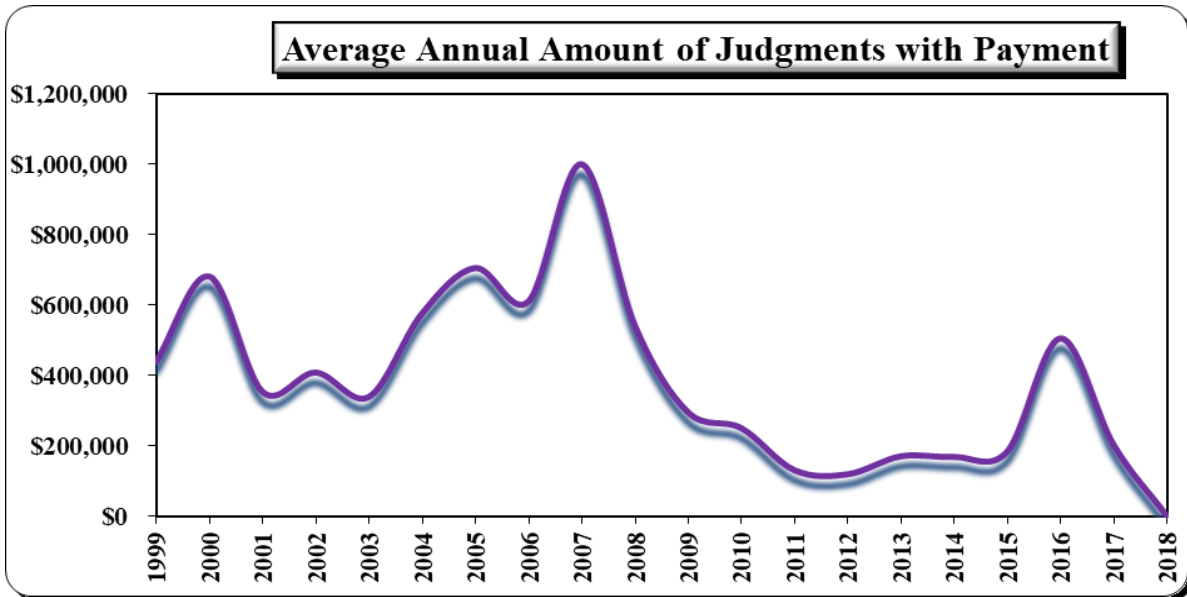
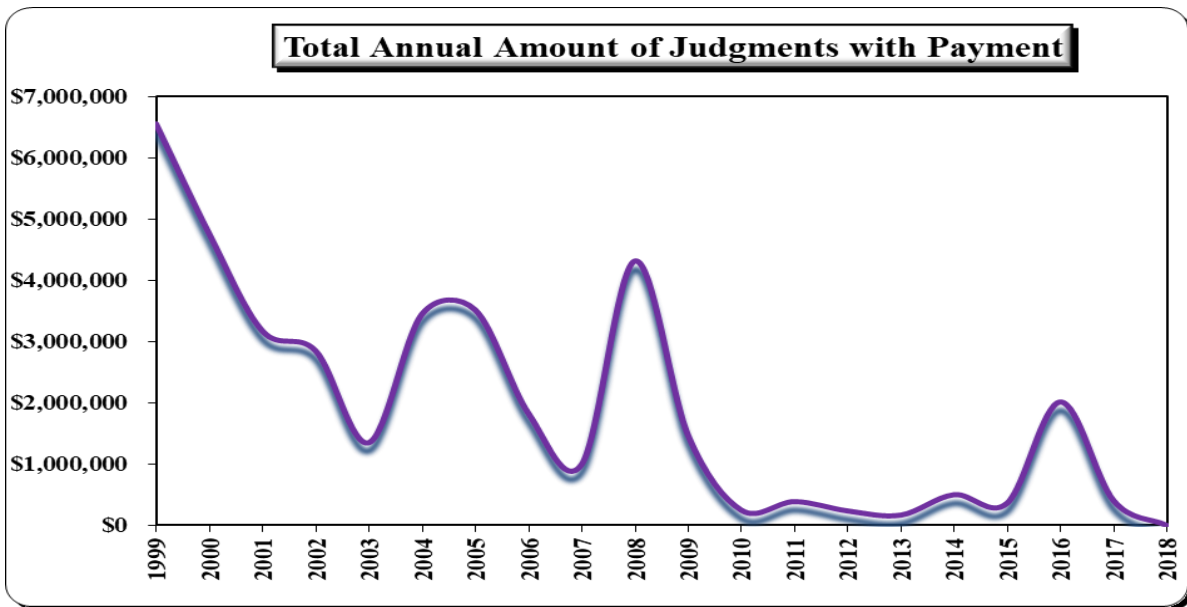
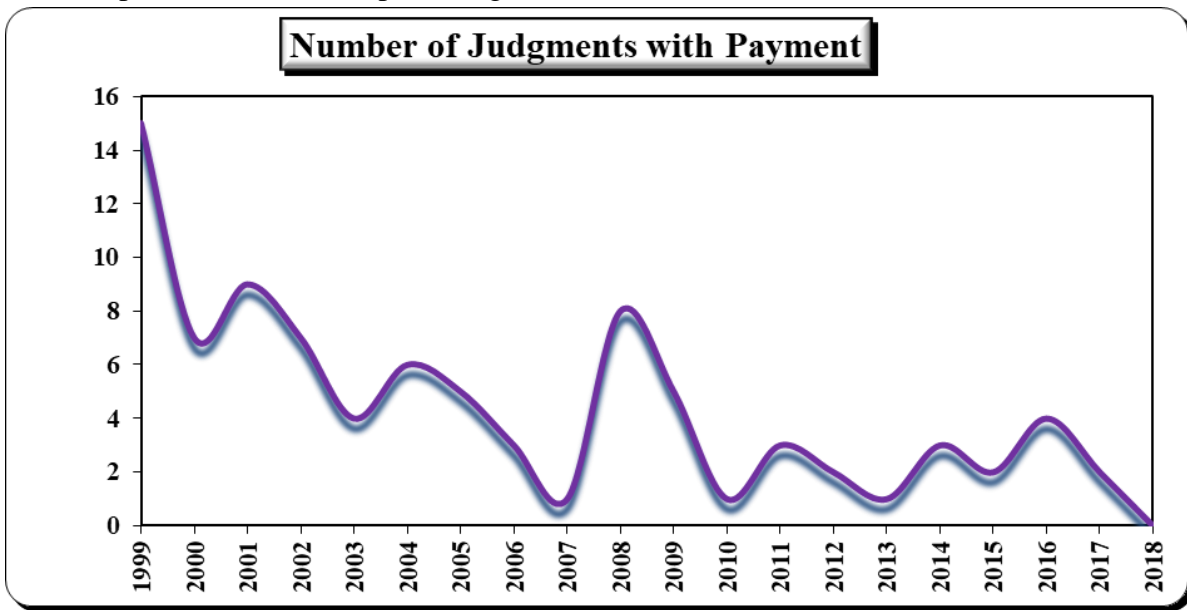
II-B: Historical Judgments

Capping large awards at \$1,000,000 leads to the following:

West Virginia Board of Medicine			
Judgments with payments capped at \$1,000,000			
Year	#	Amount	Average
1999	15	\$6,566,669	\$437,778
2000	7	\$4,767,554	\$681,079
2001	9	\$3,179,290	\$353,254
2002	7	\$2,855,223	\$407,889
2003	4	\$1,355,000	\$338,750
2004	6	\$3,456,244	\$576,041
2005	5	\$3,524,909	\$704,982
2006	3	\$1,830,989	\$610,330
2007	1	\$1,000,000	\$1,000,000
2008	8	\$4,325,596	\$540,700
2009	5	\$1,475,000	\$295,000
2010	1	\$250,000	\$250,000
2011	3	\$390,879	\$130,293
2012	2	\$237,539	\$118,770
2013	1	\$170,000	\$170,000
2014	3	\$504,000	\$168,000
2015	2	\$367,216	\$183,608
2016	4	\$2,020,000	\$505,000
2017	2	\$403,174	\$201,587
2018	0	\$0	\$0
20 Years	88	\$38,679,282	\$439,537

This table shows that even after limiting large awards to reduce volatility, there is no clear pattern of either the number of judgments or total paid judgment amounts. The small number of judgments restricts credible inferences. Due to the large fluctuations in the number of judgments, total payments and average payment for judgments, there is no general historical trend to analyze and to forecast future assumptions or predications with any amount of credibility.

Graphical linear representations of the preceding table data:



- It should be noted that the number of judgments in each year is very small and that actual paid amounts can vary significantly from year to year. For example, the Average Annual Amount of Judgments with Payment graph above appears to indicate a significant increase in the 2007 average while the count and total annual amount show a noticeable decrease. Yet, note in the tabled data that the number of non-zero judgments for 2007 was a single claim that was capped at \$1M.

The next exhibit displays judgments per year by size of payment.

Interval	2009		2010		2011		2012		2013	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	9	\$0	6	\$0	5	\$0	5	\$0	2	\$0
\$0<loss<=\$100K	0	\$0	0	\$0	2	\$115,879	1	\$68,725	0	\$0
\$100K<loss<=\$250K	3	\$575,000	1	\$250,000	0	\$0	1	\$168,814	1	\$170,000
\$250K<loss<=\$500K	1	\$300,000	0	\$0	1	\$275,000	0	\$0	0	\$0
\$500K<loss<=\$1M	1	\$600,000	0	\$0	0	\$0	0	\$0	0	\$0
\$1M<loss	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
Total Judgments	14	\$1,475,000	7	\$250,000	8	\$390,879	7	\$237,539	3	\$170,000
Total Non-Zero*	5	\$1,475,000	1	\$250,000	3	\$390,879	2	\$237,539	1	\$170,000

Interval	2014		2015		2016		2017		2018	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	0	\$0	1	\$0	1	\$0	0	\$0	0	\$0
\$0<loss<=\$100K	1	\$35,000	1	\$11,216	1	\$70,000	0	\$0	0	\$0
\$100K<loss<=\$250K	1	\$174,000	0	\$0	0	\$0	1	\$101,373	0	\$0
\$250K<loss<=\$500K	1	\$295,000	1	\$356,000	1	\$300,000	1	\$301,800	1	\$0
\$500K<loss<=\$1M	0	\$0	0	\$0	2	\$1,650,000	0	\$0	0	\$0
\$1M<loss	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
Total Judgments	3	\$504,000	3	\$367,216	5	\$2,020,000	0	\$0	0	\$0
Total Non-Zero*	3	\$504,000	2	\$367,216	4	\$2,020,000	2	\$403,174	0	\$0

II-C: Historical Settlements

In a manner similar to judgments, we now look at capped at \$1M settlements per year.

West Virginia Board of Medicine										
Size of Paid Settlements										
Interval	2009		2010		2011		2012		2013	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	3	\$0	0	\$0	0	\$0	0	\$0	0	\$0
\$0<loss<=\$50K	23	\$697,523	93	\$1,052,198	53	\$755,525	16	\$313,035	15	\$260,910
\$50K<loss<=\$100K	18	\$1,397,458	16	\$1,261,125	51	\$4,148,838	9	\$571,000	18	\$1,240,500
\$100K<loss<=\$250K	23	\$4,327,625	24	\$4,393,999	24	\$3,505,165	28	\$3,860,000	18	\$2,933,753
\$250K<loss<=\$500K	16	\$5,999,490	14	\$4,911,250	14	\$4,775,000	19	\$5,992,500	17	\$6,110,000
\$500K<loss<=\$1M	6	\$4,900,000	9	\$6,875,000	13	\$8,432,236	9	\$6,620,000	15	\$10,902,504
\$1M<loss	0	\$0	2	\$2,750,000	7	\$7,900,000	5	\$9,300,000	4	\$4,450,000
Total Settlements	89	\$17,322,096	158	\$21,243,572	162	\$29,516,764	86	\$26,656,535	87	\$25,897,667
Total Non-Zero*	86	\$17,322,096	158	\$20,493,572	162	\$28,616,764	86	\$22,356,535	87	\$25,447,667

Interval	2014		2015		2016		2017		2018	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	0	\$0	0	\$0	0	\$0	1	\$0	0	\$0
\$0<loss<=\$50K	31	\$765,233	23	\$736,500	38	\$1,061,041	23	\$644,300	17	\$503,621
\$50K<loss<=\$100K	19	\$1,677,167	9	\$803,000	17	\$1,356,000	11	\$960,000	18	\$1,457,498
\$100K<loss<=\$250K	26	\$4,987,507	26	\$5,145,166	36	\$6,779,740	33	\$5,938,355	24	\$4,591,406
\$250K<loss<=\$500K	22	\$8,538,856	35	\$12,619,930	29	\$10,877,249	25	\$9,334,327	22	\$7,873,750
\$500K<loss<=\$1M	18	\$15,018,411	23	\$16,955,000	18	\$15,070,833	18	\$14,345,152	16	\$13,202,500
\$1M<loss	3	\$5,825,000	4	\$10,825,000	2	\$3,900,000	3	\$4,300,000	2	\$3,838,000
Total Settlements	119	\$36,812,174	120	\$47,084,596	140	\$39,044,863	114	\$35,522,134	99	\$31,466,775
Total Non-Zero*	119	\$33,987,174	120	\$40,259,596	140	\$37,144,863	113	\$34,222,134	99	\$29,628,775

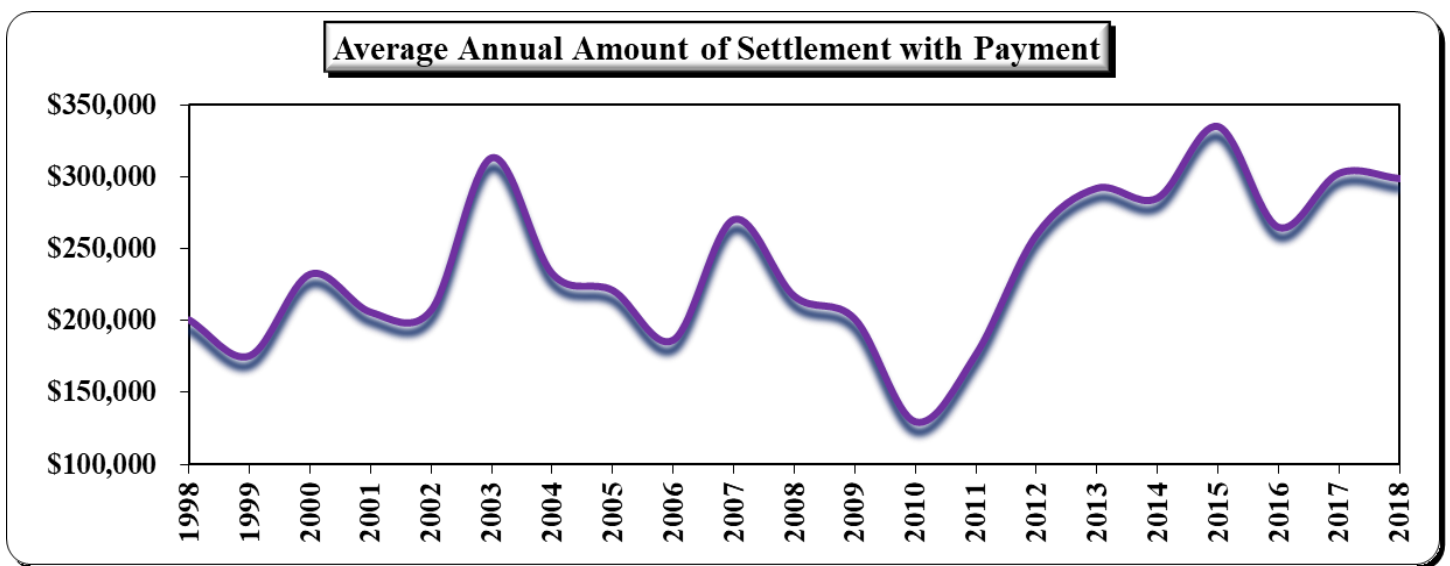
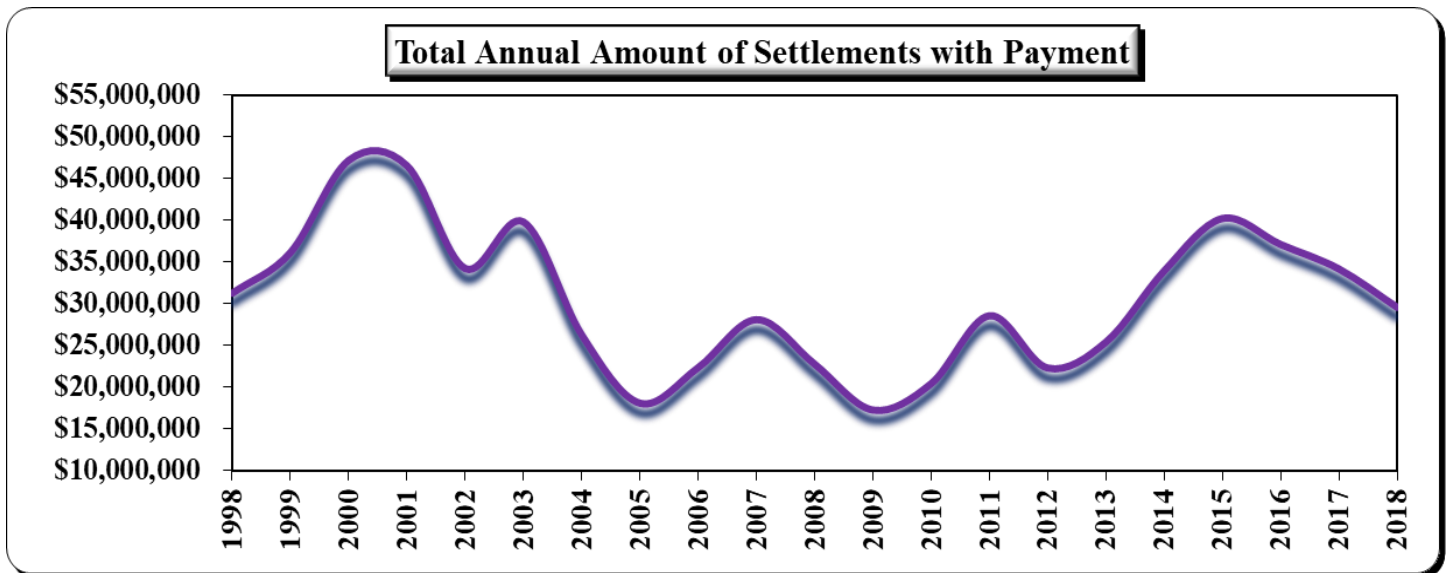
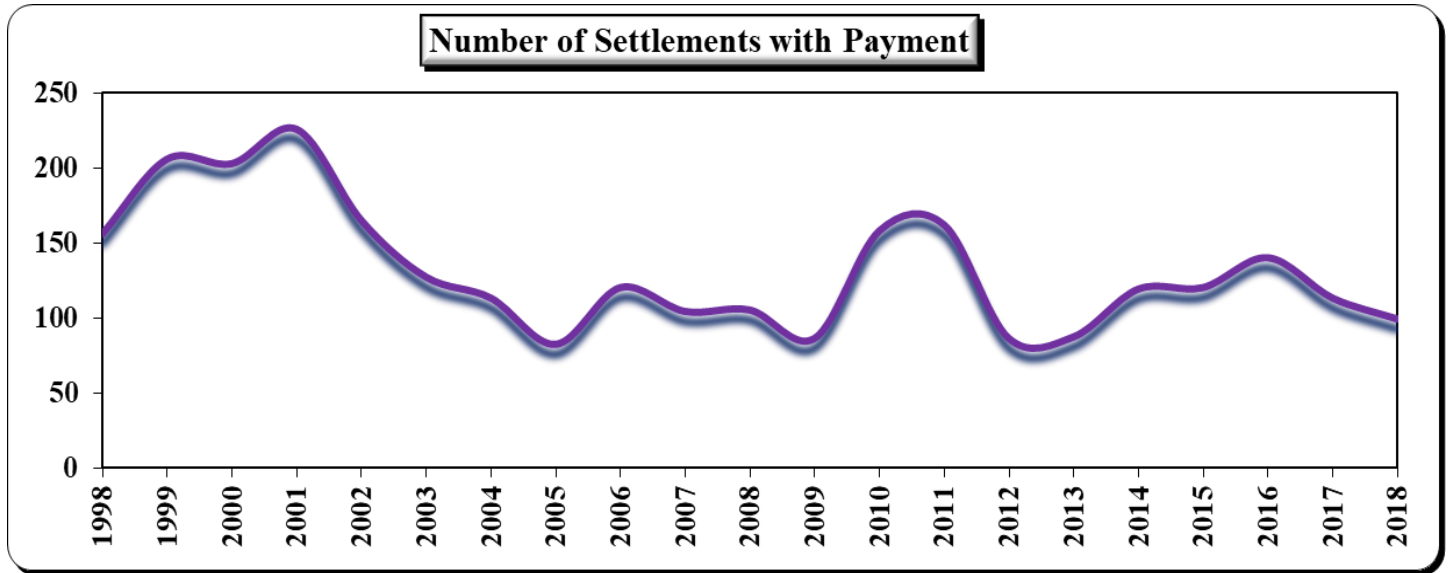
Settlements comprise the most common resolution for claim payments of all medical malpractice claims reported to the West Virginia Board of Medicine. Over the last ten (10) years noted in the table above, there was an average of 117 paid settlements per year with an average uncapped settlement of \$262,538.

As was done for judgments, we will cap settled claims at \$1,000,000 and provide the following table of information:

West Virginia Board of Medicine			
Settlements with payment capped at \$1,000,000			
Year	#	Amount	Average
1999	206	\$36,202,779	\$175,742
2000	203	\$47,231,896	\$232,669
2001	226	\$46,581,246	\$206,112
2002	165	\$34,264,212	\$207,662
2003	127	\$39,844,727	\$313,738
2004	113	\$26,319,435	\$232,915
2005	82	\$18,145,664	\$221,289
2006	120	\$22,410,381	\$186,753
2007	104	\$28,148,162	\$270,655
2008	105	\$22,815,026	\$217,286
2009	86	\$17,322,096	\$201,420
2010	158	\$20,493,572	\$129,706
2011	162	\$28,616,764	\$176,647
2012	86	\$22,356,535	\$259,960
2013	87	\$25,447,667	\$292,502
2014	119	\$33,987,174	\$285,607
2015	120	\$40,259,596	\$335,497
2016	140	\$37,144,863	\$265,320
2017	113	\$34,222,134	\$302,851
2018	99	\$29,628,775	\$299,281
20 Years	2,621	\$611,442,704	\$233,286

- From the above data, which limits claims to \$1,000,000, for the years 1999-2013 combined the average paid settlement was \$214,877. For 2014-2018 combined, the average paid settlement was \$296,519. This represents a 38% average paid increase in the last five years over the previous 15 years combined all while having a 70% reduction in settled claims.
- As with judgments, the small number of settlements restricts the credibility of the data. The number of settlements had steadily increased from 2012 to 2016 with 2017 and 2018 both experiencing fewer settlements. Due to the fluctuations in the medical claim frequency year by year, the last two decreases do not necessarily indicate a downward trend that may be used for credible future predictions.

Again, graphical linear representations of the settlement data are presented below:



II-D: Closed Claim (§33-20B-8) Data

In accordance with §33-20B-8, enhanced closed/paid medical malpractice information has been collected by the WVOIC from insurers. This method of collecting claim data was revised by the WVOIC in May 2017. Previously, insurers were required to complete and return paper forms to the WVOIC via email, postal mail or fax. Once received, the data would be manually entered into a repository claim database by WVOIC personnel. The WVOIC created and implemented an electronic, web-based module that replicated the form. This allowed insurers to complete the form online and submit to the WVOIC in real time thus saving time and money for insurers and WVOIC personnel. The response has been very positive and well received by the carrier community.

A medical malpractice claim includes four (4) damage components. The damage components and definitions of each follows:

Indemnity Paid – Indemnity payments include all compensation paid to claimants or plaintiffs.

Economic Damages Paid – Economic damages are monies awarded as compensation for monetary losses and expenses, which the plaintiff has incurred, or is reasonably likely to incur in the future, as a result of the defendant's negligence. This includes:

- Medical care and future expenses
- Loss of earnings
- Loss of earning capacity

Non-Economic Damages Paid – Non-economic damages are monies awarded as compensation for non-monetary losses and injuries, which the plaintiff has suffered, or is reasonably likely to suffer in the future, as a result of the defendant's negligence. This includes:

- Mental distress and suffering
- Loss of enjoyment of life
- Loss of consortium
- Disfigurement

Punitive Damages Paid – Punitive damages are monies awarded when it can be proven that a medical professional deliberately and maliciously caused serious harm to the patient. These damages are rarely awarded because the burden of proof falls to the claimant or plaintiff.

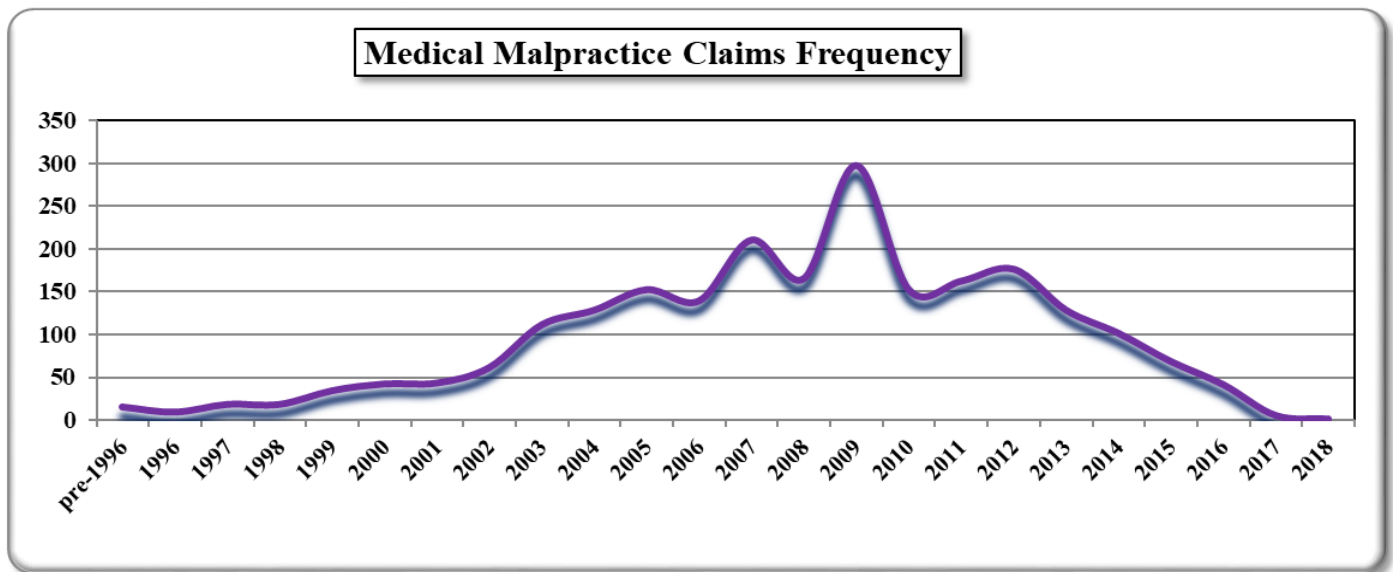
Loss Adjustment Expense (LAE) Paid – Expenses paid by the insurer associated with investigating and settling a claim. The claimant/plaintiff does not receive these monies as part of an award.

As mentioned in the definitions above, the indemnity payments should display the total amount paid to the plaintiff and the economic, non-economic and punitive damages should equal the indemnity payments to show the allocation of the damages. However, the historical data, and some current claim reports to the WVOIC, show that is not always the case even though reporting instructions are clearly stated. The WVOIC cleansed the data as much as possible prior to analysis but cautions that the reported claim data is not currently credible. The WVOIC have taken steps to ensure this is not the case for future reporting by implementing validation rules embedded within the online medical malpractice reporting form. Further, processes are in progress to rebuild a reliable database of closed claims by contacting insurers to confirm all claim submissions within the previous five (5) years where the summation of the economic, non-economic and punitive damages do not equal the indemnity payment. In future annual reports, year to year comparisons will not be possible until we have used the five (5) year database claims for multiple years. Data analysis older than five (5) years will not be available; such as what is provided below. The WVOIC places more value on credible data rather than quantities of unreliable data.

DOI	Claims	Indemnity Paid	Economic Damages Paid	Non-Economic Damages Paid	Punitive Damages Paid	Non-LAE Total	Non-LAE Avg
pre-1996	15	\$898,500	\$200,100	\$253,500	\$0	\$1,352,100	\$90,140
1996	9	\$1,405,822	\$25,000	\$0	\$0	\$1,430,822	\$158,980
1997	18	\$1,013,000	\$0	\$478,000	\$0	\$1,491,000	\$82,833
1998	18	\$759,285	\$0	\$40,000	\$0	\$799,285	\$44,405
1999	34	\$6,369,929	\$518,767	\$562,823	\$0	\$7,451,519	\$219,162
2000	42	\$2,511,760	\$878,777	\$1,171,223	\$0	\$4,561,760	\$108,613
2001	43	\$6,309,500	\$10,938,093	\$4,586,907	\$0	\$21,834,500	\$507,779
2002	61	\$8,538,300	\$2,605,588	\$557,296	\$0	\$11,701,183	\$191,823
2003	111	\$18,392,166	\$10,907,691	\$5,319,828	\$0	\$34,619,684	\$311,889
2004	128	\$8,418,175	\$4,813,318	\$3,586,425	\$42,180	\$16,860,098	\$131,720
2005	152	\$8,469,559	\$4,537,667	\$4,823,892	\$139,500	\$17,970,618	\$118,228
2006	139	\$11,547,973	\$4,882,793	\$4,670,635	\$0	\$21,101,401	\$151,809
2007	210	\$15,225,236	\$6,025,336	\$6,096,991	\$168,823	\$27,516,386	\$131,030
2008	165	\$12,368,074	\$8,521,309	\$5,509,824	\$132,904	\$26,532,111	\$160,801
2009	297	\$17,123,042	\$7,260,626	\$6,731,267	\$19,978	\$31,134,913	\$104,831
2010	152	\$22,474,475	\$8,837,072	\$8,057,229	\$510,577	\$39,879,353	\$262,364
2011	162	\$19,479,783	\$11,119,183	\$6,786,479	\$199,000	\$37,584,444	\$232,003
2012	176	\$26,613,029	\$10,413,602	\$6,820,901	\$0	\$43,847,531	\$249,134
2013	128	\$17,384,755	\$6,887,985	\$12,128,996	\$400,000	\$36,801,737	\$287,514
2014	101	\$23,032,919	\$7,717,281	\$7,168,138	\$99,797	\$38,018,135	\$376,417
2015	68	\$9,665,000	\$3,123,079	\$2,391,921	\$0	\$15,180,000	\$223,235
2016	41	\$4,648,906	\$2,651,979	\$1,581,927	\$0	\$8,882,812	\$216,654
2017	5	\$1,473,333	\$1,011,250	\$113,750	\$0	\$2,598,333	\$519,667
2018	1	\$0	\$0	\$0	\$0	\$0	\$0
Total	2,276	\$244,122,519	\$113,876,497	\$89,437,951	\$1,712,759	\$449,149,725	\$197,342

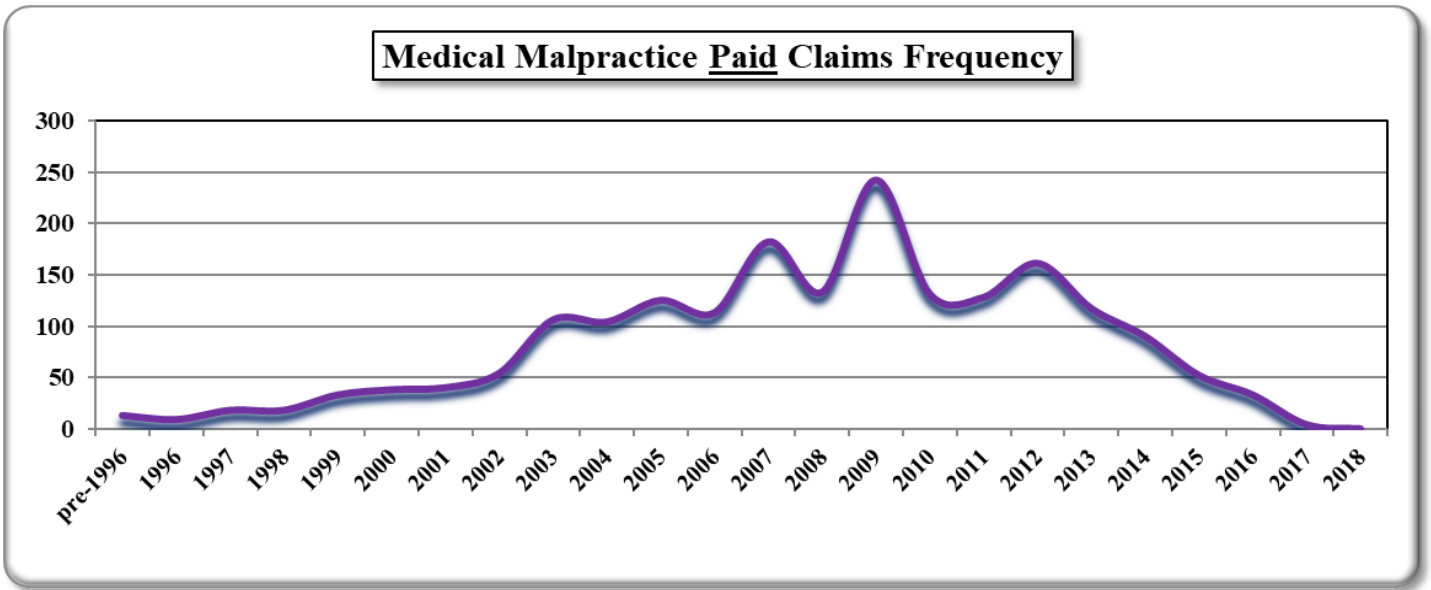
DOI	Non-LAE \$0 Paid	Non-LAE Non \$0 Avg	LAE Paid	Total Payments	Total Avg	\$0 Paid	Non \$0 Paid Avg
pre-1996	9	\$225,350	\$1,216,254	\$2,568,354	\$171,224	2	\$197,566
1996	6	\$476,941	\$824,815	\$2,255,637	\$250,626	0	\$250,626
1997	10	\$186,375	\$1,561,978	\$3,052,978	\$169,610	0	\$169,610
1998	8	\$79,928	\$1,835,767	\$2,635,052	\$146,392	0	\$146,392
1999	15	\$392,185	\$3,058,451	\$10,509,970	\$309,117	1	\$318,484
2000	21	\$217,227	\$2,955,561	\$7,517,321	\$178,984	4	\$197,824
2001	25	\$1,213,028	\$3,715,960	\$25,550,460	\$594,197	3	\$638,762
2002	35	\$450,046	\$4,030,627	\$15,731,810	\$257,899	7	\$291,330
2003	44	\$516,712	\$7,815,843	\$42,435,528	\$382,302	5	\$400,335
2004	85	\$392,095	\$6,860,993	\$23,721,091	\$185,321	24	\$228,087
2005	94	\$309,838	\$6,238,714	\$24,209,331	\$159,272	27	\$193,675
2006	87	\$405,796	\$6,345,408	\$27,446,809	\$197,459	26	\$242,892
2007	113	\$283,674	\$8,032,978	\$35,549,363	\$169,283	28	\$195,326
2008	100	\$408,186	\$6,572,219	\$33,104,330	\$200,632	32	\$248,905
2009	121	\$176,903	\$8,175,701	\$39,310,614	\$132,359	55	\$162,441
2010	89	\$633,006	\$6,947,465	\$46,826,817	\$308,071	21	\$357,457
2011	82	\$469,806	\$7,969,819	\$45,554,263	\$281,199	34	\$355,893
2012	79	\$452,036	\$8,409,432	\$52,256,963	\$296,915	15	\$324,577
2013	65	\$584,155	\$6,603,660	\$43,405,397	\$339,105	11	\$370,986
2014	50	\$745,454	\$4,749,988	\$42,768,122	\$423,447	11	\$475,201
2015	49	\$798,947	\$1,719,234	\$16,899,234	\$248,518	16	\$324,985
2016	28	\$683,293	\$1,133,750	\$10,016,562	\$244,306	8	\$303,532
2017	2	\$866,111	\$436,638	\$3,034,972	\$606,994	1	\$758,743
2018	1	\$0	\$0	\$0	\$0	1	\$0
Total	1,218	\$424,527	\$107,211,255	\$556,360,979	\$244,447	332	\$286,194

The data in the tables above include only Physician and Surgeon claims and are segmented using the date of injury (DOI) for an accident year basis. Graphical representations of the analysis are included below.

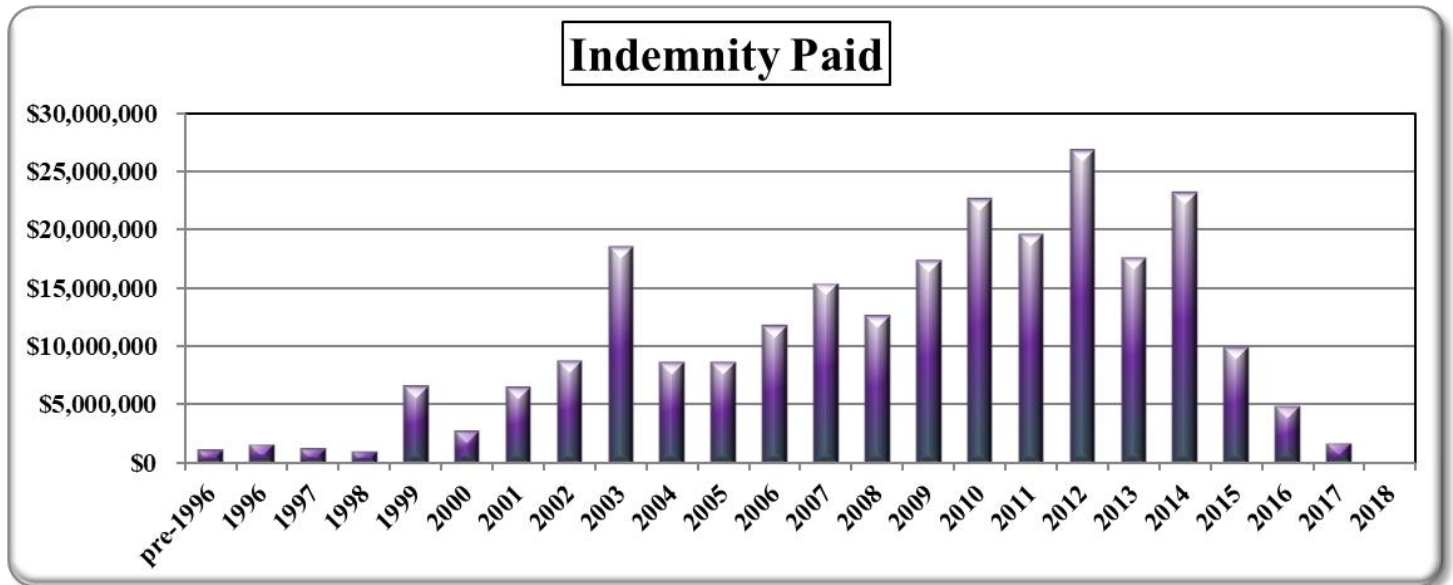


Note from the table and the graph above, that the claims frequency data includes zero dollar paid claims.

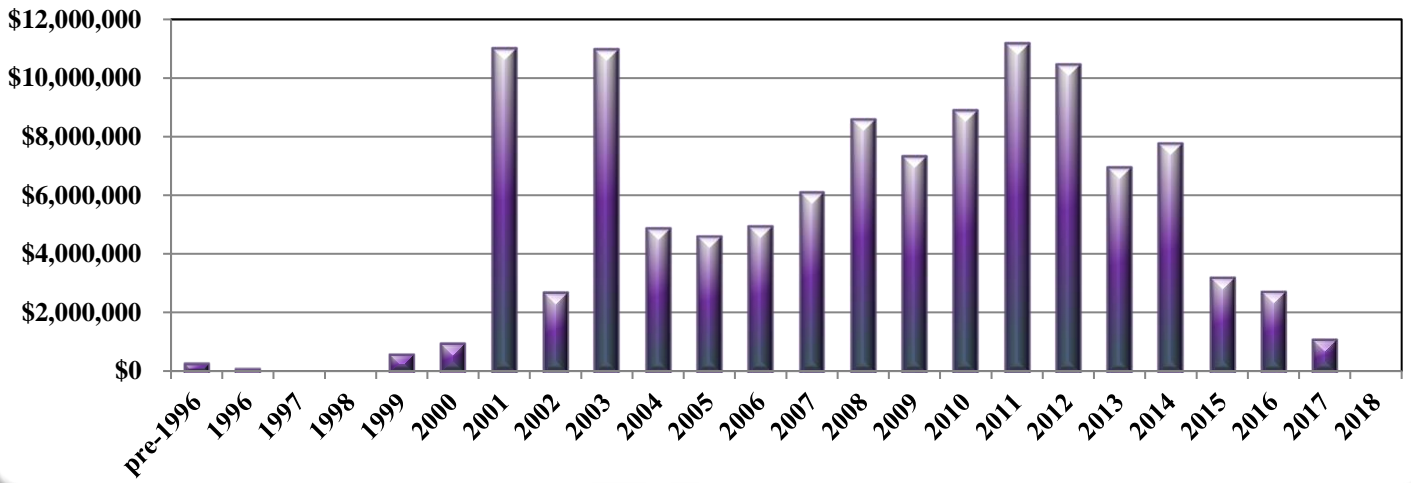
Excluding the zero dollar paid claims results in a similar distribution:



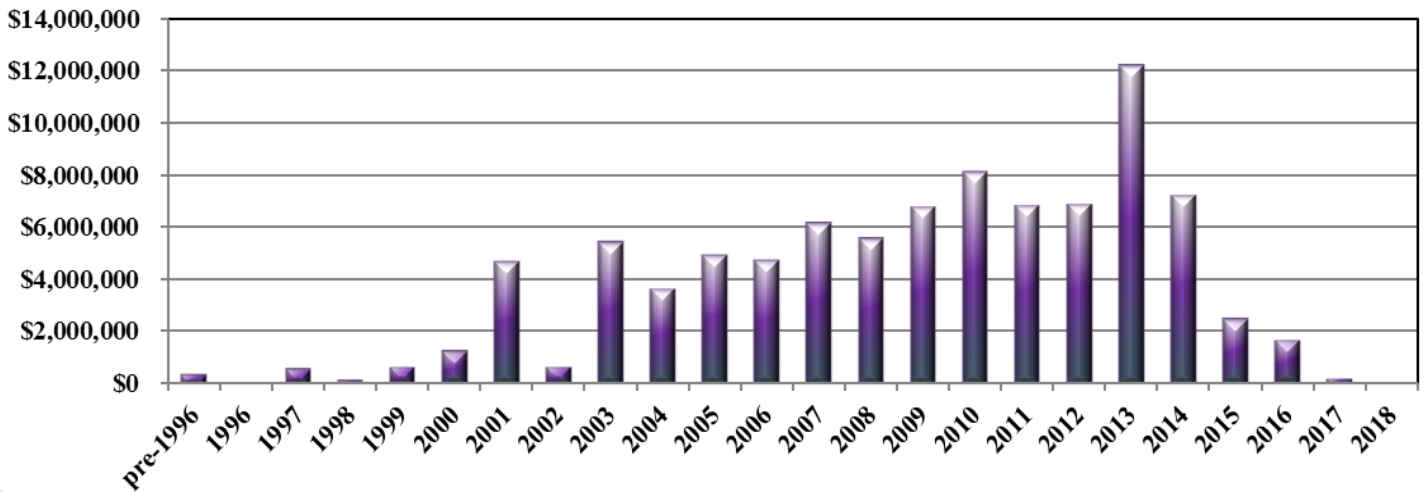
Utilizing the data from the tables, we can now review the breakdown of payments between indemnity, economic damages, non-economic damages, punitive damages, and loss adjustment expenses over time and on an accident year basis.



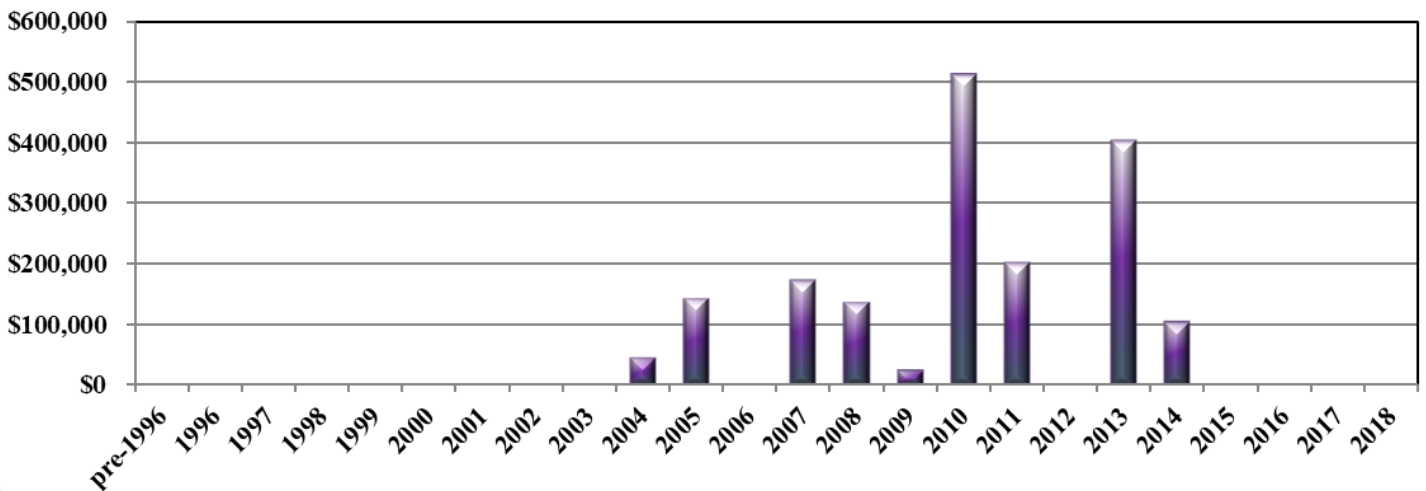
Economic Damages Paid



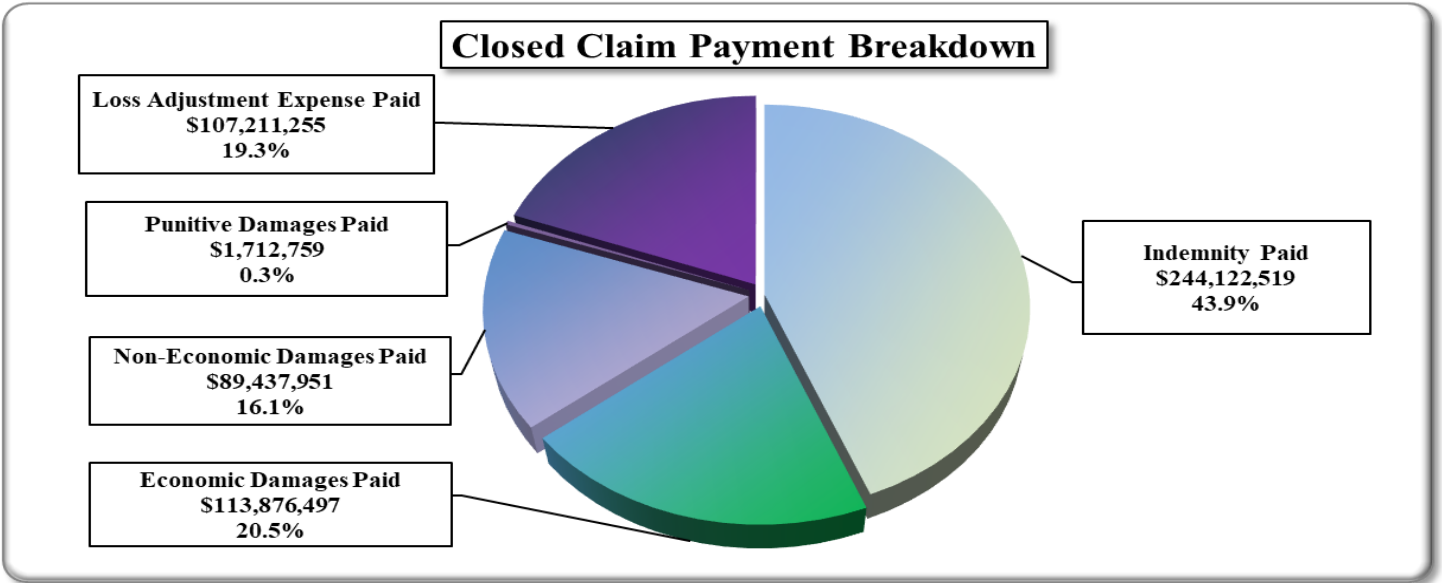
Non-Economic Damages Paid



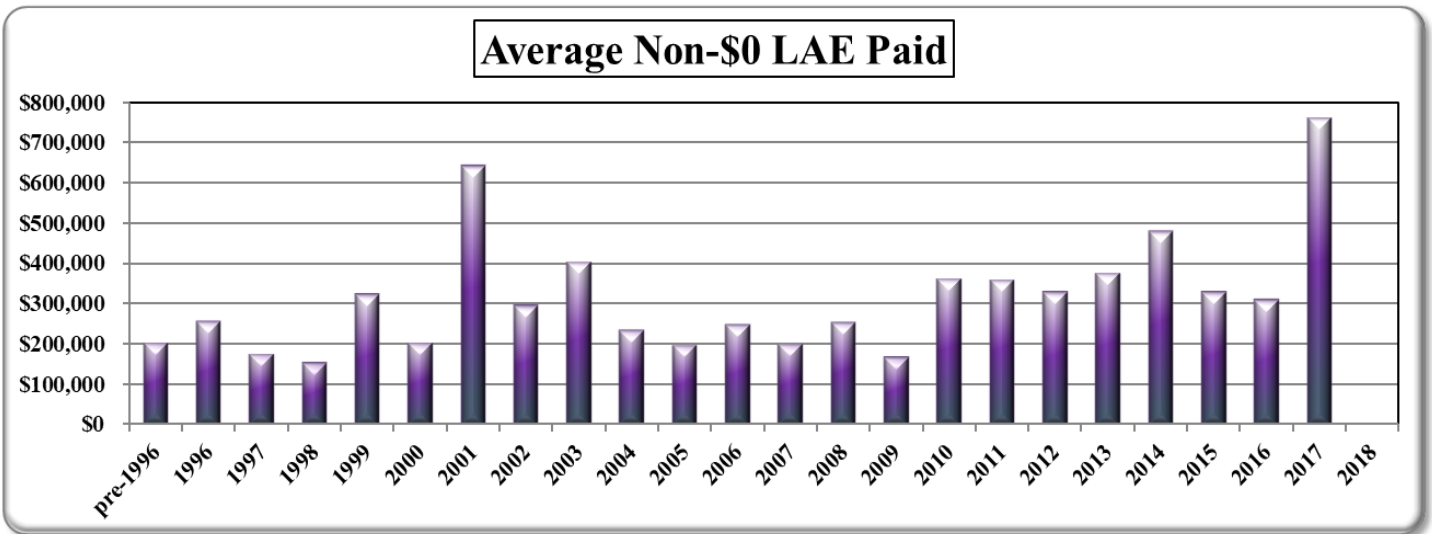
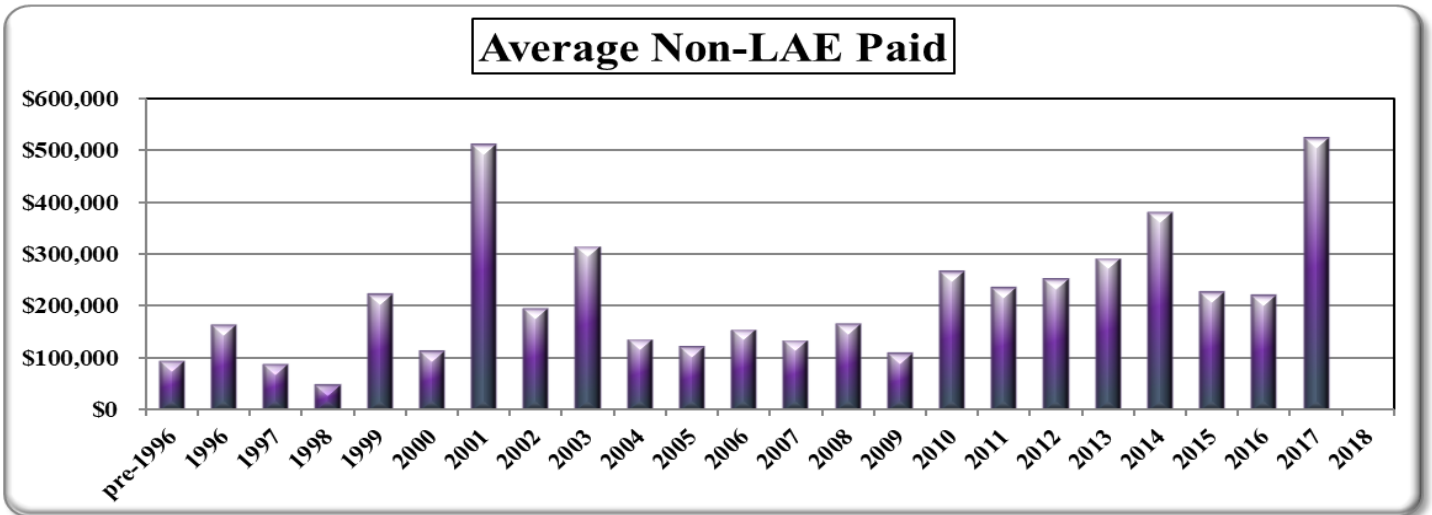
Punitive Damages Paid



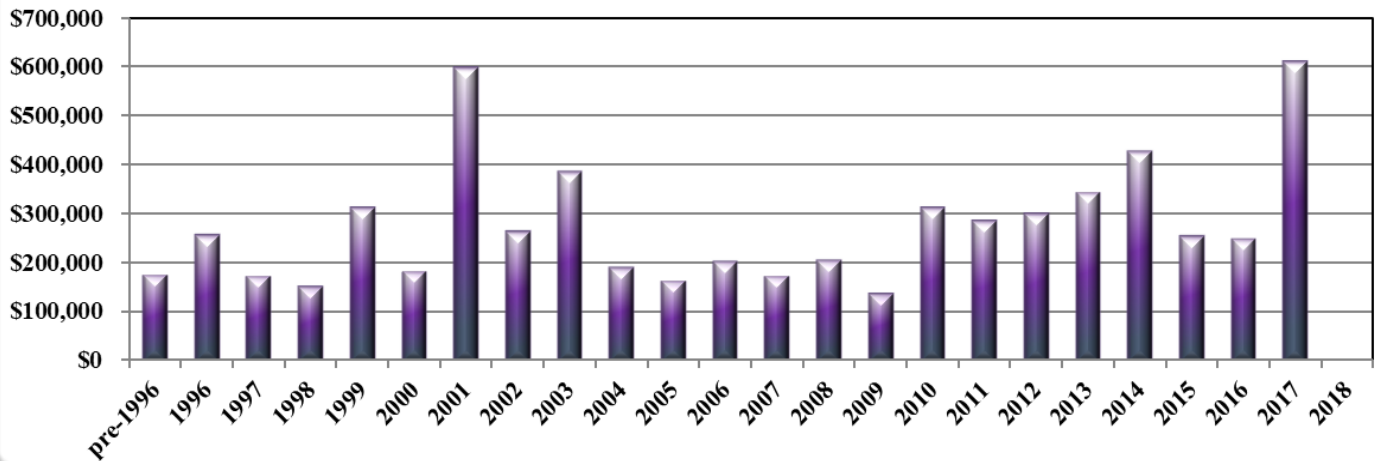
Then from the entire dataset, you can determine how each of the damage types and loss adjustment expenses are related.



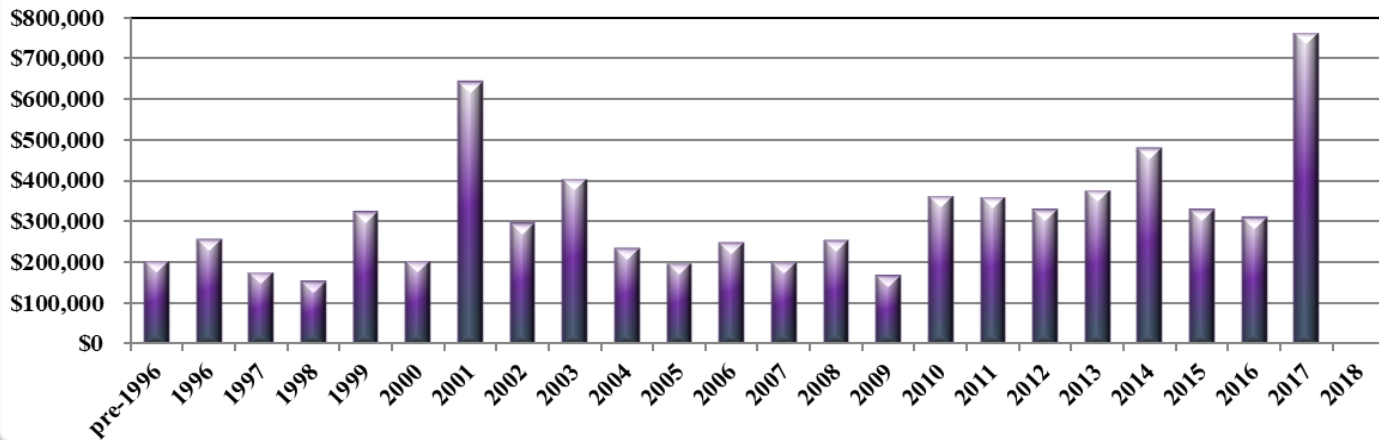
Next, we will look at the averages.



Average Total Paid



Average Non-\$0 Total Paid



Considering that the datasets are on an accident year basis, and that medical malpractice is a long tail line of insurance, it may be likely that the experience of later years will be subject to further adverse development. While these trends are important to understand the medical malpractice insurance and claim dynamics, it is important to realize that malpractice claims may take years to develop and/or be resolved through the litigation process and thus a year to year comparison may not be indicative of future trends or loss development.

Similar to the BOM data, we can also consider claim outcomes for those claims under which an outcome was provided by the company. The previous dataset considered date of injury in the analysis whereas this data considers the closed date to accurately trend claim dispositions by year. Approximately 1,711 claims (75%) out of the 2,276 claims used in the preceding closed claim section were used in the analysis provided in the following table. The remaining 565 claims that were discarded from the analysis either did not have a claim disposition code provided by the reporting company. This will be another area that the WVOIC will focus on during the data cleanup project mentioned at the beginning of this section.

Closed Year	Dismissal	Judgment	Settlement
1999	0	2	1
2000	0	1	0
2001	3	0	4
2002	0	1	7
2003	2	1	3
2004	5	1	5
2005	2	2	8
2006	46	9	48
2007	48	13	66
2008	59	10	83
2009	64	9	59
2010	36	8	135
2011	48	6	139
2012	59	4	42
2013	46	8	75
2014	35	4	73
2015	33	7	76
2016	22	5	95
2017	39	2	64
2018	30	2	55
Total	577	95	1,038

Settlements account for the majority of the claim outcomes with 60.7%, dismissals account for 33.7% and judgments account for 5.6%.

We may also consider costs based upon the disposition type.

Disposition	Total Non-LAE Paid	LAE Paid	Count	Avg Non-LAE	Avg LAE
Judgments	\$19,954,516	\$16,448,402	95	\$210,048	\$173,141
Settlements	\$423,980,265	\$65,967,687	1,038	\$408,459	\$63,553
Dismissals	\$1,327,480	\$21,665,885	577	\$2,301	\$37,549

Please note the claims costs provided in the table are not capped at \$1M and are analyzed using the dispositions and damage payments reported by the insurer. When comparing the total overall claim costs only, the average judgment is \$383,189 while the average settlement is \$472,012. Based on those averages, one may ask why settlements are the prevailing outcome with more than ten times the number of judgements?

When removing the \$0 Non-LAE and \$0 LAE claim counts, the averages by outcome show a much different account where the average judgment is more than double the average settlement.

Disposition	\$0 Non-LAE Count	\$0 LAE Count	Avg Non-\$0	Avg Non-\$0 LAE	Total Non-\$0
Judgments	72	4	\$867,588	\$180,752	\$1,048,339
Settlements	29	9	\$420,198	\$64,109	\$484,307
Dismissals	570	107	\$189,640	\$46,098	\$235,738

While the average judgment award is much higher, the likelihood of a \$0 judgment award is also significant; where only 25% of judgements receive a monetary award greater than \$0. Insurers generally pay more LAE for judgments, both \$0 and non-\$0 awards, so while a \$0 award may be more prevalent, the insurer would still have considerable costs involved in the judgment. Settlements where the agreed monies and LAE are generally known before finalization continue to be the market's disposition preference.

Section III

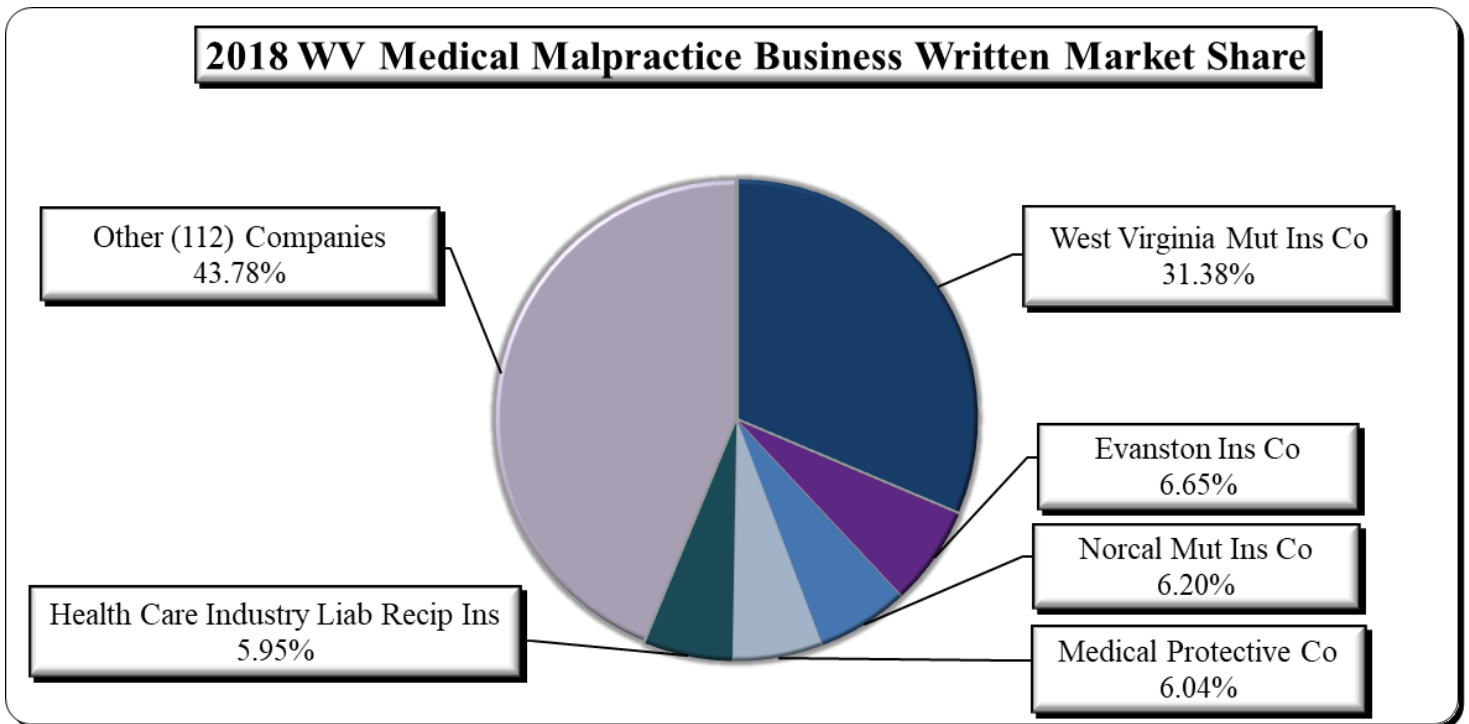
Review of 5% Market

Share Companies

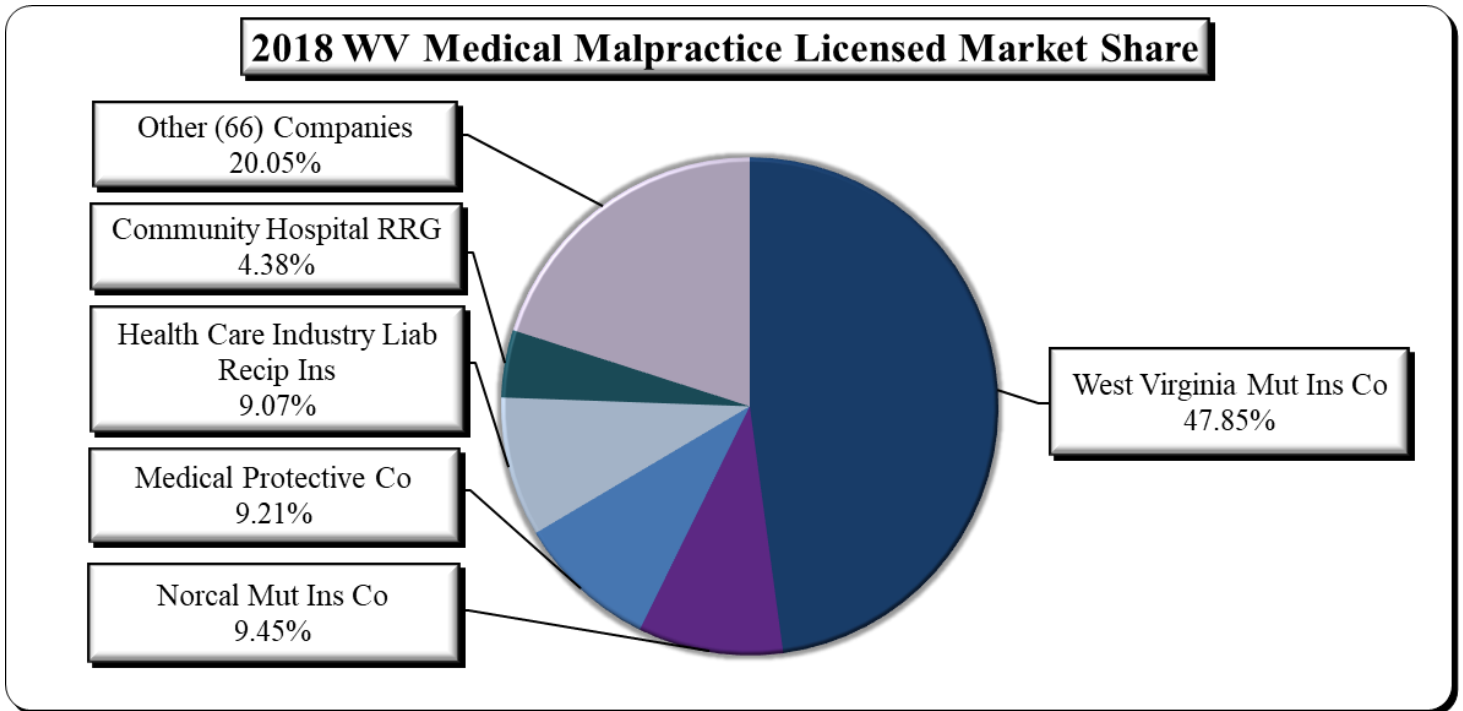
III: Review of Major West Virginia Medical Malpractice Insurers

This section of the report reviews the rates and rules of those insurers with 5% or greater market share of medical malpractice liability insurance. There are several ways of looking at market share. Two methods used include market share based on an admitted, or licensed, basis and the other is on a business written basis. Business written includes financial reports from excess and surplus lines insurers, whereas licensed excludes any unlicensed insurer reports. This report utilizes the business written reporting for market share so that a complete and overall view of the medical malpractice market condition is presented. The 5% market share supplemental requirement has historically used licensed companies as they are regulated by the WVOIC. However, this report requested business written market share companies in order to remain consistent with all other analyses in the report. There were five (5) insurers that received the 5% or greater market share data request. Two (2) of the companies with the 5% or greater requirement were surplus lines insurers that are unregulated and did not voluntarily provide the requested supplemental data. Therefore, this section uses data from the three (3) responding insurers; West Virginia Mutual Insurance Company, NORCAL Mutual Insurance Company and Medical Protective Company. The market share report also identified the insurer that reported incorrectly which did indicate they had greater than 5% but it was later determined to be a data reporting error and while the insurer did comply and provide data, the data was not credible and was not relevant to the supplemental data call after the data error was reconciled. The insurer's submitted data was not used in any area of this report.

Based on business written premiums for 2018, the West Virginia medical malpractice market currently consists of the following insurers and the subsequent market share for each:



Based on licensed basis premiums for 2018, the West Virginia medical malpractice market currently consists of the following insurers and the subsequent market share for each:



When evaluating the two systems of market share calculations, you can see there is a large variation in the market share percentages by company. When considering the overall direct written premiums from the separate reports, the difference is more than \$20M (business written is \$59.8M and licensed is \$39.2M).

In the business written companies market share table below, five (5) insurers are shown to have met the statutory 5% reporting requirement threshold for medical professional liability for 2018; West Virginia Mutual Insurance Company, Evanston Insurance Company, NORCAL Mutual Insurance Company, Medical Protective Company and Health Care Industry Liability Reciprocal Insurance Company. However, Evanston Insurance Company is a surplus lines provider and Health Care Industry Liability Reciprocal Insurance Company is a risk retention group. Both companies were sent the data call and asked to submit on a voluntary basis as both companies do not have statutory oversight by the WVOIC. Neither company submitted the voluntary data. For purposes of this report, three (3) insurers were mandated to respond to the supplemental data call. Those insurers were West Virginia Mutual Insurance Company, NORCAL Mutual Insurance Company and Medical Protective Company.

Total Medical Malpractice Liability Summary

2018 West Virginia Business Written Companies Market Share

Company	Direct Written Premiums	Market Share	Direct Earned Premiums	Direct Incurred Losses	Pure Loss Ratio
<i>West Virginia Mut Ins Co</i>	\$18,789,668	31.38%	\$20,985,581	\$10,954,708	52.20%
<i>Evanston Ins Co</i>	\$3,979,999	6.65%	\$3,997,067	\$3,441,331	86.10%
<i>Norcal Mut Ins Co</i>	\$3,709,746	6.20%	\$4,020,358	\$2,314,225	57.56%
<i>Medical Protective Co</i>	\$3,615,687	6.04%	\$3,364,822	\$1,254,892	37.29%
<i>Health Care Industry Liab Recip Ins</i>	\$3,561,772	5.95%	\$2,726,283	\$1,529,042	56.09%
Endurance Amer Specialty Ins Co	\$2,452,140	4.10%	\$1,943,228	\$1,181	0.06%
National Fire & Marine Ins Co	\$2,136,717	3.57%	\$2,076,823	\$861,570	41.49%
Professional Security Ins Co	\$1,745,429	2.92%	\$1,793,409	(\$49,439)	(2.76%)
Community Hospital RRG	\$1,721,065	2.87%	\$1,721,065	\$433,999	25.22%
Fair American Select Ins Co	\$1,469,230	2.45%	\$1,150,424	\$205,567	17.87%
Other (107) Companies	\$16,687,001	27.87%	\$16,714,751	\$16,908,957	101.16%
Total	\$59,868,454	100.00%	\$60,493,811	\$37,856,033	62.58%

Source: NAIC Database

2018 West Virginia Licensed Companies Market Share

Company	Direct Written Premiums	Market Share	Direct Earned Premiums	Direct Incurred Losses	Pure Loss Ratio
<i>West Virginia Mut Ins Co</i>	\$18,789,668	47.85%	\$20,985,581	\$10,954,708	52.20%
<i>Norcal Mut Ins Co</i>	\$3,709,746	9.45%	\$4,020,358	\$2,314,225	57.56%
<i>Medical Protective Co</i>	\$3,615,687	9.21%	\$3,364,822	\$1,254,892	37.29%
<i>Health Care Industry Liab Recip Ins</i>	\$3,561,772	9.07%	\$2,726,283	\$1,529,042	56.09%
Community Hospital RRG	\$1,721,065	4.38%	\$1,721,065	\$433,999	25.22%
American Cas Co Of Reading PA	\$1,011,030	2.57%	\$985,760	\$353,327	35.84%
Applied Medico Legal Solutions	\$859,869	2.19%	\$875,258	\$904,579	103.35%
Doctors Co An Interins Exch	\$807,545	2.06%	\$881,421	\$256,606	29.11%
Ophthalmic Mut Ins Co RRG	\$758,350	1.93%	\$783,346	\$1,466,148	187.16%
Aspen Amer Ins Co	\$561,692	1.43%	\$368,340	\$182,014	49.41%
Other (61) Companies	\$3,875,153	9.87%	\$4,408,395	\$5,469,905	124.08%
Total	39,271,577	100.00%	41,120,629	25,119,445	61.09%

Source: NAIC Database

Note that as discussed in Section I, reductions to the loss reserves from the experience of prior years will carry forward on a calendar year basis and can result in aggregate negative dollar values for direct losses incurred and therefore negative loss ratios as well. For example, in 2018 one insurer had \$0 reported direct written premium and \$0 earned premium but reported a (\$2,402,313) direct incurred loss amount which did affect the overall pure loss ratio. While a reduction in reserves is generally the most common reason an insurer produces a negative incurred loss value, in this instance it was a book of business transfer from a company withdrawing from the market to another company under the parent company's umbrella so the reduction was offset in the aggregate.

The table below shows the combined market shares for the top ten (10) insurers by year on a business written basis.

Year	Top 10 Market Share
2009	83.60%
2010	80.43%
2011	78.60%
2012	78.23%
2013	75.18%
2014	73.26%
2015	71.51%
2016	69.81%
2017	72.18%
2018	72.13%

The ten-year average market share for the top ten (10) insurers is 75.49% of the entire market. The 2018 average remained static at the 2017 levels. While the previous years' decreases may have been an indication of a more competitive marketplace due to more insurers providing coverage and thus spreading the market share margin, it's important to remember that the top ten (10) insurers retain over 72% of the entire business written market share and the marginal changes in the last several years are not an indication of lack of competition in the marketplace. The change in market share percentage from 2009 to 2018 is a decrease of 13.72%. This number is unremarkable over a ten-year span and shows the competition in the marketplace is consistent.

On the next page is a direct written premium breakdown, by sub-line, for some of the key malpractice writers in West Virginia:

West Virginia Mut Ins Co	<i>Physicians and Surgeons</i>	\$18,757,831
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$31,837
	Total	\$18,789,668
Evanston Ins Co	<i>Physicians and Surgeons</i>	\$2,905,398
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$1,074,601
	Total	\$3,979,999
Norcal Mut Ins Co	<i>Physicians and Surgeons</i>	\$3,709,746
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$0
	Total	\$3,709,746
Medical Protective Co	<i>Physicians and Surgeons</i>	\$3,073,137
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$542,550
	Total	\$3,615,687
Health Care Industry Liab Recip Ins	<i>Physicians and Surgeons</i>	\$0
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$3,561,772
	Total	\$3,561,772
Endurance Amer Specialty Ins Co	<i>Physicians and Surgeons</i>	\$0
	<i>Hospitals</i>	\$2,452,140
	<i>Other</i>	\$0
	Total	\$2,452,140
National Fire & Marine Ins Co	<i>Physicians and Surgeons</i>	\$395,978
	<i>Hospitals</i>	\$1,241,942
	<i>Other</i>	\$498,797
	Total	\$2,136,717
Professional Security Ins Co	<i>Physicians and Surgeons</i>	\$267,432
	<i>Hospitals</i>	\$1,477,997
	<i>Other</i>	\$0
	Total	\$1,745,429
Community Hospital RRG	<i>Physicians and Surgeons</i>	\$0
	<i>Hospitals</i>	\$1,721,065
	<i>Other</i>	\$0
	Total	\$1,721,065
Fair American Select Ins Co	<i>Physicians and Surgeons</i>	\$0
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$1,469,230
	Total	\$1,469,230

III-A: Enabling Legislation

The reporting of experience for insurance companies with 5% or more of the West Virginia medical malpractice direct written premium is required by:

[West Virginia Regulation §114CSR22](#)

[West Virginia Regulation §114CSR23](#)

[West Virginia Code §33-20B-6](#)

This section of the report is provided to assist the Commissioner in fulfilling obligations under the above regulations and code section and enhance our knowledgebase.

Pursuant to West Virginia Regulation §114CSR23-6, the Commissioner is required to “...evaluate the information reported pursuant to Section 5 of the rule in order to determine whether the filing insurers have fairly and accurately determined the loss experience and loss expense data in the filing.”

Per West Virginia Code §33-20B-6(a), the Commissioner is required to “...review annually the rules, rates and rating plans filed and in effect for each insurer providing five percent or more of the malpractice insurance coverage in this state in the proceeding calendar year to determine whether such filings continue to meet the requirements of this article and whether such filings are unfair or inappropriate given the loss experience in this state in the preceding year.”

In 1986, the legislature passed §33-20B-7 which required a study of the feasibility and desirability of creating a joint underwriting association (JUA) or alternative pooling agreement to facilitate the issuance and underwriting of malpractice policies in West Virginia. As nothing in Chapter 33 of the Code of West Virginia would expressly prohibit the forming of any such JUA, it can only be assumed that desirability for the same has historically been absent so to this day as no JUA has ever been formed in West Virginia for the purposes of issuing or underwriting policies of medical malpractice insurance.

III-B: Discussion of Market Positions

When considering the calendar year 2018 business written market share report, there were five (5) insurers meeting the criteria outlined in West Virginia Code §33-20B-6. These five insurers were West Virginia Mutual Insurance Company, Evanston Insurance Company, NORCAL Mutual Insurance Company, Medical Protective Company and Health Care Industry Liability Reciprocal Insurance Company. Due to the lack of regulatory authority for Evanston Insurance Company, a surplus lines insurer, and Health Care Industry Liability Reciprocal Insurance Company, a risk retention group, a voluntary submission was requested of each company. Neither company provided supplemental data.

West Virginia Mutual Insurance Company (WVMIC)

As a long-term solution to the availability of coverage for Physicians and Surgeons in West Virginia, §33-20F established WVMIC and all policies previously insured in the BRIM II program novated to the company upon inception. The rate history of WVMIC since inception follows:

2018 Market Share	Company	Effective date	%Requested	% Granted*	WV #:
31.38% (business written basis)	<i>West Virginia Mutual Ins Co</i> *fka W.V. Physicians Mutual	1/1/2019	0%	0%	100048474
		1/1/2018	0%	0%	100045368
		1/1/2017	0%	0%	100040549
		1/1/2016	0%	0%	100035423
		1/20/2015	0%	0%	100030006
		1/1/2014	0%	0%	100023353
		1/1/2013	0%	0%	100016727
		1/1/2012	(5.0%)	(5.0%)	100011255
		1/1/2011	0%	0%	100006008
		1/1/2010	0%	0%	90918009
		1/1/2009	0%	0%	80903007
		1/1/2008	0%	0%	70918006
		1/1/2007	(15.0%)	(15.0%)	60915016
		1/1/2006	(5.0%)	(5.0%)	50826007
		1/1/2005	10.2%	10.2%	41006013
7/1/2004	Initial filing	Initial filing	40331017		

* Does not include renewal credit adjustments

The company's results continue to be favorable and subsequent changes made to their rating plan establish current rates below those that were utilized upon inception. Their medical malpractice market share averaged 35.7% on a business written basis over the last five years.

As the WVMIC's 2018 market share for licensed companies is 47.8%, their results have a substantial impact on the overall market. In 2018, the pure loss ratio for the WVMIC was 52.2%. This is a decrease from the prior year pure loss ratio of 96.3% in 2017.

NORCAL Mutual Insurance Company (NORCAL)

Domiciled in California and commenced business operations in November 1975. NORCAL’s business operations are focused on long-tail liability lines of business. It primarily writes professional liability to physicians, and medical groups on a claims-made basis. They received their initial Certificate of Authority to write casualty insurance in West Virginia in September 2013.

In 2011, NORCAL purchased Medicus Insurance Company (Medicus). Medicus was the second largest premium writer of medical malpractice liability insurance in West Virginia from 2012 through 2015. The purchase of Medicus propelled NORCAL into a leading insurer of medical malpractice in our State. NORCAL accepted the business and assumed the Medicus rates that were in effect at the time of purchase. Medicus had previously suffered adverse development with reported loss ratios of 143.7% in 2015 and 122.9% in 2014. NORCAL implemented strategic underwriting processes and rate increases to reverse the trend created by the assumption of Medicus’ book of business. The changes have produced favorable results considering NORCAL’s reported loss ratios of 57.6% in 2018 and 62.0% in 2017 compared to 105.0% reported for 2016 for an aggregate decrease of more than 45% in only two years.

The rate history of NORCAL follows:

2018 Market Share	Company	Effective date	%Requested	% Granted	WV #:
6.20% (business written basis)	<i>Norcal Mut Ins Co</i>	1/1/2019	7.0%	7.0%	100047937
		1/1/2018	0%	0%	100044426
		1/1/2017	0%	0%	100039187
		5/1/2016	Initial filing	Initial filing	100035481

It is important to note that the rate filing history for Medicus was unremarkable. After the initial rate filing in 2008, the company filed for a 1% rate decrease in October 2009. All other annual rate filings remained unchanged.

Medical Protective Company

Medical Protective Company had written premium prior to 2010 but at that time the company was not profitable in West Virginia and did not assume new or renewal business. Medical Protective Company began actively writing premiums in 2013 after medical malpractice tort reform and improving market conditions. For 2017, the company reported 4.9% market share of the medical malpractice written premiums and experienced a loss ratio of 148.6%. The 2018 reports were much more favorable with more than 6% market share and a 37.3% loss ratio. In 2019, the company did request and receive a 4.1% rate increase.

2018 Market Share	Company	Effective date	%Requested	% Granted	WV #:
6.04% (business written basis)	<i>Medical Protective Co</i>	1/1/2019	4.1%	4.1%	100048408
		1/1/2018	0%	0%	100046609
		1/10/2017	0%	0%	100042047
		1/1/2016	0%	0%	100035921
		1/14/2013	(13.3%)	(13.3%)	100018489

III-C: Rating Plans and Rating Rules

Physicians and Surgeons Programs

Coverage is provided by each of the insurers on a claims-made basis or on an occurrence basis, although occurrence basis is provided infrequently. The coverage provided by all plans is relatively standard. Differences may occur in:

- Number of classes
- Assignment of specialties to class
- Definition of specialties
- Class relativities
- Maturity and tail factors
- Discounts offered

None of these differences produce an unfair advantage or inappropriate rating plan. Physicians and Surgeons rating plans are consistent with other industry plans and are reasonable.

Hospital Programs

Each insurer provides coverage on a claims-made basis or on an occurrence basis, although occurrence basis is provided infrequently. Variations in the rating plans may occur in:

- Exposure base
- Experience rating plan
- Schedule rating plan
- Surcharge programs
- Deductible credits
- Increased limits factors

Other Professionals and Other Facilities coverages are similar to the above.

III-D: Reconciliation of Filed Information to Rate Filing Information

The information below is analyzed and review as required by West Virginia Code §33-20B-3.

1. Reconcile the most recent filed information to the experience reported in the rate filings.

Exhibit I-Sheet 1a – 1c provides the premium and loss for each insurer.

- ✓ WVMIC figures (**Exhibit I-Sheet 1a**) for the past two years have been favorable but variable. The company did file a rate change in the most recent filing and indications are positive for future trending. The volume has declined over this period due in part to changes in the medical malpractice market; specifically, the transition of physicians from standalone policies to now obtaining coverage under the hospital or facility where the physician is employed.
- ✓ NORCAL data (**Exhibit I-Sheet 1b**) shows volatility for recent years. This is due in part to the volume of business and the assumption of unfavorable Medicus results. NORCAL requested and received a 7% rate increase effective January 1, 2019. The WVOIC deemed the rate increase was justified due to experience. NORCAL, like Medicus before them, had not addressed rate inadequacies with a rate increase prior to the current filing. NORCAL needed time to implement underwriting changes and company practices before determining a rate indication. NORCAL has shown a decrease in premium, which may be in part due to current underwriting practices that were applied to the Medicus book of business. The WVOIC will continue to monitor results but have no concerns at this time.

- ✓ Medical Protective data (**Exhibit I-Sheet 1c**) is unpredictable. Medical Protective met the 5% premium threshold for supplemental data based on their 2015 market share but have not qualified again until this report. The company’s premium volume is relatively small and has fluctuated over the years. Their experience has also fluctuated. Based on the rate filings, which are trended to ultimate for loss experience and cannot be compared to market share loss ratios, this company filed a loss ratio of 223.5% in 2016 and a loss ratio of 71.2% in 2018. The company requested and received a 4.1% rate increase effective January 1, 2019. The WVOIC deemed this reasonable due to the historical experience and the fact that at this premium level, the impact of a single claim could be significant.

2. Compare the assumptions underlying the filed information to the most recent rate filing assumptions or other information.

- ✓ **Exhibit II** compares budgeted expenses by filing.
 - WVMIC has a permissible loss ratio of 55.3% when considering the variable expenses. Fixed expenses were not available. They include a 2.3% profit and contingencies load in the filing.
 - NORCAL has a permissible loss ratio of 51.4% when considering variable expenses. Fixed expenses were not available. They include a 5.0% profit and contingencies load in the filing.
 - Medical Protective has a permissible loss ratio of 62.6% when considering variable expenses. They include a 5.0% profit and contingencies load in the filing.

To comprehend the reasonability of the Expense Provisions being employed, we can compare the filed provisions to the expense averages included in the countrywide 2018 A.M. Best’s Aggregates and Averages.

<u>Company</u>	<u>Commissions</u>	<u>General and Acquisition Expenses</u>	<u>Total Underwriting Expenses</u>
WVMIC	6.8%	19.9%	44.7%
NORCAL	8.0%	14.4%	48.6%
Medical Protective	10.0%	8.2%	37.4%
Industry Average (A.M. Best)	8.7%	17.0%	25.7%

*NORCAL included a 11.2% ULAE load as part of the variable expenses

* Industry average is pre-dividend and investment percentages and did not include a profit load.

- ✓ **Exhibit III** compares investment income provisions by insurer.

3. Reconcile the experience in the filed information to the most recent experience reported in the company's financial statements.

- ✓ **Exhibit IV** provides the comparison of Annual Statement information with the filed 5% Report information for all companies. The results are demonstrated to wholly reconcile for both companies participating in the report.

4. Is the filed information filled out correctly and accurately?

- ✓ It is clear that each company has attempted to provide accurate information in response to the mandated 5% Report data call as well as the annual financial reporting and rate filings.

5. Does the filed information support our conclusion on the rates as of December 31, 2018?

- ✓ A review of the by-company rate histories as provided in Section III-B above, demonstrates that premium rates and volumes have generally remained stable in West Virginia. The WVOIC will closely monitor the medical malpractice line for trending and development purposes that may affect future rate stabilization.

III-E: Analysis of Rate Filings

West Virginia Mutual Insurance Company

WVMIC filed for a 0.0% rate change in the annual filing effective January 1, 2020. This filing included an indicated rate change of +8.1% which is a decrease from the indicated rate change of +9.3% in the 2019 annual filing. In this and subsequent filings, WVMIC made no changes to rating factors. The filing effective January 1, 2018, WVMIC included a provision to decrease the policy renewal credit from 10% to 5% which was effectively a 5% premium increase for renewal policies. One of the factors for the lower indication for the January 2020 filing which resulted in no requested rate change was interest income. The company realized a profitable investment portfolio and as a result has been able to offset increased rate indications and improve their financial condition in the prior three years. When considering the surplus levels of the company compared to the written premium and the declining loss ratio over the past few years, the WVOIC has no concerns with the company's rate adequacy, surplus or operating levels.

NORCAL Insurance Company

In the most recent annual filing effective January 1, 2020, the company requested and received a rate increase of 4.0%. A 7% rate increase was requested and received effective January 1, 2019. The company demonstrated an indicated need of +18.0% in the 2020 filing which is down from an indicated need of +31.2% in the prior filing. NORCAL assumed the business of Medicus as noted in previous sections of this report. NORCAL utilized a more stringent underwriting criteria in accepting the Medicus business. A NORCAL filing that went into effect on January 1, 2018, stated that the policy transition had been completed with 122 out of 154 policies novated from Medicus with seven (7) policies being non-renewed by the company and the additional policies may have cancelled or non-renewed due to premium differences between Medicus and NORCAL at the request of the policyholder. NORCAL has begun to address this point with rate changes in the past two years to reverse the trend from the Medicus book of business and are now operating with NORCAL company specific underwriting criteria and rates. The WVOIC has no concerns with the recent rate increases nor the company's financial status. The WVOIC will continue to monitor the NORCAL financial and rate filing reports to ensure the company implemented practices are effective and profitable.

Medical Protective Company

As previously noted, the Medical Protective Company has only twice met the 5% market share threshold to provide supplemental data. The company's rate filings often rely on the experience and rates of the West Virginia Mutual Insurance Company. This is common practice when a company's internal data is not at levels where credible analysis and trending can be relied upon. Medical Protective's relatively small book of business creates a scenario where the experience is inadequate to promulgate credible rates. The 2019 rate filing requested and received a +4.1% and the 2020 filing requested and received +9.2%. The indications were similar with a +4.1% in 2019 and a +10.8% for 2020. The 2020 rate increase did not affect all policies but was effective to only certain specialties that were not profitable. Medical Protective requested the increases to selected specialties by comparing the company's current rates to the current rates of the West Virginia Mutual and NORCAL. This is not unusual in rate filings for a company to utilize the rates of another company, particularly when experience is limited or not credible. The WVOIC deemed that Medical Protective is performing at rate levels that are competitive and not inadequate nor inflated.

III-F: Overall Medical Malpractice Market (Annual Statement Line of Business 11)

Although sub-lines of medical malpractice are considered individually in the Appendix of this report, a detailed view of the entire medical malpractice line of business on a business written basis for 2018 provides the following:

Company Name	\$ Written	Market Share	\$ Earned	Losses Incurred	Loss Ratio
West Virginia Mut Ins Co	\$18,789,668	31.38%	\$20,985,581	\$10,954,708	52.20%
Evanston Ins Co	\$3,979,999	6.65%	\$3,997,067	\$3,441,331	86.10%
Norcal Mut Ins Co	\$3,709,746	6.20%	\$4,020,358	\$2,314,225	57.56%
Medical Protective Co	\$3,615,687	6.04%	\$3,364,822	\$1,254,892	37.29%
Health Care Industry Liab Recip Ins	\$3,561,772	5.95%	\$2,726,283	\$1,529,042	56.09%
Endurance Amer Specialty Ins Co	\$2,452,140	4.10%	\$1,943,228	\$1,181	0.06%
National Fire & Marine Ins Co	\$2,136,717	3.57%	\$2,076,823	\$861,570	41.49%
Professional Security Ins Co	\$1,745,429	2.92%	\$1,793,409	(\$49,439)	(2.76%)
Community Hospital RRG	\$1,721,065	2.87%	\$1,721,065	\$433,999	25.22%
Fair American Select Ins Co	\$1,469,230	2.45%	\$1,150,424	\$205,567	17.87%
Pace RRG Inc	\$1,452,461	2.43%	\$1,475,908	\$649,370	44.00%
Ironshore Specialty Ins Co	\$1,043,843	1.74%	\$604,502	\$133,797	22.13%
American Cas Co Of Reading PA	\$1,011,030	1.69%	\$985,760	\$353,327	35.84%
Applied Medico Legal Solutions RRG	\$859,869	1.44%	\$875,258	\$904,579	103.35%
Doctors Co An Interins Exch	\$807,545	1.35%	\$881,421	\$256,606	29.11%
Columbia Cas Co	\$798,282	1.33%	\$705,716	\$171,050	24.24%
General Star Ind Co	\$785,535	1.31%	\$668,007	\$74,000	11.08%
Ophthalmic Mut Ins Co RRG	\$758,350	1.27%	\$783,346	\$1,466,148	187.16%
TDC Specialty Ins Co	\$604,141	1.01%	\$467,613	\$194,664	41.63%
Aspen Amer Ins Co	\$561,692	0.94%	\$368,340	\$182,014	49.41%
ProAssurance Specialty Ins Co	\$541,251	0.90%	\$566,755	\$423,006	74.64%
Podiatry Ins Co Of Amer	\$470,633	0.79%	\$498,951	\$862,577	172.88%
Allied World Surplus Lines Ins Co	\$469,212	0.78%	\$466,021	(\$73,637)	(15.80%)
The Cincinnati Ins Co	\$423,635	0.71%	\$427,979	\$1,385,245	323.67%
American Excess Ins Exch RRG	\$420,145	0.70%	\$630,800	\$1,970,181	312.33%
AXIS Surplus Ins Co	\$386,025	0.64%	\$350,713	\$122,018	34.79%
Oms Natl Ins Co Rrg	\$373,803	0.62%	\$323,134	\$103,887	32.15%
Homeland Ins Co of NY	\$366,710	0.61%	\$632,384	\$210,326	33.26%
Aspen Specialty Ins Co	\$364,318	0.61%	\$412,181	\$270,952	65.74%
Admiral Ins Co	\$309,066	0.52%	\$278,287	\$380,707	136.80%
All Other 87 Companies	\$3,879,455	6.48%	\$4,311,675	\$6,868,140	159.29%
Total	\$59,868,454	100.00%	\$60,493,811	\$37,856,033	62.58%

The following is a detailed view of insurers on a licensed basis for 2018:

Company Name	\$ Written	Market Share	\$ Earned	Losses Incurred	Loss Ratio
West Virginia Mut Ins Co	\$18,789,668	47.85%	\$20,985,581	\$10,954,708	52.20%
Norcal Mut Ins Co	\$3,709,746	9.45%	\$4,020,358	\$2,314,225	57.56%
Medical Protective Co	\$3,615,687	9.21%	\$3,364,822	\$1,254,892	37.29%
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American Cas Co Of Reading PA	\$1,011,030	2.57%	\$985,760	\$353,327	35.84%
Applied Medico Legal Solutions RRG	\$859,869	2.19%	\$875,258	\$904,579	103.35%
Doctors Co An Interins Exch	\$807,545	2.06%	\$881,421	\$256,606	29.11%
Ophthalmic Mut Ins Co RRG	\$758,350	1.93%	\$783,346	\$1,466,148	187.16%
Aspen Amer Ins Co	\$561,692	1.43%	\$368,340	\$182,014	49.41%
Podiatry Ins Co Of Amer	\$470,633	1.20%	\$498,951	\$862,577	172.88%
The Cincinnati Ins Co	\$423,635	1.08%	\$427,979	\$1,385,245	323.67%
American Excess Ins Exch RRG	\$420,145	1.07%	\$630,800	\$1,970,181	312.33%
Oms Natl Ins Co Rrg	\$373,803	0.95%	\$323,134	\$103,887	32.15%
Liberty Ins Underwriters Inc	\$290,908	0.74%	\$286,557	\$418,995	146.22%
Fair Amer Ins & Reins Co	\$288,716	0.74%	\$294,646	(\$15,933)	(5.41%)
NCMIC Ins Co	\$284,813	0.73%	\$282,707	(\$33,158)	(11.73%)
Preferred Physicians Medical RRG a M	\$165,437	0.42%	\$164,580	(\$21,133)	(12.84%)
Cherokee Guar Co Inc a RRG	\$162,193	0.41%	\$162,193	\$804,748	496.17%
Preferred Professional Ins Co	\$128,163	0.33%	\$121,287	\$12,071	9.95%
Allied World Ins Co	\$109,776	0.28%	\$120,245	\$30,996	25.78%
Ace Amer Ins Co	\$101,125	0.26%	\$147,925	\$24,953	16.87%
ProAssurance Ind Co Inc	\$99,433	0.25%	\$109,976	\$217,520	197.79%
American Alt Ins Corp	\$96,935	0.25%	\$94,749	\$1,671	1.76%
Pharmacists Mut Ins Co	\$91,207	0.23%	\$92,371	\$9,643	10.44%
Beazley Ins Co Inc	\$87,827	0.22%	\$81,532	(\$53,834)	(66.03%)
The Doctors Co RRG a Recip Exch	\$48,999	0.12%	\$32,946	\$0	0.00%
The Cincinnati Ind Co	\$26,854	0.07%	\$28,662	(\$3,662)	(12.78%)
State Farm Fire & Cas Co	\$24,630	0.06%	\$24,253	\$406	1.67%
Great Divide Ins Co	\$22,994	0.06%	\$23,160	\$1,518	6.55%
All Other 41 Companies	\$156,927	0.40%	\$459,742	(\$246,786)	(53.68%)
Total	\$39,271,577	100.00%	\$41,120,629	\$25,119,445	61.09%

Section IV

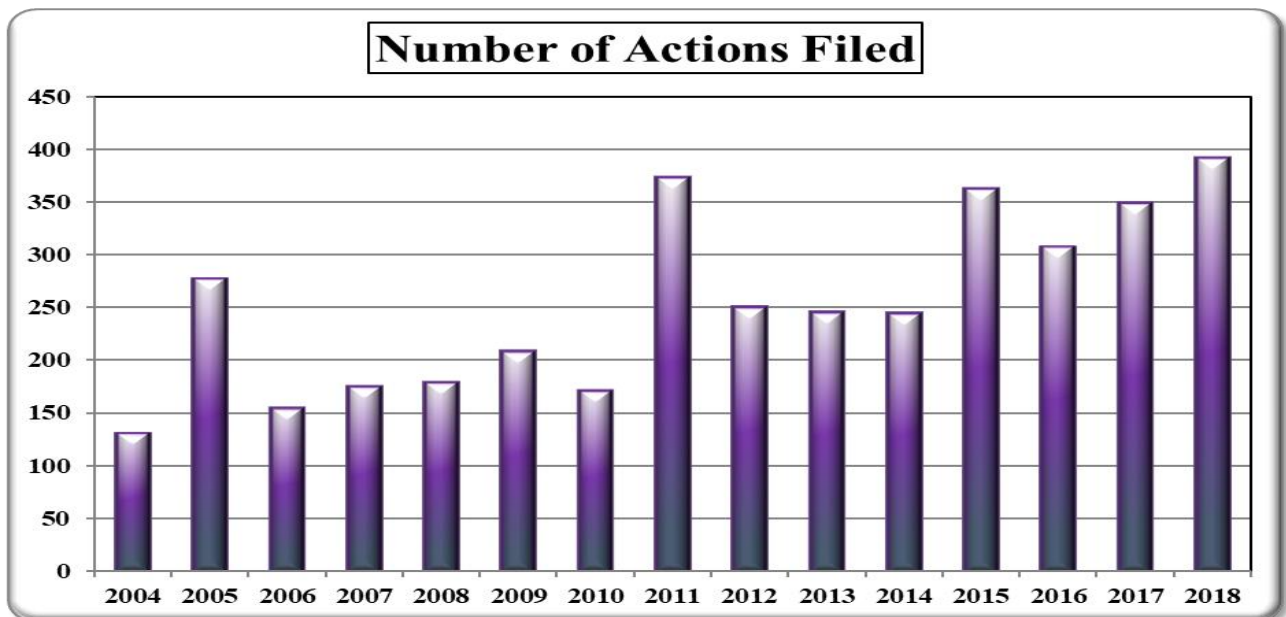
Other Sources of Data

IV: Other Sources of Data

IV-A: Medical Liability Fund Data

Becoming effective on January 1, 2002, HB 601 increased the fee associated with filing a medical professional liability action in part to support the Medical Liability Fund created pursuant to §29-12B-1 et seq. As a part of this change, a portion of the monies received for each filed action is received by the State Treasurer's Office. The data associated with these transactions can be examined to establish the total number of actions involving Medical Professional Liability filed in West Virginia per year and as well the total number filed per county of venue. Examining this data in aggregate, the following information is noted:

Year	# of Filed Actions
2004	130
2005	277
2006	154
2007	174
2008	178
2009	208
2010	170
2011	373
2012	250
2013	245
2014	244
2015	362
2016	307
2017	349
2018	392



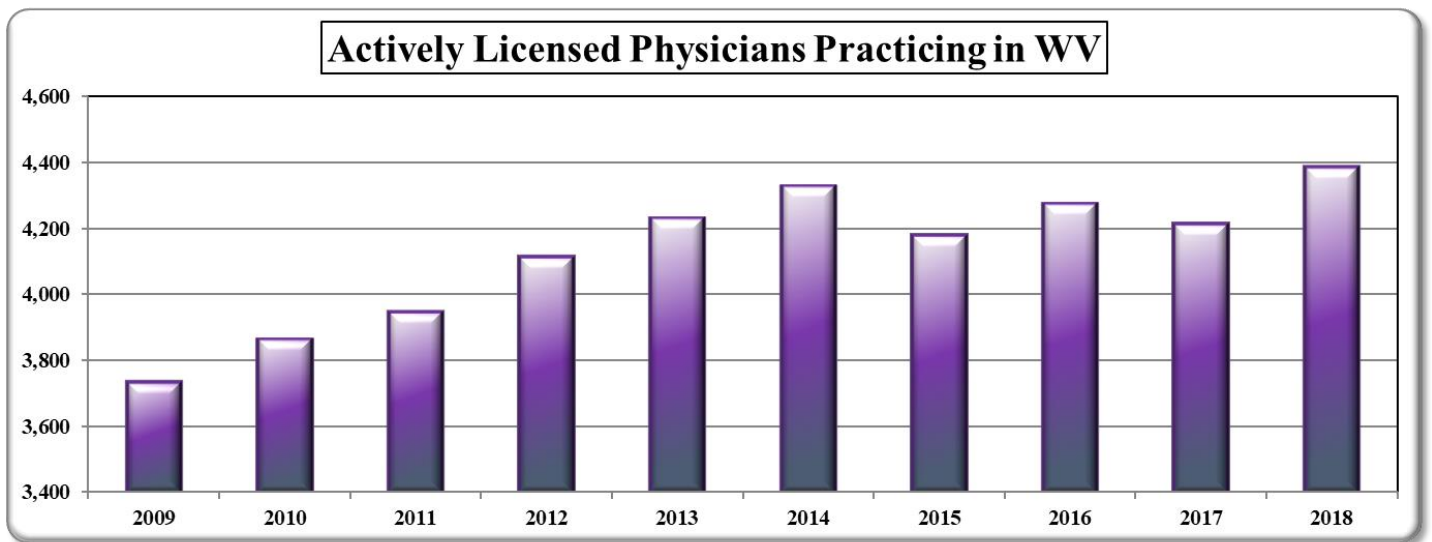
The 2018 number of actions increased more than 12% over the 2017 number and is now the highest action filed count since the fund’s inception in 2002. The WVOIC receives aggregate liability data from BRIM so underlying information is not available for analysis to determine what may be causing the increased actions.

IV-B: Board of Medicine Data

The following data is obtained by the West Virginia Board of Medicine (BOM):

West Virginia Board of Medicine Licensure Data	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Actively Licensed Physicians (M.D.)	5,776	5,857	5,962	6,020	6,282	6,636	6,533	6,780	6,945	7,060
Inactively Licensed Physicians	627	628	628	632	613	484	527	433	432	423
Actively Licensed Podiatrists (D.P.M.)	101	111	101	103	100	101	111	110	120	116
Inactively Licensed Podiatrists	15	14	15	15	12	12	11	8	8	6
Actively Licensed Physicians Practicing in WV	3,730	3,864	3,946	4,111	4,231	4,327	4,177	4,276	4,212	4,386
Physician Assistants (P.A.)	604	658	671	732	781	821	791	891	846	974
Special Volunteer Medical Licenses	15	16	17	16	15	11	11	9	7	7
Medical School Faculty Limited Licenses	3	4	3	3	3	3	4	3	3	6

Looking at only licensed physicians that report as actively practicing in West Virginia, the 2018 physician count is the highest it’s been in the last ten (10) years. The WVOIC began receiving the physician count from BOM in 1997 and the 2018 active physician count is the highest ever recorded from the data obtained by the WVOIC.



Section V

Summary Observations

V: Summary Observations

- In 2018, medical malpractice insurance in West Virginia continued to demonstrate favorable results, concluding with an overall business written pure loss ratio of 62.6% and licensed pure loss ratio of 61.1%. The 2018 premium volume increased 1.1% over the 2017 premium on a business written basis. While the premium change is nominal, it does represent the first premium increase in more than five (5) years.
- During 2018, medical malpractice rates in West Virginia remained relatively unchanged. WVMIC retained the majority market share and initiated no overall rate changes. NORCAL proposed no rate changes for 2017 or 2018 but will have a 7% rate increase in 2019.
- In the entire market for the subline physicians and surgeon's premium, the top five (5) premium business written malpractice writers accounted for 85.3% of the market. When considering incurred losses, it should be noted that the same five (5) insurers reported 96.7% of the total industry losses.
- An analysis of West Virginia Board of Medicine data revealed the following:
 - The total number of claims in 2018 (99) is 15.4% lower than 2017 claims and more than 74% lower than the 2001 claim count.
 - On average, approximately 7% of claims filed actually go to court.
 - On average, most claims are settled outside of court; approximately 67%.
- A review of the Medical Liability fund data indicates that the number of filed actions in West Virginia increased 12.3% from 349 in 2017 to 392 in 2018. The 2018 actions are the highest counts reported to the WVOIC from BRIM. BRIM retains the supporting documentation needed for data or trend analysis.
- Examination of the 5% market share company data as required by §114CSR22, §114CSR23, and §33-20B-6 found no areas of material concern. The WVOIC will continually monitor and trend the companies for future loss development and rate stabilization.

Exhibits

5% Market Share Report - Exhibit I Sheet 1a**Loss and Premium Information/Reconciliation****West Virginia Mutual Insurance Company****Physicians and Surgeons**

2019 Rate Filing	2014	2015	2016	2017	2018
Adj On-Lev EP	\$22,506,000	\$22,560,000	\$23,261,000	\$19,969,000	\$18,539,000
Tr, Dev Ult Loss and ALAE	\$18,218,000	\$21,903,000	\$19,505,000	\$15,101,000	\$11,926,000
Loss and ALAE Ratio	80.9%	97.1%	83.9%	75.6%	64.3%

2018 Rate Filing	2013	2014	2015	2016	2017
Adj On-Lev EP	\$25,588,000	\$22,561,000	\$22,616,000	\$23,395,000	\$20,504,000
Tr, Dev Ult Loss and ALAE	\$17,440,014	\$18,433,821	\$22,116,499	\$18,979,471	\$14,683,844
Loss and ALAE Ratio	68.2%	81.7%	97.8%	81.1%	71.6%

2017 Rate Filing	2012	2013	2014	2015	2016
Adj On-Lev EP	\$26,120,000	\$25,920,000	\$22,812,000	\$22,821,000	\$23,354,000
Tr, Dev Ult Loss and ALAE	\$16,489,602	\$17,451,615	\$19,539,806	\$20,998,699	\$16,246,687
Loss and ALAE Ratio	63.1%	67.3%	85.7%	92.0%	69.6%

2016 Rate Filing	2011	2012	2013	2014	2015
Adj On-Lev EP	\$29,555,000	\$28,078,000	\$25,198,000	\$26,545,000	\$26,241,000
Tr, Dev Ult Loss and ALAE	\$15,768,966	\$17,497,749	\$18,140,502	\$17,452,882	\$18,715,003
Loss and ALAE Ratio	53.4%	62.3%	72.0%	65.7%	71.3%

2015 Rate Filing	2010	2011	2012	2013	2014
Adj On-Lev EP	\$35,381,537	\$32,665,819	\$30,681,459	\$26,957,703	\$25,609,100
Tr, Dev Ult Loss and ALAE	\$13,155,579	\$16,249,458	\$18,533,201	\$17,924,552	\$22,110,831
Loss and ALAE Ratio	37.2%	49.7%	60.4%	66.5%	86.3%

2014 Rate Filing	2010	2011	2012	2013	2014
Adj On-Lev EP	\$35,381,537	\$32,665,819	\$30,681,459	\$26,957,703	---
Tr, Dev Ult Loss and ALAE	\$14,107,366	\$16,223,241	\$20,193,516	\$20,115,135	---
Loss and ALAE Ratio	39.9%	49.7%	65.8%	74.6%	---

5% Market Share Report - Exhibit I Sheet 1b**Loss and Premium Information/Reconciliation****NORCAL Mutual Insurance Company****Physicians and Surgeons**

2019 Rate Filing	2014	2015	2016	2017	2018
Adj On-Lev EP	\$6,441,000	\$5,445,000	\$3,916,000	\$6,688,000	\$4,020,000
Tr, Dev Ult Loss and ALAE	\$12,279,000	\$9,127,000	\$1,683,000	\$6,136,000	\$2,393,000
Loss and ALAE Ratio	190.6%	167.6%	43.0%	91.7%	59.5%

2018 Rate Filing	2013	2014	2015	2016	2017
Adj On-Lev EP	\$6,497,000	\$6,441,000	\$5,445,000	\$3,916,000	\$6,688,000
Tr, Dev Ult Loss and ALAE	\$6,473,000	\$7,916,000	\$7,769,000	\$1,845,000	\$4,172,000
Loss and ALAE Ratio	99.6%	122.9%	142.7%	47.1%	62.4%

2017 Rate Filing	2012	2013	2014	2015	2016
Adj On-Lev EP	\$6,493,000	\$6,497,000	\$6,441,000	\$5,389,000	\$4,142,000
Tr, Dev Ult Loss and ALAE	\$110,000	\$6,473,000	\$7,916,000	\$7,746,000	\$1,852,000
Loss and ALAE Ratio	1.7%	99.6%	122.9%	143.7%	44.7%

2016 Rate Filing	2011	2012	2013	2014	2015
Adj On-Lev EP	---	---	---	---	\$5,389,000
Tr, Dev Ult Loss and ALAE	---	---	---	---	\$7,746,000
Loss and ALAE Ratio	---	---	---	---	143.7%

5% Market Share Report - Exhibit I Sheet 1c**Loss and Premium Information/Reconciliation****Medical Protective Company****Physicians and Surgeons**

2019 Rate Filing	2014	2015	2016	2017	2018
Adj On-Lev EP	\$1,113,212	\$1,353,597	\$913,504	\$1,641,676	\$1,956,360
Tr, Dev Ult Loss and ALAE	\$834,056	\$1,110,048	\$2,041,321	\$706,985	\$1,392,200
Loss and ALAE Ratio	74.9%	82.0%	223.5%	43.1%	71.2%

5% Market Share Report - Exhibit II							
Comparison of Budgeted Expenses							
West Virginia Mutual Insurance Company							
<u>Physicians and Surgeons</u>							

Filing Number	100048474	100045368	100040549	100035423	100030006	100023353	100016727
Effective Date	1/1/2019	1/1/2018	1/1/2017	1/1/2016	1/1/2015	1/1/2014	1/1/2013

Variable Expenses:

Commission	6.70%	6.80%	6.90%	6.90%	7.00%	7.00%	---
Gen and Acq	20.30%	19.90%	19.50%	19.50%	7.30%	---	7.00%
Taxes and Fees	3.70%	3.70%	3.40%	3.40%	4.20%	4.20%	5.00%
Death, Disability and Retire Load	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
ULAE Load	8.00%	8.00%	9.75%	---	---	---	1.00%
Profit and Cont	2.30%	2.30%	2.30%	2.30%	2.30%	2.30%	2.25%
Total Var Exp	45.00%	44.70%	45.00%	32.10%	24.80%	17.50%	19.25%

Total Exp	44.70%	45.00%	32.10%	24.80%	17.50%	19.25%	21.60%
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5% Market Share Report - Exhibit II				
Comparison of Budgeted Expenses				
NORCAL Mutual Insurance Company				
<u>Physicians and Surgeons</u>				

Filing Number	100047937	100044426	100039187	100035481
Effective Date	1/1/2019	1/1/2018	1/1/2017	5/1/2016

Variable Expenses:

Commission	8.00%	8.00%	8.00%	8.00%
Gen and Acq	14.10%	14.40%	14.40%	14.00%
Taxes and Fees	4.90%	5.00%	5.00%	5.00%
Death, Disability and Retire Load	5.00%	5.00%	5.00%	5.00%
ULAE Load	11.00%	11.20%	7.50%	7.50%
Profit and Cont	5.00%	5.00%	5.00%	5.00%
Total Var Exp	48.00%	48.60%	44.90%	44.50%

Total Exp	48.00%	48.60%	44.90%	44.50%
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5% Market Share Report - Exhibit II			
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Comparison of Budgeted Expenses			
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Medical Protective Company			
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<u>Physicians and Surgeons</u>			
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Filing Number	100048408	100046609	100035921
Effective Date	1/1/2019	1/1/2018	1/1/2016

Variable Expenses:

Commission	10.00%	10.00%	10.00%
Gen and Acq	8.20%	8.20%	8.60%
Taxes and Fees	5.00%	5.00%	5.00%
Death, Disability and Retire Load	6.00%	6.00%	6.00%
ULAE Load	3.20%	3.20%	2.10%
Profit and Cont	5.00%	5.00%	5.00%
Total Var Exp	37.40%	37.40%	36.70%

Total Exp	37.40%	37.40%	36.70%
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5% Market Share Report - Exhibit III

Investment Income Provisions

	WVMIC	NORCAL	Medical Protective
Bonds	\$129,156,355	\$945,068,649	\$768,333,583
Preferred Stocks	\$0	\$6,608,155	\$0
Common Stocks	\$17,880,824	\$433,367,694	\$1,802,209,144
Mortgage Loans on Real Estate	\$0	\$0	\$0
Real Estate	\$0	\$0	\$11,295,892
Cash	\$1,551,102	\$8,615,641	\$192,645,783
Cash Equivalents	\$1,378,730	\$20,688,912	\$0
Short-Term Investments	\$0	\$0	\$0
Contract Loans	\$0	\$0	\$0
Derivatives	\$0	\$0	\$0
Other Invested Assets	\$0	\$2,569,136	\$49,204,068
Receivables for Securities	\$0	\$0	\$0
Securities Lending Reinv. Coll. Assets	\$0	\$0	\$0
Agg. w/ins for Invested Assets	\$0	\$13,653,113	\$0
Total Cash and Invested Assets	\$149,967,011	\$1,430,571,300	\$2,823,688,470
Net Investment Income Earned	\$3,985,270	\$39,935,028	\$104,682,583
Investment Yield	2.66%	2.79%	3.71%
Total Loss Reserves	\$25,836,269	\$437,915,810	\$629,879,156
Total LAE Reserves	\$19,517,639	\$136,803,290	\$217,160,365
Total Loss and LAE Reserves	\$45,353,908	\$574,719,100	\$847,039,521

5% Market Share Report - Exhibit IV
Premium Reconciliation

<u>Company</u>	<u>Schedule T- Written Premium</u>	<u>Filing Forms</u>
West Virginia Mutual Ins Co	\$18,789,668	\$18,757,831
NORCAL Mutual Ins Co	\$3,706,746	\$3,759,275
Medical Protective Com	\$3,632,914	\$3,602,106
Total	\$26,129,328	\$26,119,212

It appears the financial statements and filing forms are consistent and accurate. Any variances may be due to timing of reports or filing but there is no WVOIC concern regarding the above premium reconciliation.