



MEDICAL MALPRACTICE MARKET UPDATE – Q2 2020

What We Saw in Q1

At the beginning of 2020, the global healthcare insurance industry was under significant pressure to return to profitability. This represented a change from the past when the focus was on increasing market share. Numerous factors negatively affected underwriting profitability including, years of ‘soft market’ pricing, consolidation in the healthcare industry and an increase in loss severity. Combined loss ratios for most medical malpractice carriers exceeded 100% from 2014-2019, with numerous jury verdicts over \$10M.

AM Best recently released their 2020 combined loss ratios estimate for the medical malpractice industry in the 110% range*.

COMBINED RATIOS**

2017
101.7%

2018
104.1%

2019
107%

The Impact of the Pandemic

The impact of COVID-19 has been devastating to the individuals infected, business communities and the U.S. and World economies. Healthcare organizations have been acutely affected by the Coronavirus. Not only are they on the front lines of testing and treatment, they are dealing with provider and employee safety issues, lack of supplies, creating new ethics guidelines and incorporating new staff, which may entail different credentialing and licensing process. Healthcare organizations are also facing spikes in costs in treating patients coupled with reduced income due to cancellation of elective procedures and lower patient census as potential patients avoid treatment amidst fears of hospitalization.

There is also a risk of increased professional liability claims arising from COVID-19. Claims for alleged failures to properly test, treat, or diagnose are expected. Negotiations are ongoing with state and federal governments to provide immunities to providers on the front lines of COVID-19 response. Some states have granted immunity to front line healthcare providers and healthcare organizations, as well as expanded “good Samaritan” protections.

The stresses placed on healthcare organizations are also taking place during one of the busiest times in the insurance cycle as we approach July 1 renewals. Organizations now must be prepared for detailed underwriter questions about their COVID-19 response, financial losses, and predictions for long term impacts.

Focus on Strict Underwriting for Q2-Q3 2020

In 2019, underwriters were laser focused to underwrite to a profit. Today, underwriters are selectively deciding where to deploy their capacity. We have seen increased scrutiny on all underwriting submissions as underwriters assess whether each prospective insured meets their risk appetite. Underwriters are focused on insureds' strategies for managing COVID-19 exposures, opioid policies, plans for managing growing physician populations and technology and litigation management. Underwriter meetings remain critical but are now conducted via virtual meeting platforms. While quality, detailed submissions are always important, they are even more essential in the current environment in order to differentiate each prospective insured. An additional impact to the underwriting process involves underwriters and analysts working from home. This has resulted in slower response times and predictably, slower binder and policy transmittals.

Today's Reality

Significant market tightening has manifested itself in rate and premium increases. Markets are reducing limits, increasing retentions for some insureds, and adding specific exclusions on renewals (e.g. communicable disease; pandemics). As a result, incumbent partnerships are more valuable during the upcoming months as markets assess the impact of the pandemic on their risk portfolios.

Rate/Premiums Increases on Average:

- No losses/reserves: 5%-10%+ minimum depending on venue
- Large losses impacting excess layers: 15%-30%+
- Excess layers more affected due in part to batch claims and increase in severity

Self-Insured Retentions: (actuarial evaluation will drive this discussion)

- No excess losses/reserves: Maintain current retentions
- Large losses impacting excess: Insureds are considering increased retentions to offset significant premium increases
- Aggregate retentions are more difficult to obtain and if offered, will be multiples of expected losses

Limits Deployed:

Most underwriters are significantly reducing capacity; with many capping their limits on a program at \$10M-\$15M.

Coverage Terms and Conditions

- Some markets have moved to strict pandemic exclusions to limit losses in the future.
- Most markets, (driven by the response on property programs) are viewing COVID-19 claims as a result of one event- thus limiting potential exposure on a given program.

Underwriters questions during renewal processes include:

- Clinical protocols for COVID-19 patients
- Testing frequency and adequacy of all providers and essential staff members
- Employee safety and availability of sufficient personal protective equipment (PPE)
- COVID-19 surge in their particular area/state
- Federal and state executive orders limiting liability or offering immunity (varies by state)
- Financial impact of the pandemic on the organization and mitigation plans
- Protocols associated with increased use of telemedicine
- Involvement in vaccine/medical research for COVID-19

Claims or Potential Exposures

Potential incidents associated with COVID-19 in the medical malpractice space:

- Failure to test; diagnose; treat
- Failure to take reasonable steps to prevent the spread of infection
- Batch claims
- Emotional distress (from both patients and family members)
- Unlicensed healthcare professionals
- Ethical standards or diversion from the standards of care

Looking Ahead

No one can accurately predict the fall out in the insurance industry from COVID-19. As we navigate the new underwriting/market landscape, we will be challenged to provide additional data and rely more heavily on our analytic and coverage teams to assure optimum results for our clients. We are optimistic that medical malpractice markets will continue to be committed to the healthcare industry and desire to work with our clients to find solutions to current and future challenges. Our healthcare team is comprised of industry veterans prepared to navigate the industry alongside our clients to strategically build an insurance program that adheres to their goals and objectives for 2020 and beyond.

**Best's Market Segment Report: 3/2/2020*

***Conning Report: 12/31/19*



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