

WEST VIRGINIA OFFICES OF THE  
INSURANCE COMMISSIONER

2017  
Annual  
Medical Malpractice  
Report

Allan L. McVey  
Insurance Commissioner

## Introduction

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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, the rate filings of those companies, 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.

The Oxford dictionary defines malpractice as “improper, illegal, or negligent professional activity or treatment, especially by a medical practitioner...” 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 which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar healthcare providers.

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 done using licensed or admitted basis reporting while other sections used business written reports. 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. The difference between licensed and business written is that business written includes lines that may not be subject to regulatory authority by the WVOIC such as excess and surplus lines, risk retention groups, etc. These insurers do have reported premium and losses for the medical malpractice liability line of insurance and all premium and losses were included in this report. Further, due to the change in reporting methodology, the WVOIC did adjust historical years using the same business written parameters for accuracy in trends and comparisons on a year to year basis.

A reporting anomaly was found for a specific carrier during the medical malpractice current and historical analysis. The carrier's annual reported data was deemed to be inconsistent and unusable for data analysis. Due to the circumstances relating to the data reporting, and the fact that the inconsistent data significantly skewed the West Virginia medical malpractice market experience, all annual data reported by the carrier 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.

In 2016, the overall West Virginia medical malpractice pure direct loss experience increased from 60.5% in 2015 to 80.7%. The average West Virginia pure direct loss ratio for calendar years 2007 through 2016 is 36.9% with the lowest ratio of 1.5% occurring in 2008 and the highest ratio of 80.7% occurring in 2016. 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 2016 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.

The overall goal of this report is to provide the reader with insight into the current medical malpractice insurance market conditions in the state of West Virginia.

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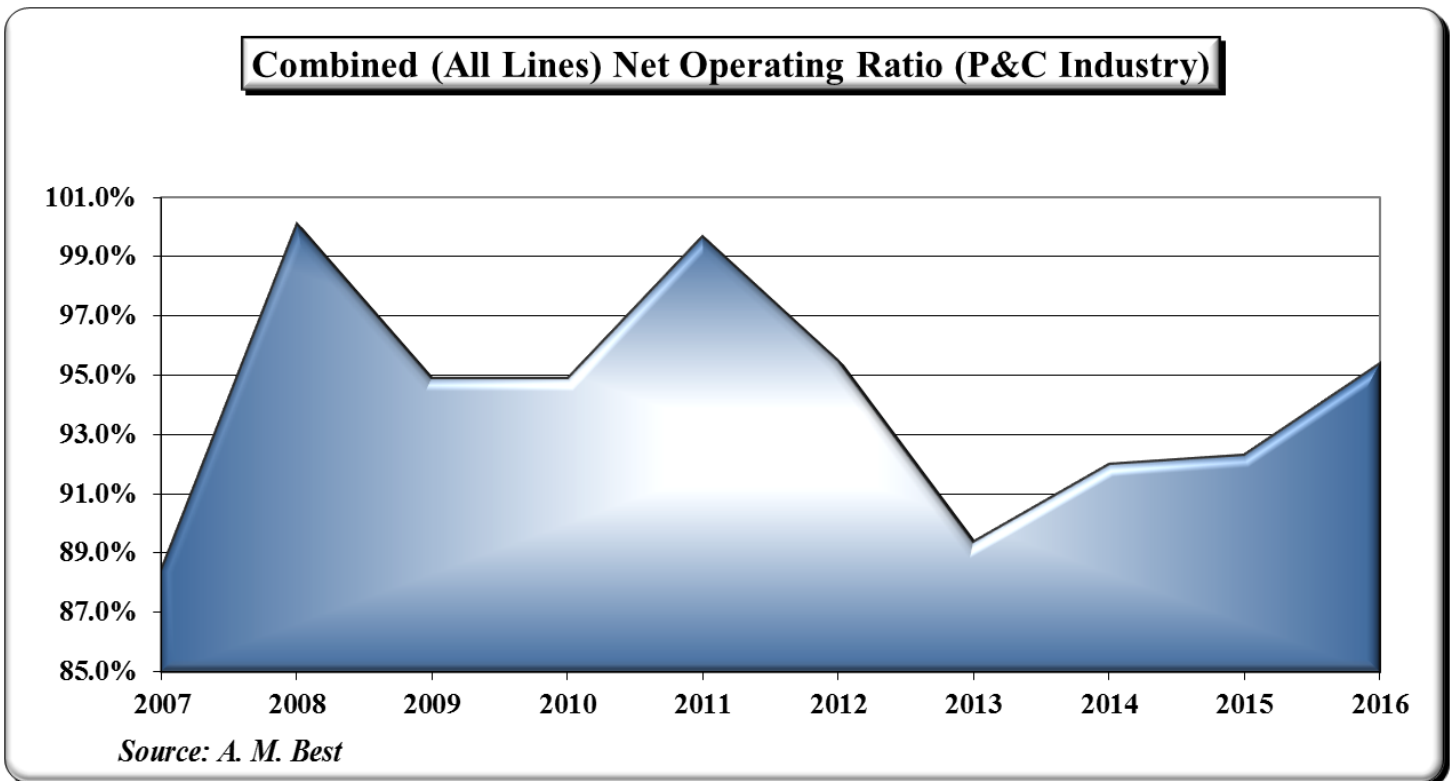
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# **Section I Overview**

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## **I: Overview of Countrywide Property and Casualty Insurance Industry Results for 2016**

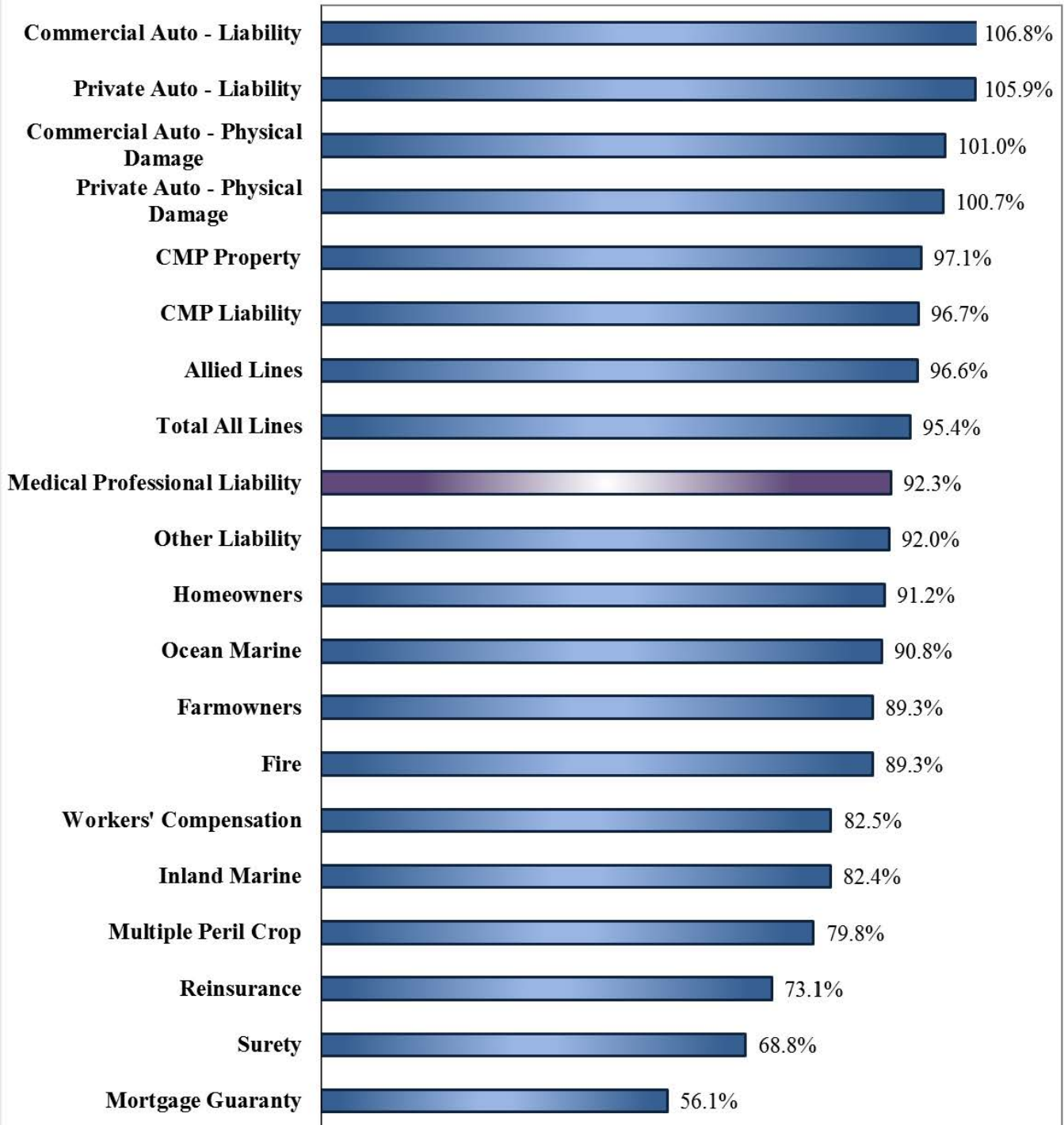
Experience for the combined all lines property and casualty insurance industry rose marginally in 2016 from 2015. The overall net operating ratio was 95.4% in 2016 as opposed to 92.3% in 2015. This equals an increase of 3.4% for the operating ratio. The countrywide medical malpractice line of insurance saw a similar trend with a 3.7% increase from 89.0% in 2015 to 92.3% in 2016.



The combined all lines property and casualty insurance industry operating ratio for 2016 was 95.4%. 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 2016 net operating experience of the Property and Casualty Industry as compared to some of its key element lines were as follows:

### Property/Casualty Net Operating Ratios for 2016



Source: A. M. Best



Several points can be noted from the industry results for 2016:

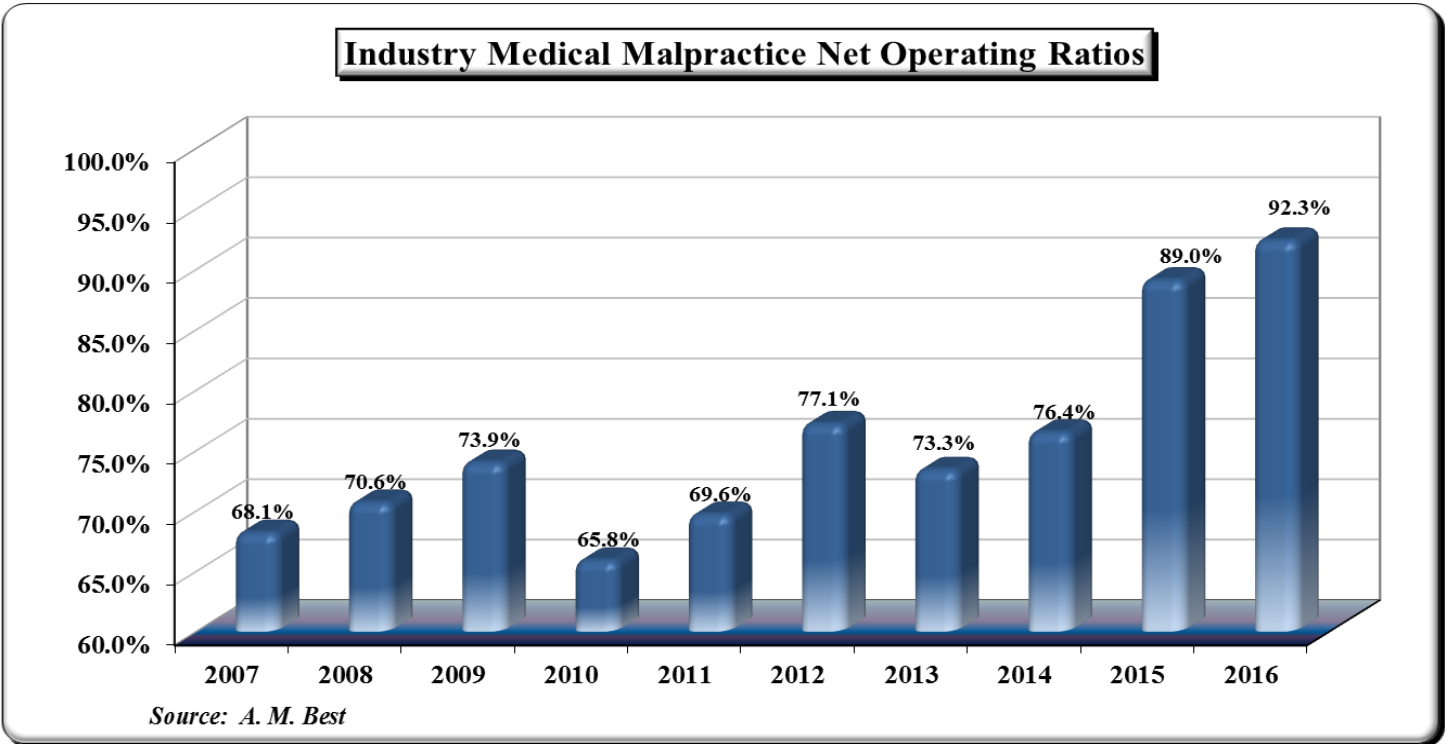
- The results for the countrywide medical malpractice line continue to remain favorable. While the 2016 medical malpractice operating ratio increased more than 3% from the 2015 ratio and is the highest ratio realized in over 12 years, the market continues to operate with a profitable margin. It is important 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 10 years of data, medical malpractice operating ratios average 75.6%, with 2016 experiencing the highest ratio at 92.3%.
- Reinsurance industry results, which can influence future outcomes for other lines of business; increased from 64.0% in 2015 to 73.1% in 2016. 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 reinsurance industry results remain favorable.
- The total operating ratio for all Property and Casualty lines of insurance increased from 92.3% in 2015 to 95.4% in 2016. This small variance indicates a stable and profitable industry but does warrant future analysis due to the continuation of increases over the last several years.

### **I-A: Medical Malpractice Insurance Results for the Countrywide Industry**

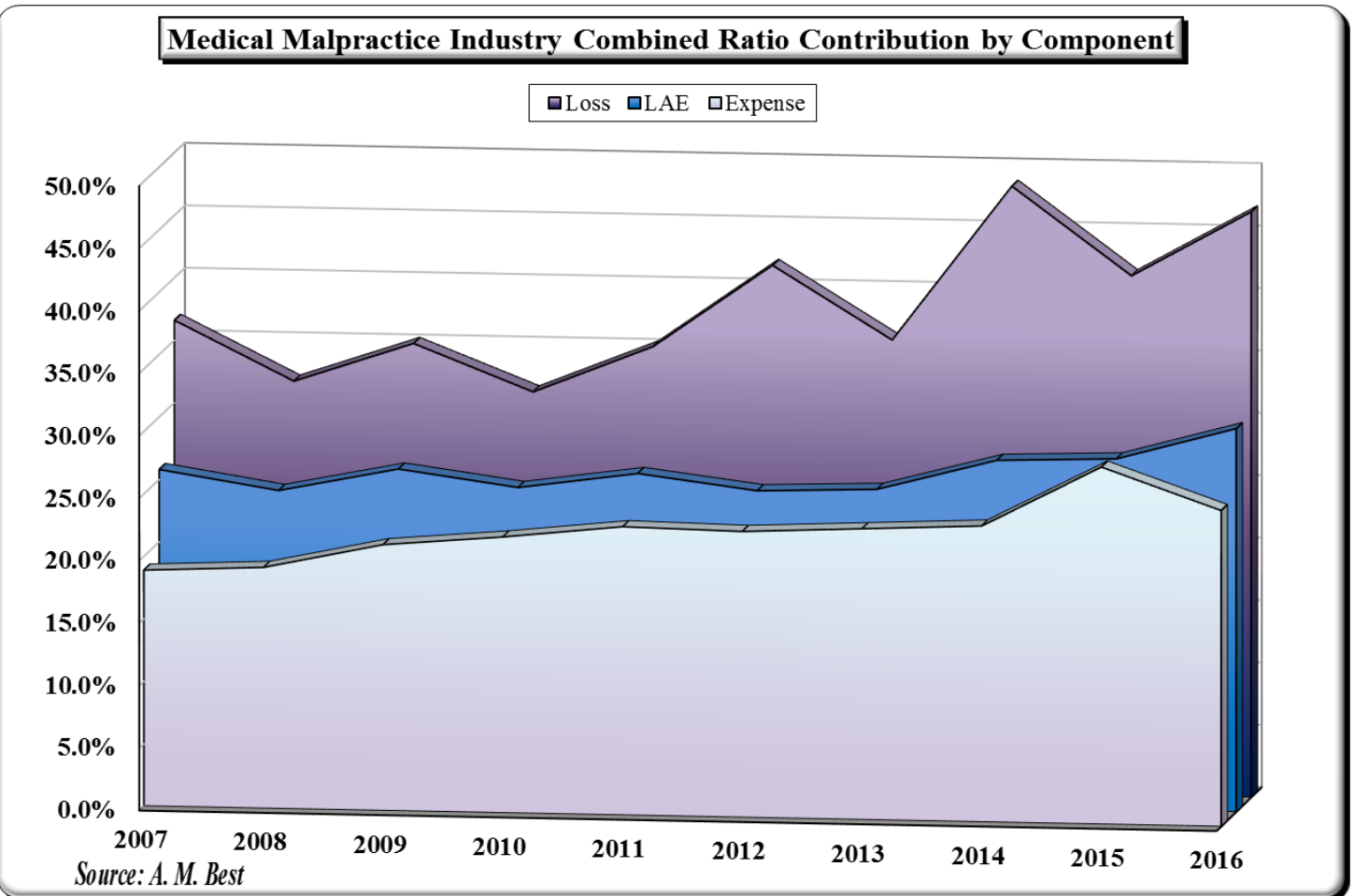
Medical malpractice has shown overall improvement since the adverse levels in 2001, and is now performing below the total combined property and casualty industry results. However, there has been a steady increase in the overall medical malpractice operating ratio since 2010. When considering the last seven years only, the operating ratio has increased over 40.3% from 65.8% in 2010 to the most current 92.3% in 2016. 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
- Broadened coverage
- Broader or reduced underwriting criteria
- Increased policy limits
- Increased competition among insurance carriers

The graph below displays the industry net operating ratios realized during the last 10 years:



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



As displayed in the graph, both direct loss and loss expenses are responsible for the 3.7% operating ratio increase from 2015 levels while underwriting expenses decreased. Loss and loss adjusting expense (LAE) includes the monies paid to directly manage claims. LAE includes any expenses that are associated with investigating and adjusting claims. Underwriting expenses include commissions, taxes, salaries, carrier 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 2017 Edition.

<b>Year</b>	<b>Loss</b>	<b>LAE</b>	<b>Expense</b>
2015	41.6%	28.1%	28.6%
2016	46.9%	30.7%	25.3%
Difference	12.7%	9.3%	(11.5%)

Profitability for medical malpractice writers can be examined in the following table. Profitability can be volatile from year to year, thus it is important to look at a number of years:

<b>Profitability - 222 Medical Malpractice Organizations</b>										
	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>Net Income (\$M)</b>	\$1,844	\$1,272	\$1,732	\$2,079	\$2,061	\$1,796	\$1,547	\$1,698	\$0.851	\$0.740
<b>Surplus (\$M)</b>	\$10,790	\$10,772	\$12,464	\$13,549	\$14,601	\$16,111	\$17,788	\$19,445	\$19,418	\$19,969
<b>Return on Surplus</b>	18.4%	11.8%	19.1%	17.8%	12.0%	12.4%	11.9%	9.7%	2.3%	5.8%

Source: A.M. Best

Surplus is one indicator of an insurance company's financial strength. It is calculated by taking the difference between an insurer's admitted assets and liabilities. Several factors contribute to increases or decreases in surplus. However, a major component is net income. An insurer's operational profitability directly impacts surplus.

## **I-B: 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.

<b>Year</b>	<b>Loss</b>	<b>LAE</b>	<b>Expense</b>
2015	60.5%	18.7%	13.8%
2016	80.7%	36.2%	14.6%
Difference	33.3%	93.3%	5.9%

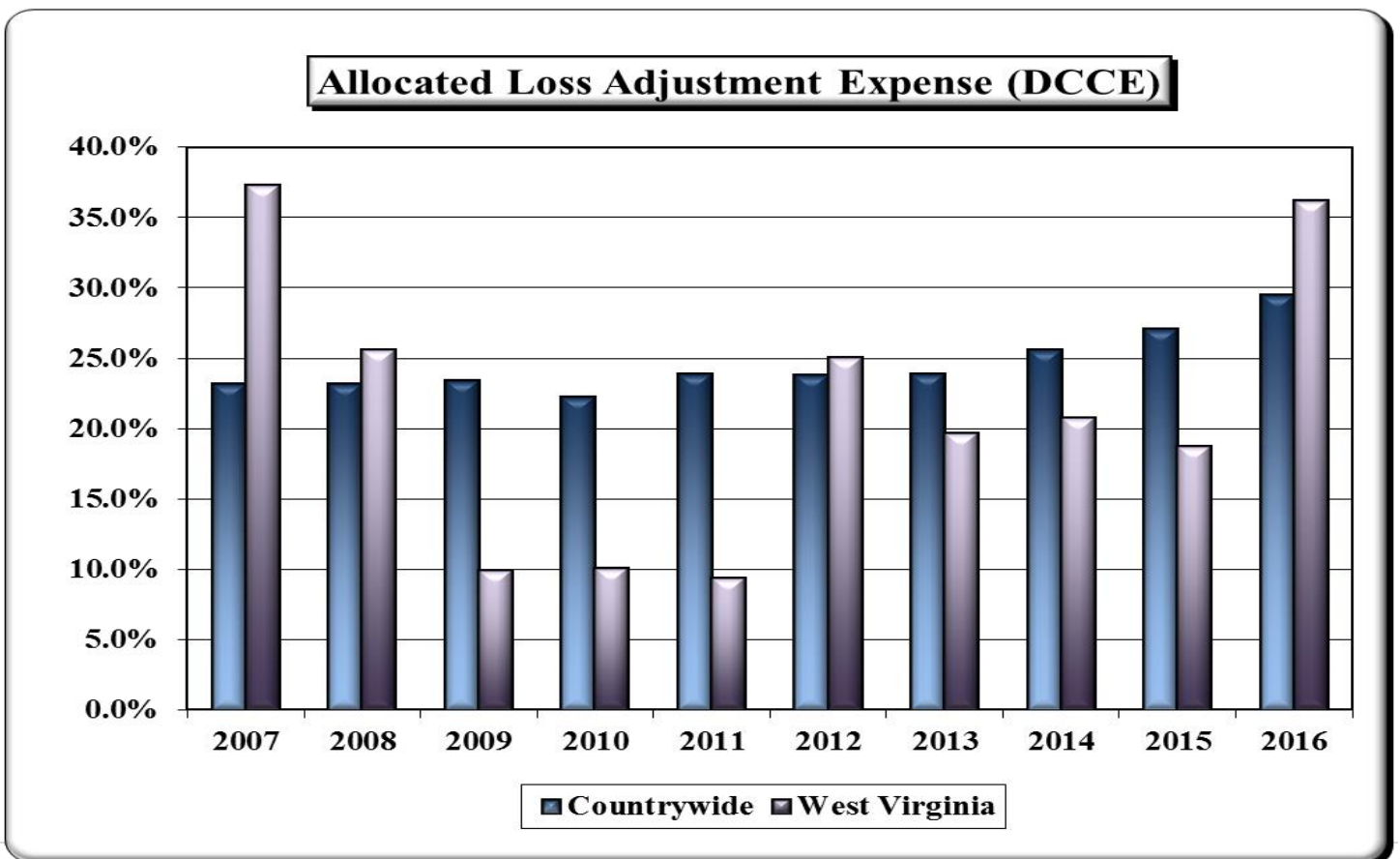
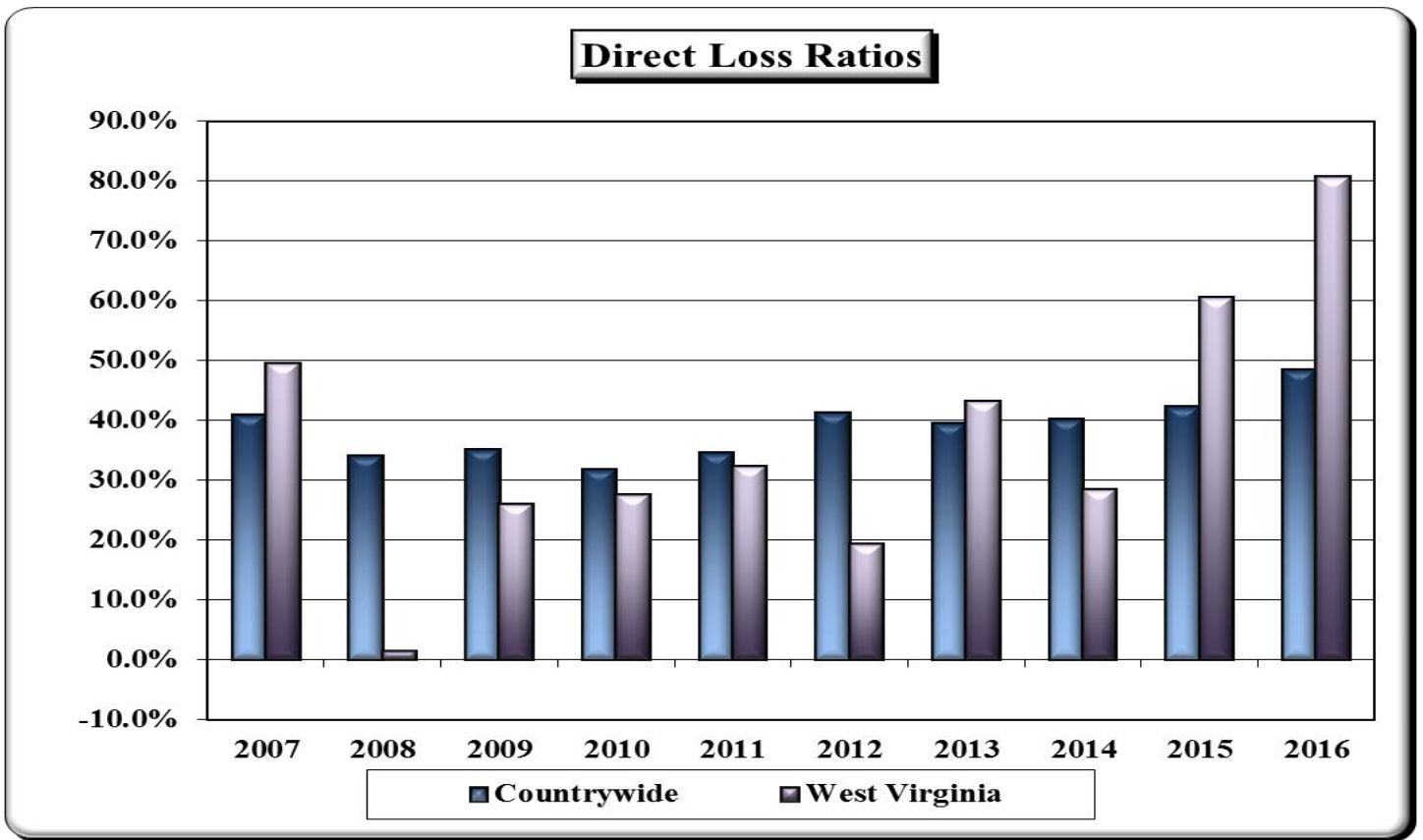
The following exhibits provide a comparison of the Medical Malpractice line of business for the countrywide industry along with results for West Virginia for the past ten years. In reviewing this exhibit, a few key areas of difference are noted.

- West Virginia medical malpractice premiums have decreased by approximately 27% since the 2007 premium level. Premiums have steadily declined at an average rate of -3.2% each year over the last ten years.
- Greater volatility in direct West Virginia loss ratios in part due to our relatively small market size.
- LAE expenses had a significant increase due to the more severe medical malpractice claims.
- West Virginia underwriting expenses increased at a significant pace when compared to the national trend. This could be causally related to the lower premiums realized while carrier expenses remain unchanged.

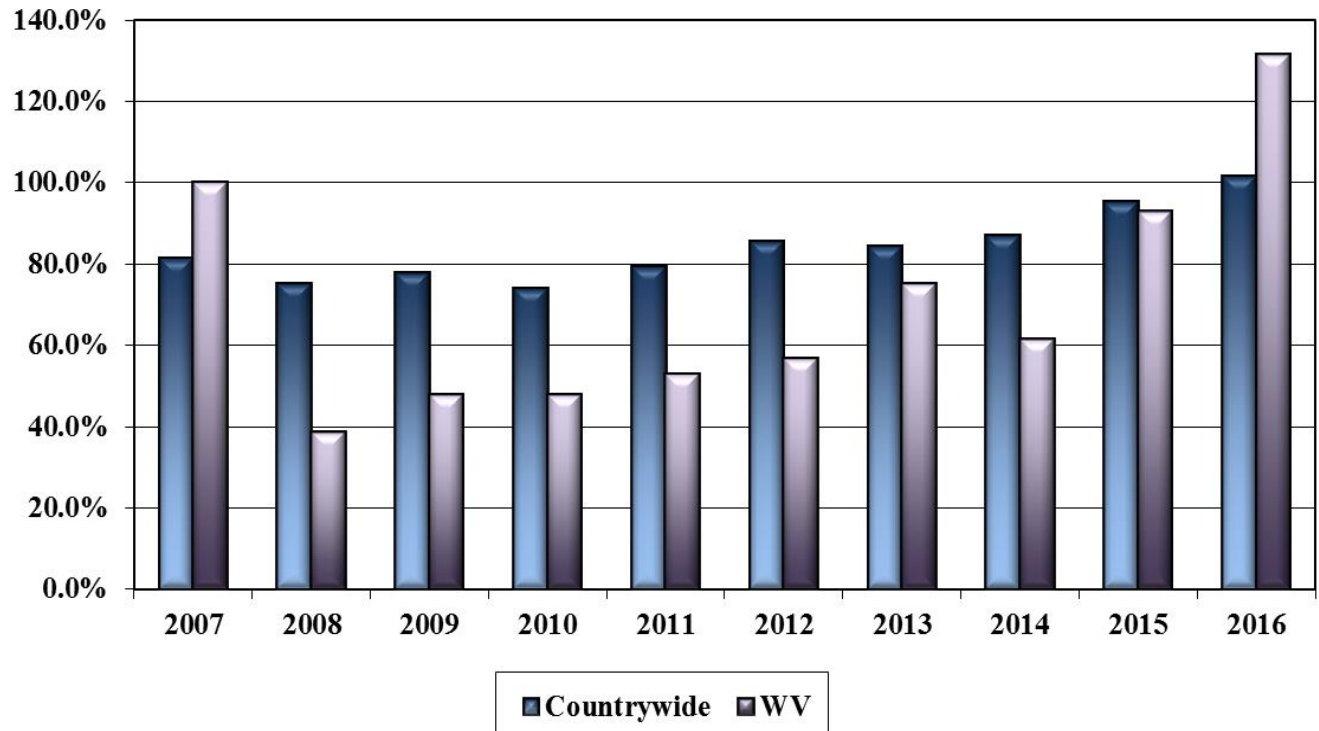
This data is on a calendar year basis. Increases or decreases in loss reserves from previous years will be carried forward to the calendar year on an accounting basis. This can result in incurred loss amounts which may appear inflated or even result in overall negative dollar values for the year.

The direct loss ratio on a countrywide basis increased somewhat from the prior year while the West Virginia direct loss ratio increased significantly from 60.5% to 80.7% in 2016.

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



### Direct Combined Ratios

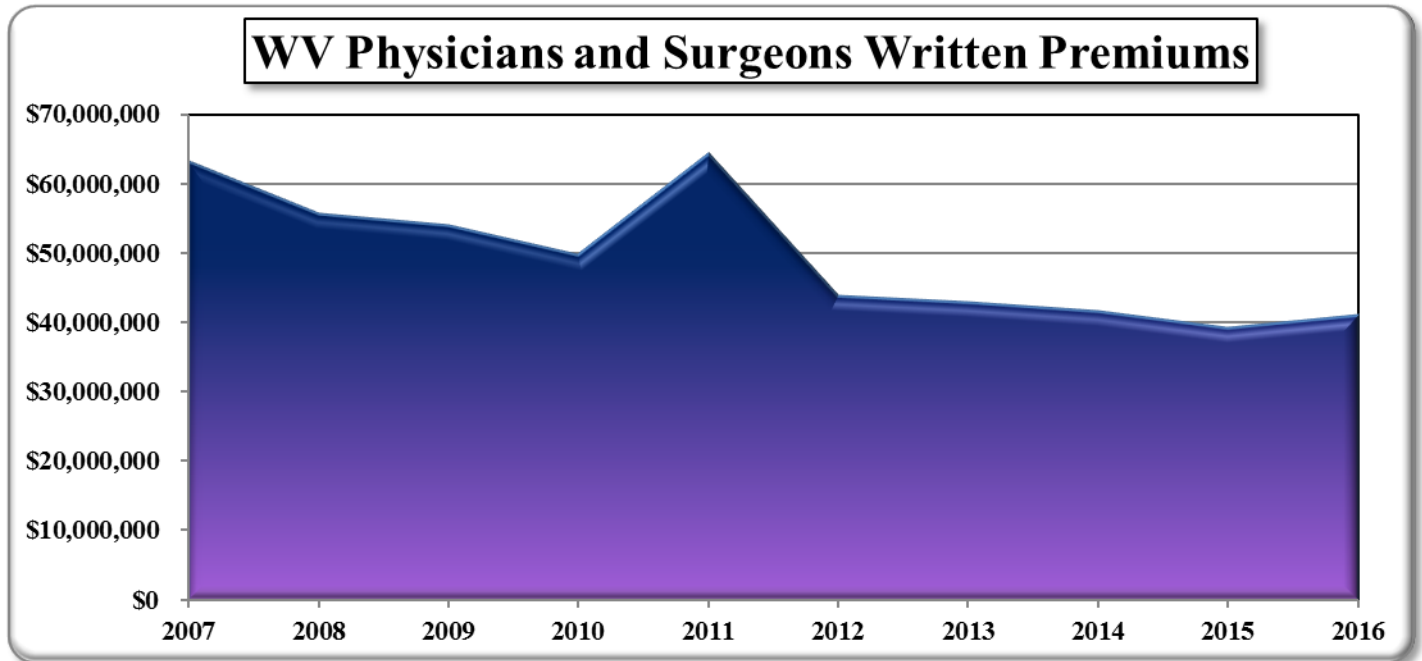


The medical malpractice line of business results above includes aggregated experience for all the various sub-lines of Medical Malpractice insurance. The sublines consist of four (4) categories of specialization. Those categories are Physician and Surgeons, Hospitals, Other Facilities and Other Professionals.

Considering only the Physicians and Surgeons sub-line in West Virginia, the following experience is found:

Year	\$ Written	\$ Earned	Loss Inc	Loss Ratio	# Co's
<b>2007</b>	\$63,070,586	\$63,426,938	\$18,800,876	29.64%	50
<b>2008</b>	\$55,572,225	\$56,622,546	\$15,230,057	26.90%	50
<b>2009</b>	\$53,932,735	\$54,778,791	\$20,234,613	36.94%	57
<b>2010</b>	\$49,672,860	\$53,656,100	\$17,373,435	32.38%	53
<b>2011</b>	\$64,270,333	\$67,428,066	\$24,647,166	36.55%	53
<b>2012</b>	\$43,657,853	\$44,800,396	\$423,763	0.95%	52
<b>2013</b>	\$42,760,927	\$44,220,828	\$21,776,607	49.25%	55
<b>2014</b>	\$41,537,054	\$41,393,407	\$23,121,508	55.86%	53
<b>2015</b>	\$39,064,366	\$39,351,590	\$21,543,953	54.75%	53
<b>2016</b>	\$40,961,270	\$41,272,329	\$17,831,235	43.21%	52

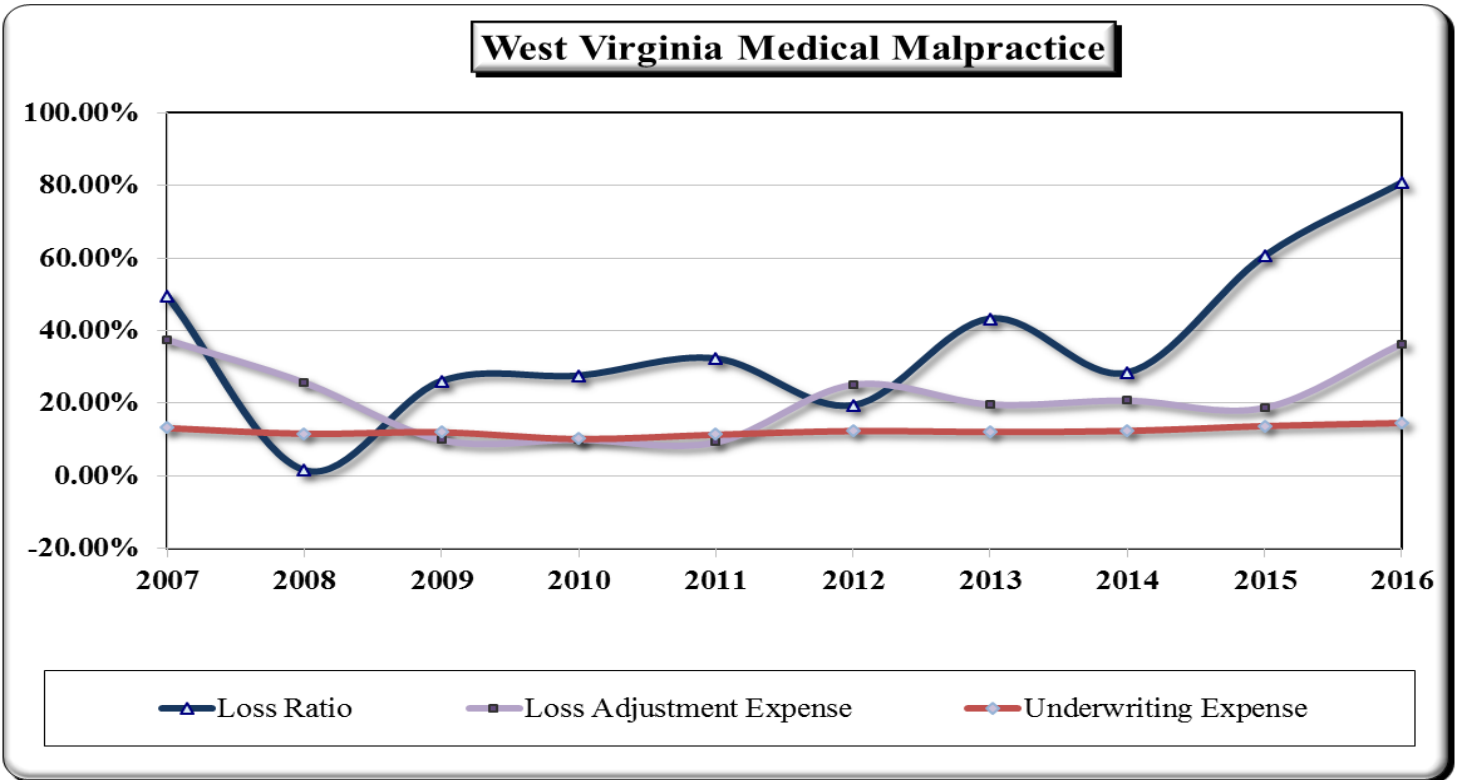
Graphical representation of the written premium data for the Physicians and Surgeons market:



As noted in both the table and the graph, the Physicians and Surgeons premiums and direct loss ratios 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 carrier 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 very slight decreasing trend (not considering the 2011 reporting issue noted above) while the pure direct loss ratio is widely volatile 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.

## 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.

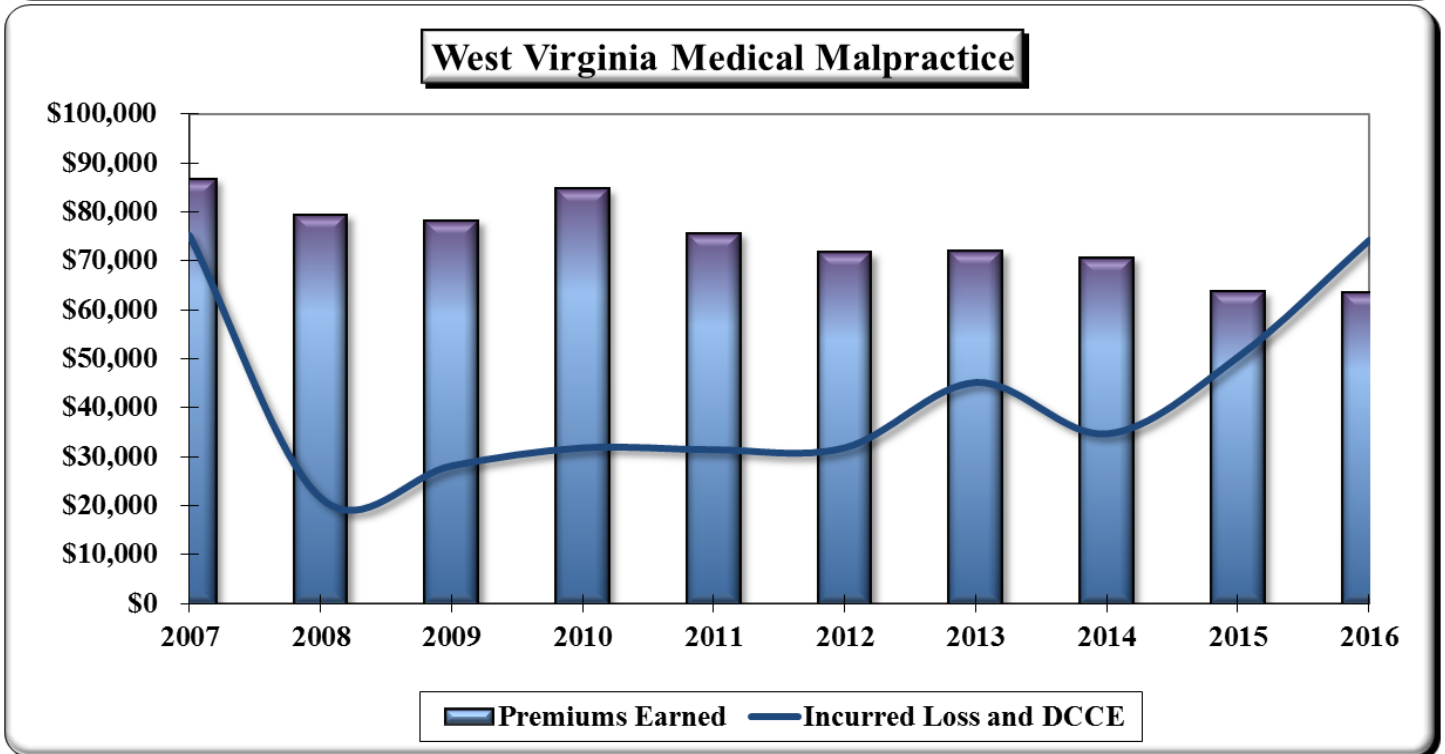
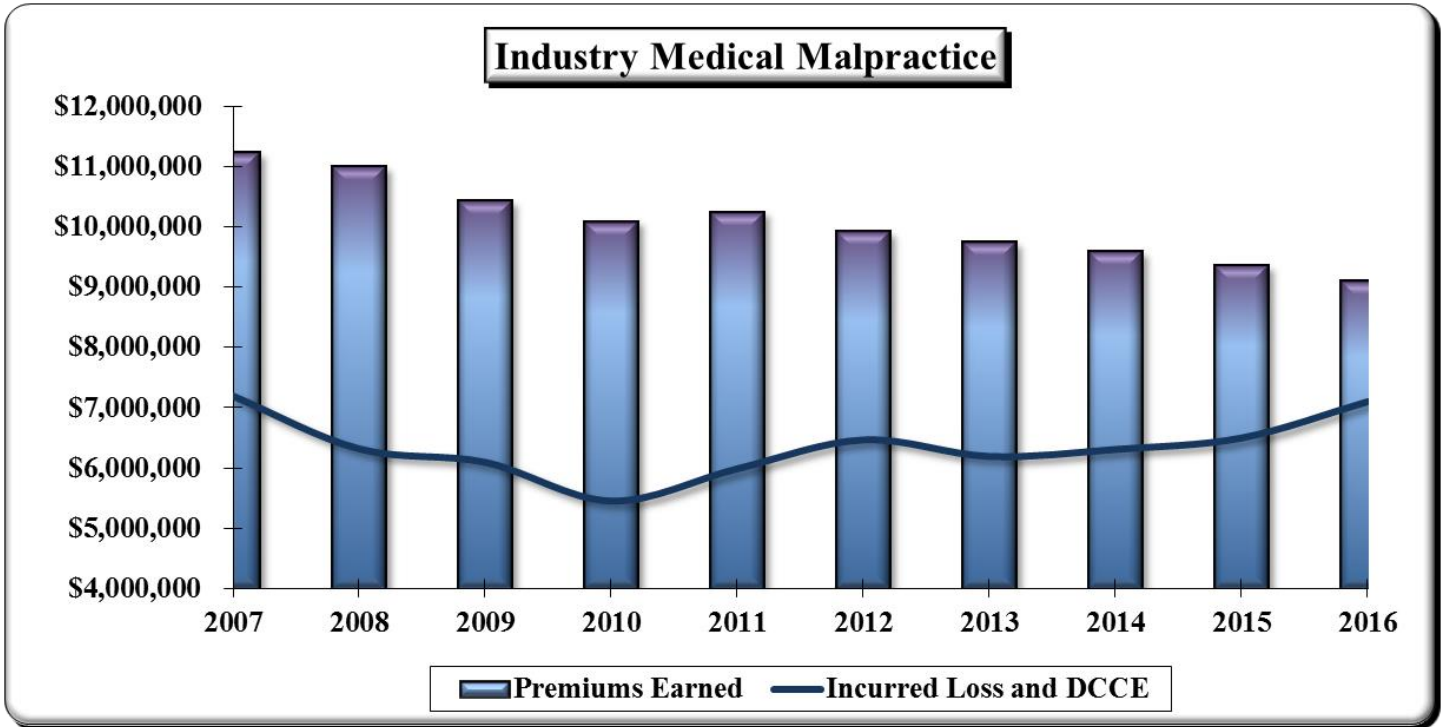


While both the direct loss ratio and loss adjustment expense fluctuate, the underwriting expenses have remained static in the last ten years. While it appears that losses are in a general upward trend, it should be noted that the West Virginia medical malpractice overall current market conditions have shown a marked improvement from earlier years.



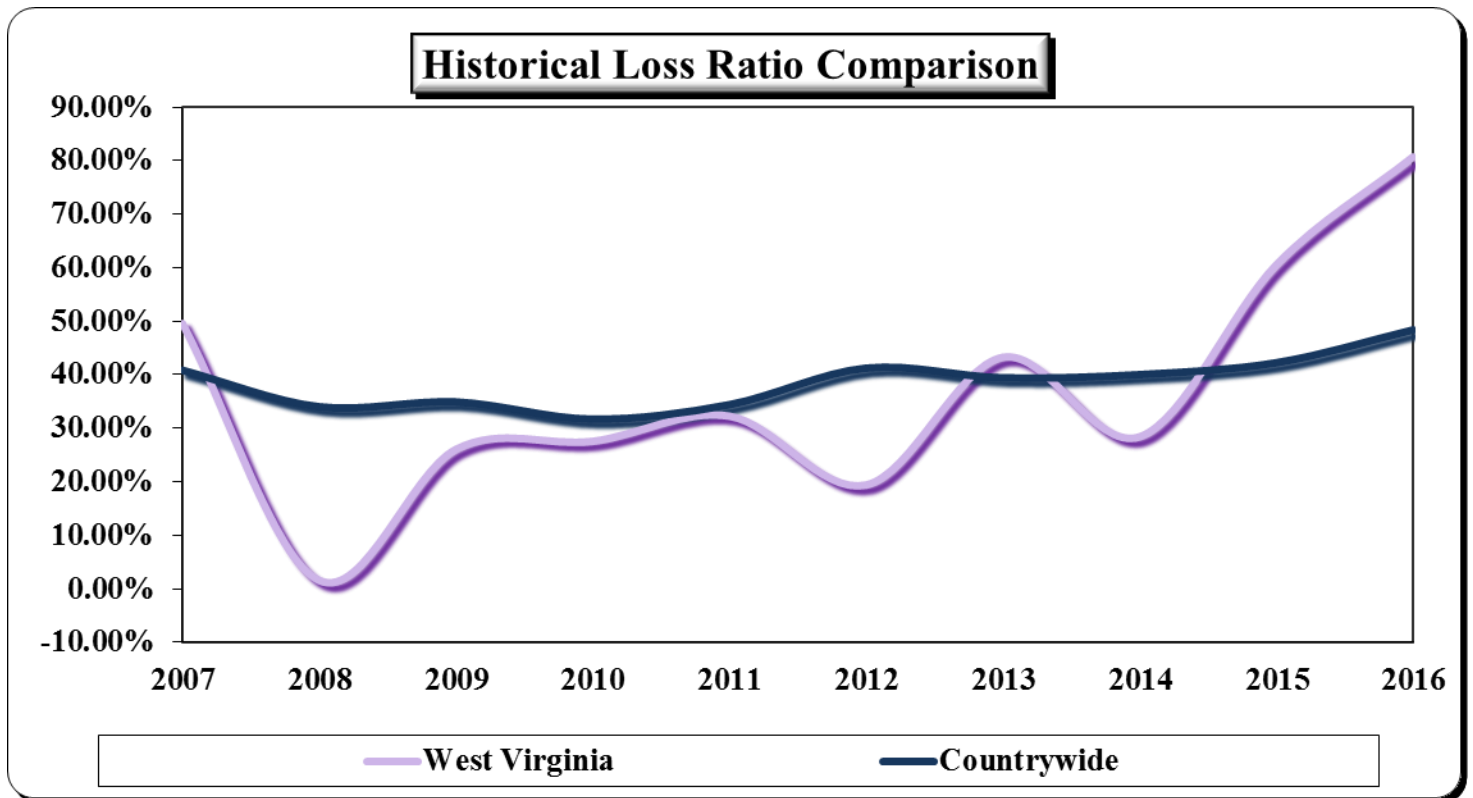
## I-D: Loss and Defense Costs Incurred vs. Premiums Earned

The charts below compare losses and defense costs for the countrywide industry against the comparable figures for the West Virginia market. That results for loss and defense cost 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 58.1% of the premiums earned. However, 2016 is the first year since 2002 where the losses and loss expenses exceeded the earned premiums.



## I-E: Historical Loss Ratio Comparison

Recent loss ratio experience in West Virginia for medical malpractice remains an improvement over that experienced as recently as 2002 but is trending 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 have not been stable historically. This 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.



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# **Section II**

## **A Review of Paid / Closed Claim Data**

## **II: Analysis of Paid Claim Information**

**Cautionary note:** 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 as such, it has not been audited for accuracy. “Disposition” in this case means claims which have been dismissed, settled, or adjudicated. These data represent indemnity payments only, thus, loss adjustment expense amounts are necessarily excluded. While not strictly matching insurance data, this information is useful in attempting to identifying trends. It should also be noted that the data does not include hospitals or doctors working within corporate structures. 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 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 only requires the reporting of data for claims which are considered to be closed by the insurer. Open claims are therefore necessarily entirely excluded from this dataset, and likewise it is possible that claims which have been administratively closed due to inactivity or apparent abandonment on behalf of the claimant may reopen at a later date and undergo additional development.

**Advisory:** 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 (i.e. all individual payment amounts greater than \$1M only count only as \$1M each) 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.

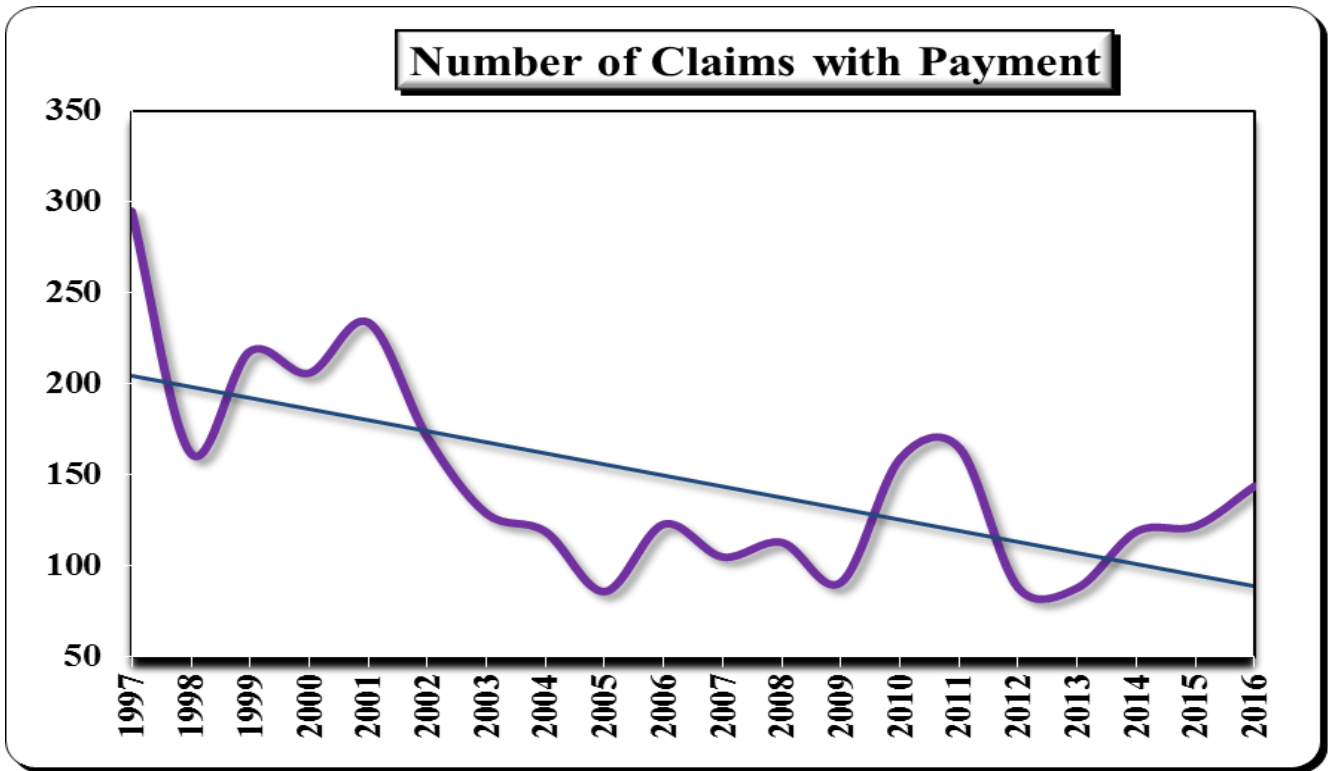
## II-A: How Malpractice Claims are Disposed in West Virginia

The exhibit below displays paid claim count information for 1995 – 2016.

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
<b>1995</b>	103	31%	14	38	11%	187	190	57%	<b>331</b>
<b>1996</b>	81	27%	5	20	7%	191	194	66%	<b>295</b>
<b>1997</b>	114	27%	9	28	7%	286	286	67%	<b>428</b>
<b>1998</b>	53	22%	9	27	11%	153	156	66%	<b>236</b>
<b>1999</b>	99	30%	15	28	8%	203	206	62%	<b>333</b>
<b>2000</b>	104	30%	7	37	11%	199	203	59%	<b>344</b>
<b>2001</b>	112	30%	9	37	10%	225	226	60%	<b>375</b>
<b>2002</b>	122	39%	7	25	8%	164	165	53%	<b>312</b>
<b>2003</b>	108	42%	4	23	9%	125	127	49%	<b>258</b>
<b>2004</b>	87	39%	6	24	11%	113	113	50%	<b>224</b>
<b>2005</b>	77	44%	5	15	9%	81	82	47%	<b>174</b>
<b>2006</b>	72	35%	3	12	6%	120	120	59%	<b>204</b>
<b>2007</b>	40	24%	1	15	9%	104	109	66%	<b>164</b>
<b>2008</b>	73	37%	8	14	7%	105	108	55%	<b>195</b>
<b>2009</b>	71	41%	5	14	8%	86	89	51%	<b>174</b>
<b>2010</b>	23	12%	1	7	4%	158	158	84%	<b>188</b>
<b>2011</b>	21	11%	3	8	4%	162	162	85%	<b>191</b>
<b>2012</b>	0	0%	2	7	8%	86	86	92%	<b>93</b>
<b>2013</b>	1	1%	1	3	3%	87	87	96%	<b>91</b>
<b>2014</b>	0	0%	3	3	2%	119	119	98%	<b>122</b>
<b>2015</b>	0	0%	2	3	2%	120	120	98%	<b>123</b>
<b>2016</b>	0	0%	4	5	3%	140	140	97%	<b>145</b>
<b>Total</b>	<b>1,514</b>	<b>27%</b>	<b>141</b>	<b>447</b>	<b>8%</b>	<b>3,603</b>	<b>3,641</b>	<b>65%</b>	<b>5,602</b>

- 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 2011 when reporting dismissals was no longer a requirement.
- 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.
- In general, the number of claims filed has dropped significantly, approximately 61%, since the passage of the 2001 legislation.

- Graphically, note the downward linear trend in the number of paid claims since 1997:



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 claim count is much lower than 1997 counts, it should be noted that the counts have increased from the 2012 levels and are now trending higher than anticipated as shown on the graph.

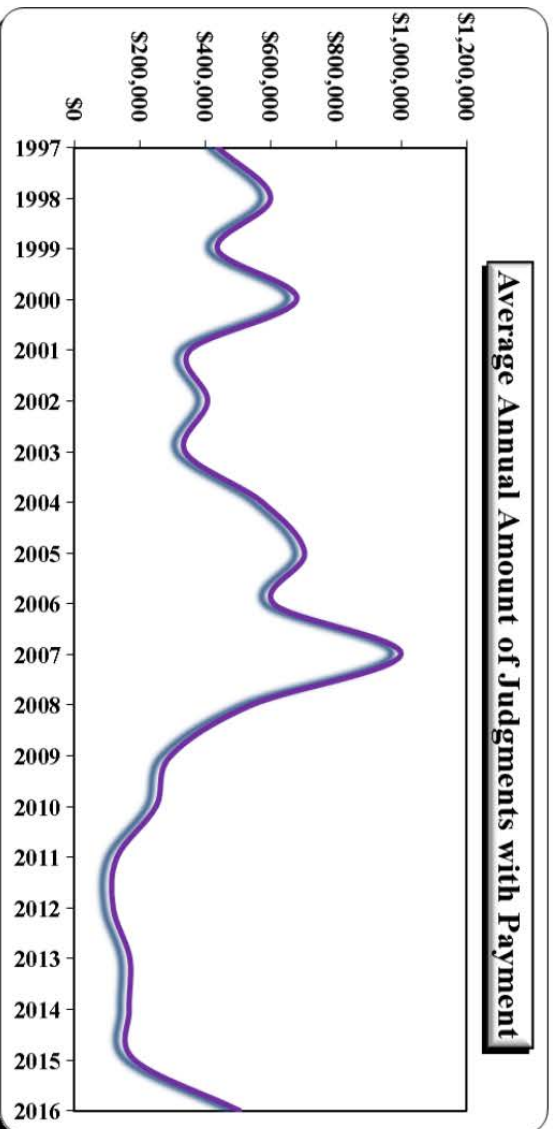
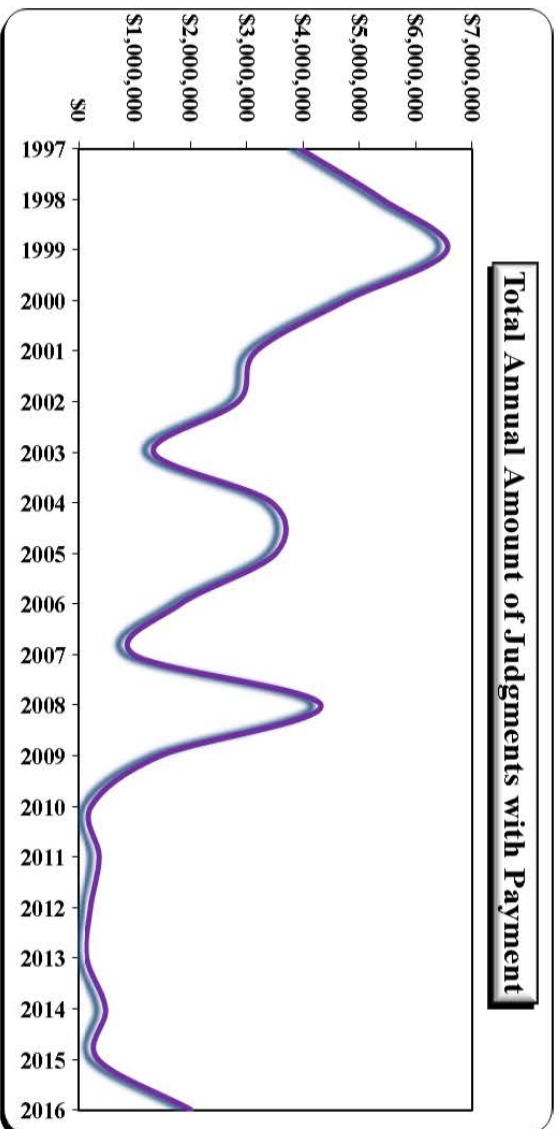
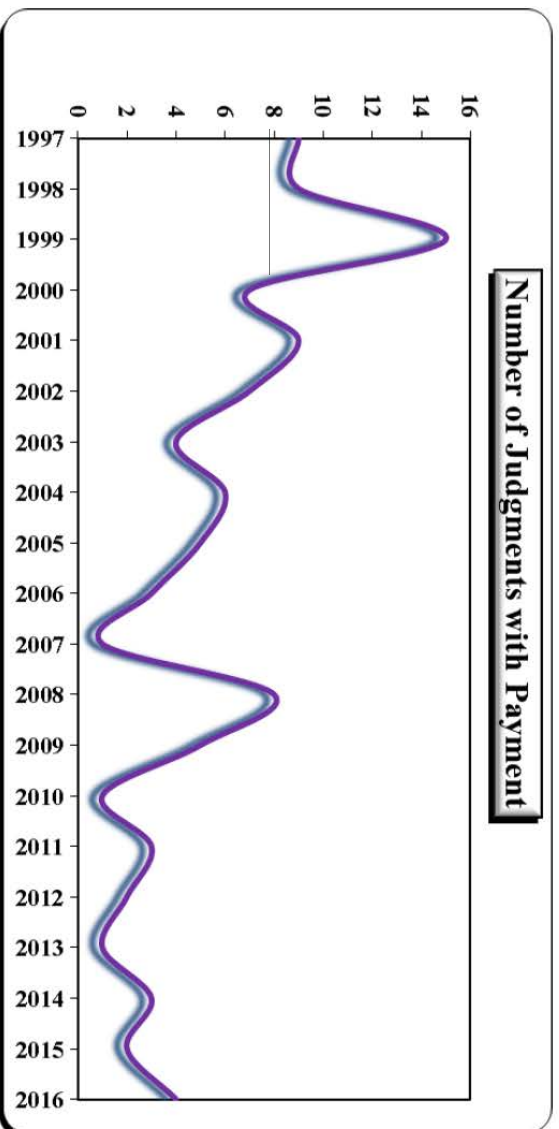
## II-B: Historical Judgments

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

<b>West Virginia Board of Medicine</b>			
<b>Judgments</b> with payments capped at \$1,000,000			
<b>Year</b>	<b>#</b>	<b>Amount</b>	<b>Average</b>
1997	9	\$3,951,907	\$439,101
1998	9	\$5,409,154	\$601,017
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
<b>20 Years</b>	<b>104</b>	<b>\$47,637,169</b>	<b>\$458,050</b>

This table shows that even after limiting large awards to reduce volatility, there is no clear pattern of either an increasing number of judgments or a consistent increase in total paid judgments. Rather, 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. However, 2016 produced the highest average per judgment amount since 2008 with half as many paid judgments. While it may appear that the frequency of judgments with payments has remained stable, the severity of the judgements did increase quite significantly in 2016 after being fairly stable the previous five years.

Graphical linear representations of the preceding tabled 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 this average for 2007. 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 by size of payment.

Interval	2002		2003		2004		2005		2006	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	18	\$0	19	\$0	18	\$0	10	\$0	9	\$0
\$0<loss<=\$100K	3	\$175,073	0	\$0	1	\$75,000	0	\$0	0	\$0
\$100K<loss<=\$250K	0	\$0	1	\$160,000	0	\$0	1	\$250,000	1	\$227,449
\$250K<loss<=\$500K	2	\$680,150	3	\$1,195,000	2	\$811,994	1	\$274,909	0	\$0
\$500K<loss<=\$1M	1	\$1,000,000	0	\$0	3	\$2,569,250	0	\$0	1	\$603,540
\$1M<loss	1	\$6,238,000	0	\$0	0	\$0	3	\$8,321,888	1	\$1,014,165
<b>Total Judgments</b>	25	\$8,093,223	23	\$1,355,000	24	\$3,456,244	15	\$8,846,797	12	\$1,845,154
<b>Total Non-Zero*</b>	7	\$2,855,223	4	\$1,355,000	6	\$3,456,244	5	\$3,524,909	3	\$1,830,989

Interval	2007		2008		2009		2010		2011	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	14	\$0	6	\$0	9	\$0	6	\$0	5	\$0
\$0<loss<=\$100K	0	\$0	1	\$75,000	0	\$0	0	\$0	2	\$115,879
\$100K<loss<=\$250K	0	\$0	2	\$450,000	3	\$575,000	1	\$250,000	0	\$0
\$250K<loss<=\$500K	0	\$0	2	\$800,596	1	\$300,000	0	\$0	1	\$275,000
\$500K<loss<=\$1M	0	\$0	0	\$0	1	\$600,000	0	\$0	0	\$0
\$1M<loss	1	\$1,705,936	3	\$8,350,000	0	\$0	0	\$0	0	\$0
<b>Total Judgments</b>	15	\$1,705,936	14	\$9,675,596	14	\$1,475,000	7	\$250,000	8	\$390,879
<b>Total Non-Zero*</b>	1	\$1,000,000	8	\$4,325,596	5	\$1,475,000	1	\$250,000	3	\$390,879

Interval	2012		2013		2014		2015		2016	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	5	\$0	2	\$0	0	\$0	1	\$0	1	\$0
\$0<loss<=\$100K	1	\$68,725	0	\$0	1	\$35,000	1	\$11,216	1	\$70,000
\$100K<loss<=\$250K	1	\$168,814	1	\$170,000	1	\$174,000	0	\$0	0	\$0
\$250K<loss<=\$500K	0	\$0	0	\$0	1	\$295,000	1	\$356,000	1	\$300,000
\$500K<loss<=\$1M	0	\$0	0	\$0	0	\$0	0	\$0	2	\$1,650,000
\$1M<loss	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
<b>Total Judgments</b>	7	\$237,539	3	\$170,000	3	\$504,000	3	\$367,216	5	\$2,020,000
<b>Total Non-Zero*</b>	2	\$237,539	1	\$170,000	3	\$504,000	2	\$367,216	4	\$2,020,000

\*The second Total excludes claims which resulted in no indemnity payment and caps individual claims at a \$1M value.

## II-C: Historical Settlements

In a manner similar to judgments, we now look at settlements.

### West Virginia Board of Medicine

#### Size of Paid Settlements

Interval	2002		2003		2004		2005		2006	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	1	\$0	2	\$0	0	\$0	1	\$0	0	\$0
\$0<loss<=\$50K	57	\$1,229,665	26	\$625,434	40	\$861,532	29	\$803,164	47	\$1,352,631
\$50K<loss<=\$100K	15	\$1,214,000	15	\$1,252,000	16	\$1,362,500	8	\$660,000	19	\$1,452,250
\$100K<loss<=\$250K	49	\$8,500,031	35	\$6,725,418	21	\$4,016,403	19	\$3,198,750	26	\$4,812,500
\$250K<loss<=\$500K	26	\$10,065,000	29	\$11,363,125	24	\$9,529,000	16	\$5,752,500	18	\$6,393,000
\$500K<loss<=\$1M	18	\$13,255,516	16	\$13,878,750	5	\$3,550,000	8	\$5,731,250	7	\$5,400,000
\$1M<loss	0	\$0	6	\$14,438,368	7	\$11,500,000	2	\$3,250,000	3	\$6,350,000
<b>Total Settlements</b>	166	\$34,264,212	129	\$48,283,095	113	\$30,819,435	83	\$19,395,664	120	\$25,760,381
<b>Total Non-Zero*</b>	165	\$34,264,212	127	\$39,844,727	113	\$26,319,435	82	\$18,145,664	120	\$22,410,381

Interval	2007		2008		2009		2010		2011	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	5	\$0	3	\$0	3	\$0	0	\$0	0	\$0
\$0<loss<=\$50K	27	\$605,014	36	\$982,998	23	\$697,523	93	\$1,052,198	53	\$755,525
\$50K<loss<=\$100K	11	\$705,800	16	\$1,261,000	18	\$1,397,458	16	\$1,261,125	51	\$4,148,838
\$100K<loss<=\$250K	29	\$4,486,666	27	\$4,543,528	23	\$4,327,625	24	\$4,393,999	24	\$3,505,165
\$250K<loss<=\$500K	17	\$6,062,500	13	\$5,127,500	16	\$5,999,490	14	\$4,911,250	14	\$4,775,000
\$500K<loss<=\$1M	13	\$9,288,182	12	\$9,900,000	6	\$4,900,000	9	\$6,875,000	13	\$8,432,236
\$1M<loss	7	\$8,896,822	1	\$1,900,000	0	\$0	2	\$2,750,000	7	\$7,900,000
<b>Total Settlements</b>	109	\$30,044,984	108	\$23,715,026	89	\$17,322,096	158	\$21,243,572	162	\$29,516,764
<b>Total Non-Zero*</b>	104	\$28,148,162	105	\$22,815,026	86	\$17,322,096	158	\$20,493,572	162	\$28,616,764

Interval	2012		2013		2014		2015		2016	
	#	\$	#	\$	#	\$	#	\$	#	\$
Loss=\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0
\$0<loss<=\$50K	16	\$313,035	15	\$260,910	31	\$765,233	23	\$736,500	38	\$1,061,041
\$50K<loss<=\$100K	9	\$571,000	18	\$1,240,500	19	\$1,677,167	9	\$803,000	17	\$1,356,000
\$100K<loss<=\$250K	28	\$3,860,000	18	\$2,933,753	26	\$4,987,507	26	\$5,145,166	36	\$6,779,740
\$250K<loss<=\$500K	19	\$5,992,500	17	\$6,110,000	22	\$8,538,856	35	\$12,619,930	29	\$10,877,249
\$500K<loss<=\$1M	9	\$6,620,000	15	\$10,902,504	18	\$15,018,411	23	\$16,955,000	18	\$15,070,833
\$1M<loss	5	\$9,300,000	4	\$4,450,000	3	\$5,825,000	4	\$10,825,000	2	\$3,900,000
<b>Total Settlements</b>	86	\$26,656,535	87	\$25,897,667	119	\$36,812,174	120	\$47,084,596	140	\$39,044,863
<b>Total Non-Zero*</b>	86	\$22,356,535	87	\$25,447,667	119	\$33,987,174	120	\$40,259,596	140	\$37,144,863

\*\*The second Total excludes claims which resulted in no indemnity payment and caps individual claims at a \$1M value.

Settlements comprise the most common resolution for claim payments at 97% of all medical malpractice claims reported to the WV Board of Medicine. Over the last 15 years noted in the table above, there was an average of 118 paid settlements per year with an average uncapped settlement of \$256,968.

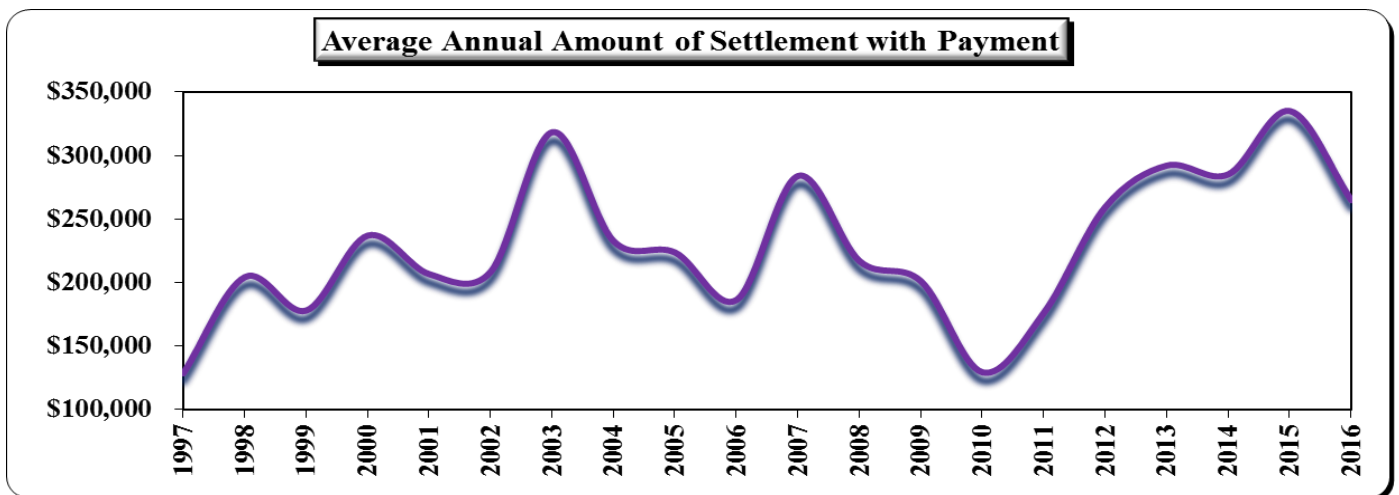
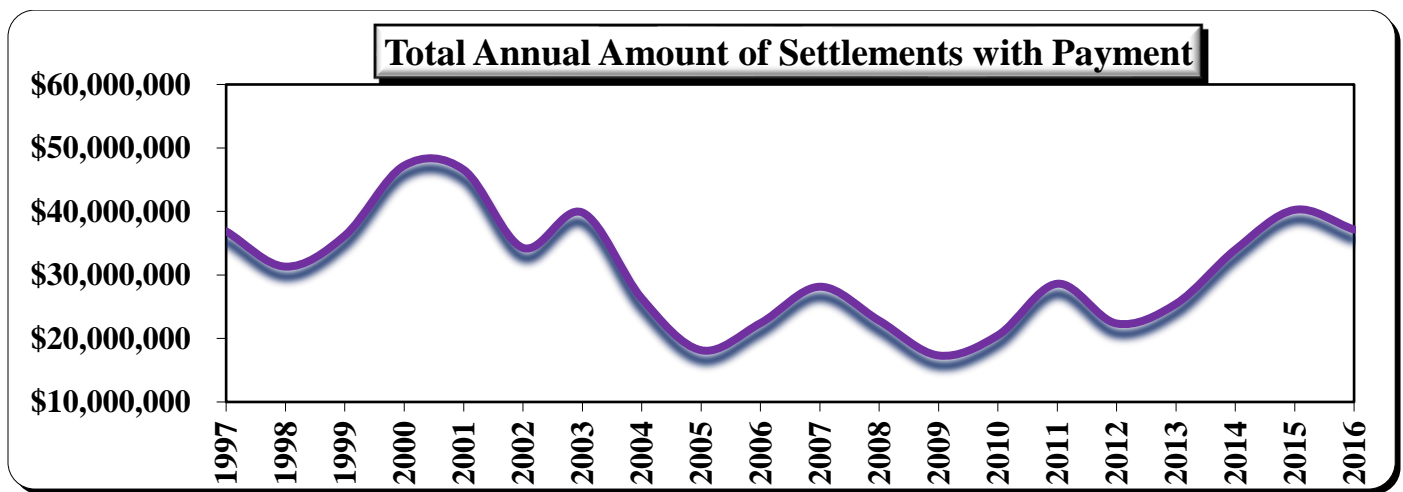
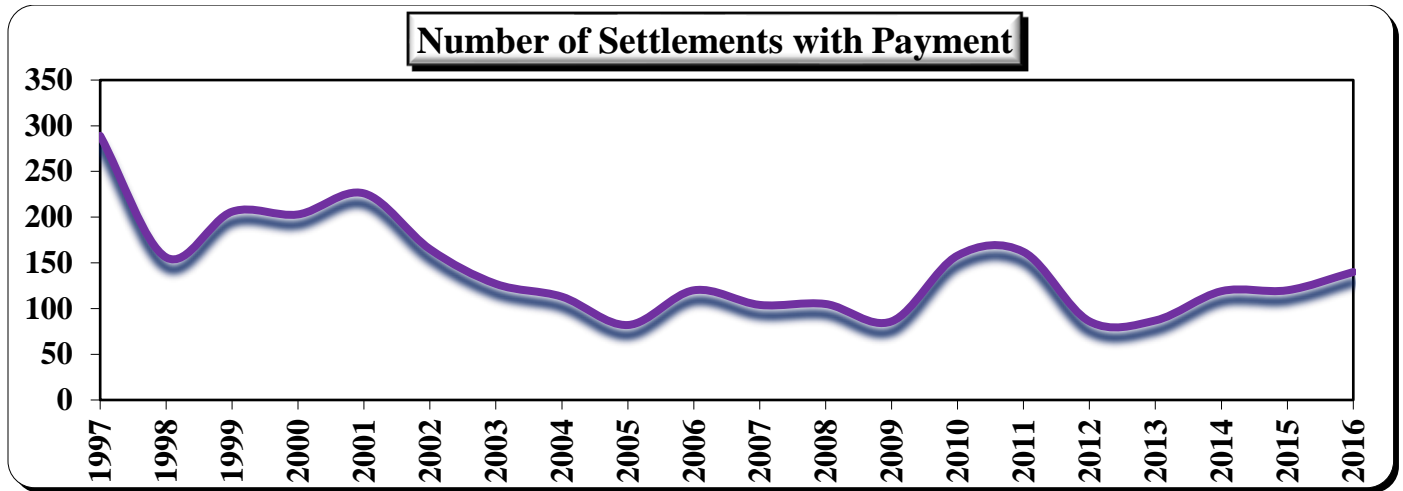
As was done for judgments, we will cap settled claims at \$1,000,000 and provide the following table of information:

<b>West Virginia Board of Medicine</b>			
<b><u>Settlements</u> with payment capped at \$1,000,000</b>			
<b>Year</b>	<b>#</b>	<b>Amount</b>	<b>Average</b>
1997	289	\$36,874,345	\$128,931
1998	156	\$31,312,836	\$204,659
1999	206	\$36,202,779	\$178,339
2000	203	\$47,231,896	\$237,346
2001	226	\$46,581,246	\$207,028
2002	165	\$34,264,212	\$208,928
2003	127	\$39,844,727	\$318,758
2004	113	\$26,319,435	\$232,915
2005	82	\$18,145,664	\$224,021
2006	120	\$22,410,381	\$186,753
2007	104	\$28,148,162	\$284,325
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
<b>20 Years</b>	<b>2,854</b>	<b>\$615,778,976</b>	<b>\$215,760</b>

- From the above data, which limits claims to \$1,000,000, for the years 1997-2011 combined the average paid settlement was \$198,342. For 2012-2016 combined, the average paid settlement was \$288,398. This represents a 45% increase in the last five years over the previous 15 years combined all while having a lower claim count average. The average settlement count for the 1997 – 2011 timeframe was 154 while the 2012 – 2016 settlement count was 110.
- As with judgments, the small number of settlements restricts the credibility of the data. The number of settlements have been on the rise since 2012 with the last three years realizing significant increased frequency.

- Settlements are not trending in correlation with judgments. With judgments, the frequency was stable, but the severity increased. The opposite would appear to be true when comparing the settlement trending. The frequency is increasing while the severity shows slight decreases with 2016 having the lowest average per settlement since 2012.

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



## II-D: Closed Claim (§33-20B-8) Data

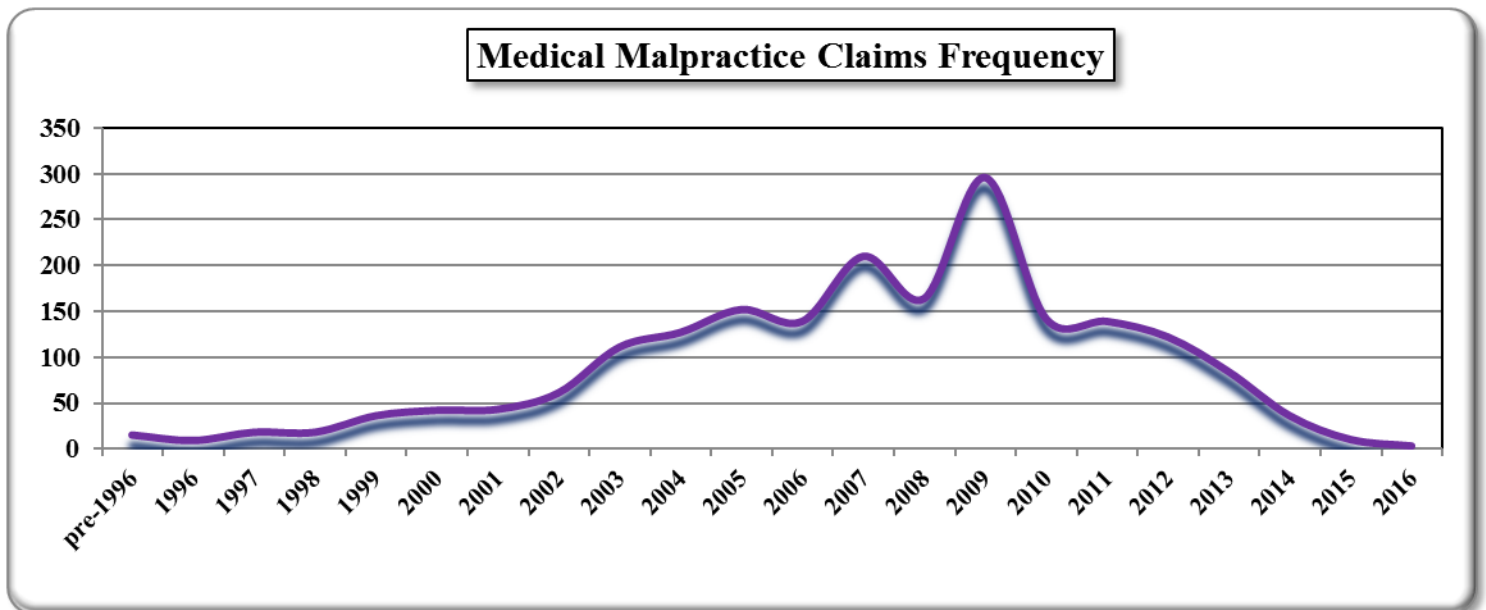
In accordance with §33-20B-8, enhanced closed/paid medical malpractice information has been collected by the WVOIC from insurers. This method of collecting claim data was revised by the WVOIC in May 2017. Previously, carriers were required to complete and return paper forms to the WVOIC via email, postal 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 for carriers to complete the form online via fillable fields and submit to the WVOIC in real time thus saving time and money for the carriers and WVOIC personnel. The response has been very positive and well received by the carrier community.

In review of this data, and examining only physician and surgeon claims, the following general financial overview can be found on an accident year basis by Date of Injury (D.O.I.).

D.O.I.	Claims	Indemnity Paid	Economic Damages Paid	Non-Economic Damages Paid	Punitive Damages Paid	Non-LAE Total	Non-LAE Avg
<b>pre-1996</b>	15	\$898,500	\$200,100	\$253,500	\$0	\$1,352,100	\$90,140
<b>1996</b>	9	\$1,405,822	\$25,000	\$0	\$0	\$1,430,822	\$158,980
<b>1997</b>	18	\$1,013,000	\$0	\$478,000	\$0	\$1,491,000	\$82,833
<b>1998</b>	18	\$759,285	\$0	\$40,000	\$0	\$799,285	\$44,405
<b>1999</b>	36	\$6,369,929	\$518,767	\$562,823	\$0	\$7,451,519	\$206,987
<b>2000</b>	42	\$2,511,760	\$878,777	\$1,171,223	\$0	\$4,561,760	\$108,613
<b>2001</b>	43	\$6,309,500	\$10,938,093	\$4,586,907	\$0	\$21,834,500	\$507,779
<b>2002</b>	61	\$8,538,300	\$2,605,588	\$557,296	\$0	\$11,701,183	\$191,823
<b>2003</b>	111	\$18,392,166	\$10,907,691	\$5,319,828	\$0	\$34,619,684	\$311,889
<b>2004</b>	127	\$8,418,175	\$4,813,318	\$3,586,425	\$42,180	\$16,860,098	\$132,757
<b>2005</b>	152	\$8,469,559	\$4,537,667	\$4,823,892	\$139,500	\$17,970,618	\$118,228
<b>2006</b>	139	\$11,547,973	\$4,882,793	\$4,670,635	\$0	\$21,101,401	\$151,809
<b>2007</b>	210	\$15,225,236	\$6,025,336	\$6,096,991	\$168,823	\$27,516,386	\$131,030
<b>2008</b>	164	\$12,268,074	\$8,509,023	\$5,422,110	\$132,904	\$26,332,111	\$160,562
<b>2009</b>	296	\$17,078,042	\$7,225,526	\$6,721,367	\$19,978	\$31,044,913	\$104,881
<b>2010</b>	142	\$16,882,641	\$6,860,976	\$7,569,825	\$510,577	\$31,824,019	\$224,113
<b>2011</b>	139	\$16,256,740	\$10,772,285	\$6,752,654	\$99,500	\$33,881,179	\$243,749
<b>2012</b>	122	\$22,344,753	\$8,991,650	\$6,073,103	\$0	\$37,409,506	\$306,635
<b>2013</b>	84	\$10,049,916	\$4,363,138	\$10,350,738	\$0	\$24,763,793	\$294,807
<b>2014</b>	36	\$10,143,271	\$2,719,844	\$1,348,426	\$99,797	\$14,311,338	\$397,537
<b>2015</b>	10	\$4,170,000	\$634,620	\$535,380	\$0	\$5,340,000	\$534,000
<b>2016</b>	3	\$0	\$0	\$0	\$0	\$0	\$0
<b>Totals</b>	1,977	\$199,052,639	\$96,410,193	\$76,921,122	\$1,213,259	\$373,597,214	\$188,972

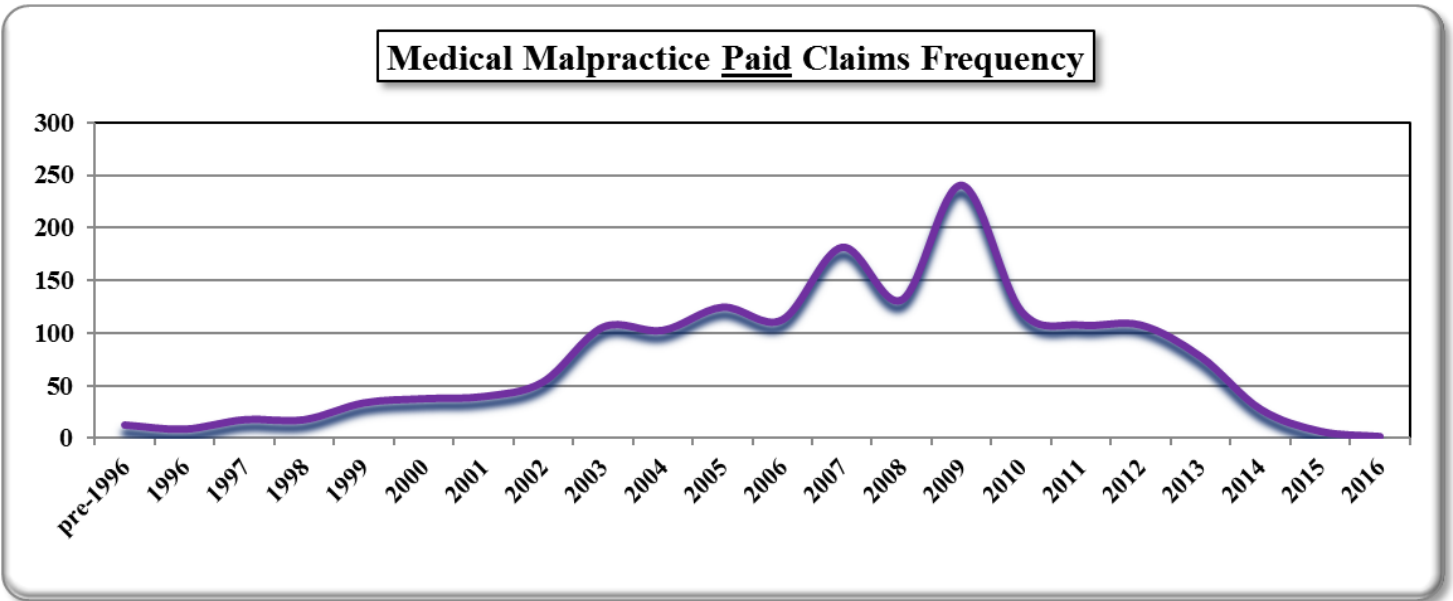
D.O.I.	Non-LAE \$0 Paid	Non-LAE Non \$0 Avg	LAE Paid	Total Payments	Total Avg	\$0 Paid Count	Non \$0 Paid Avg
pre-1996	9	\$225,350	\$1,216,254	\$2,568,354	\$171,224	2	\$197,566
1996	6	\$476,941	\$824,815	\$2,255,637	\$250,626	0	\$250,626
1997	10	\$186,375	\$1,561,978	\$3,052,978	\$169,610	0	\$169,610
1998	8	\$79,928	\$1,835,767	\$2,635,052	\$146,392	0	\$146,392
1999	17	\$392,185	\$3,064,541	\$10,516,060	\$292,113	2	\$309,296
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	84	\$392,095	\$6,854,531	\$23,714,629	\$186,729	24	\$230,239
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	\$411,439	\$6,277,749	\$32,609,860	\$198,841	32	\$247,044
2009	121	\$177,400	\$7,885,084	\$38,929,996	\$131,520	55	\$161,535
2010	84	\$548,690	\$5,479,776	\$37,303,795	\$262,703	21	\$308,296
2011	73	\$513,351	\$6,283,547	\$40,164,725	\$288,955	31	\$371,896
2012	68	\$692,769	\$4,982,611	\$42,392,117	\$347,476	14	\$392,520
2013	44	\$619,095	\$3,611,583	\$28,375,375	\$337,802	6	\$363,787
2014	23	\$1,100,872	\$684,949	\$14,996,287	\$416,564	8	\$535,582
2015	6	\$1,335,000	\$680,760	\$6,020,760	\$602,076	3	\$860,109
2016	3	\$0	\$5,536	\$5,536	\$1,845	1	\$2,768
Totals	1,075	\$414,188	\$90,384,569	\$463,981,783	\$234,690	299	\$276,509

Accordingly, from this dataset the accident year claim incidence is as follows:

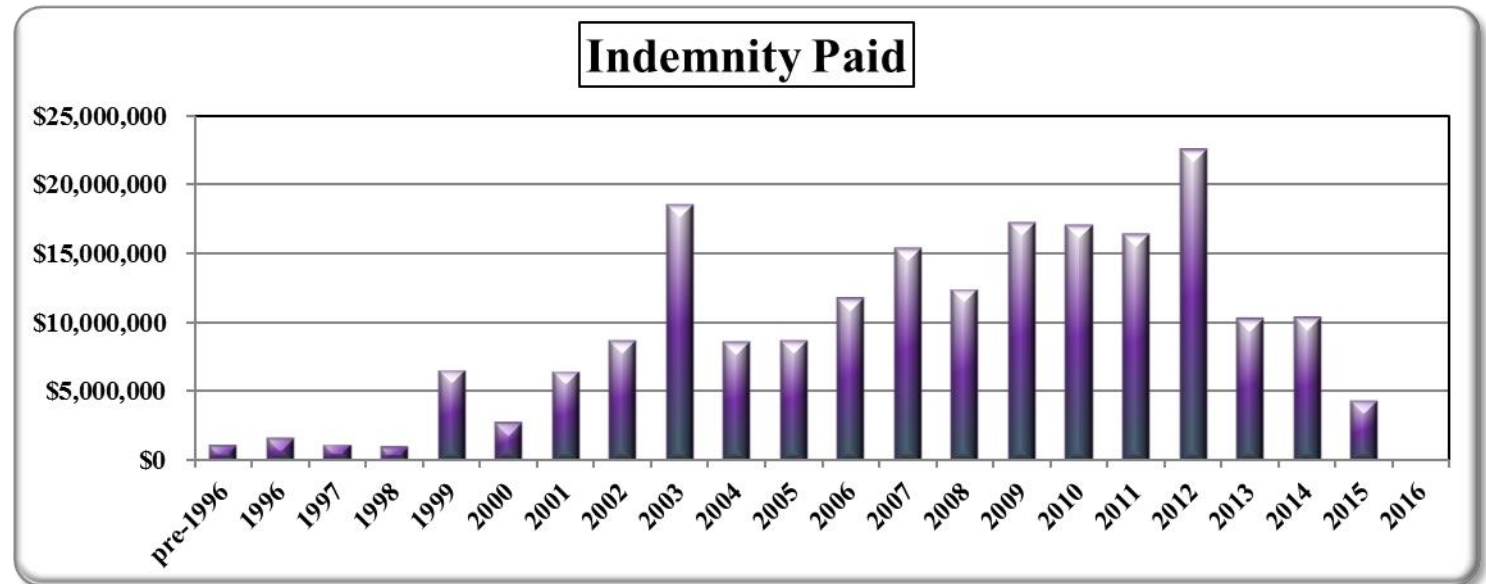


Note from the table and the preceding paragraph, that this incidence frequency does not exclude zero paid claims.

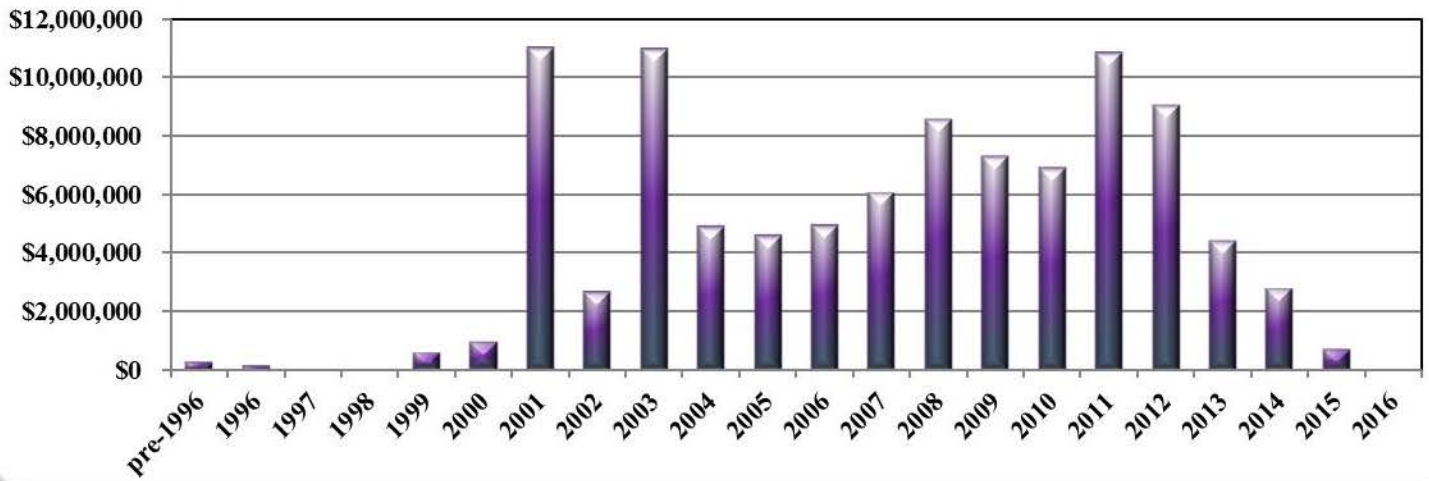
Removing the zero paid claims results in the following substantially similar distribution:



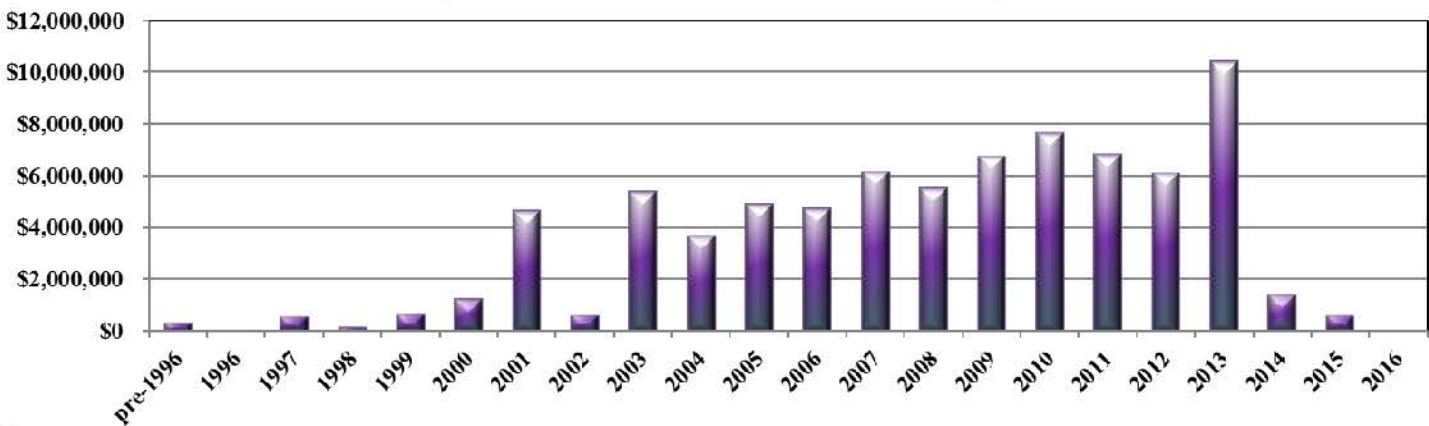
Utilizing the data from the table on the previous page, we can now review the breakdown of payments between indemnity, economic damages, non-economic damages, punitive damages, and loss adjustment expenses over time, again on an accident year basis.



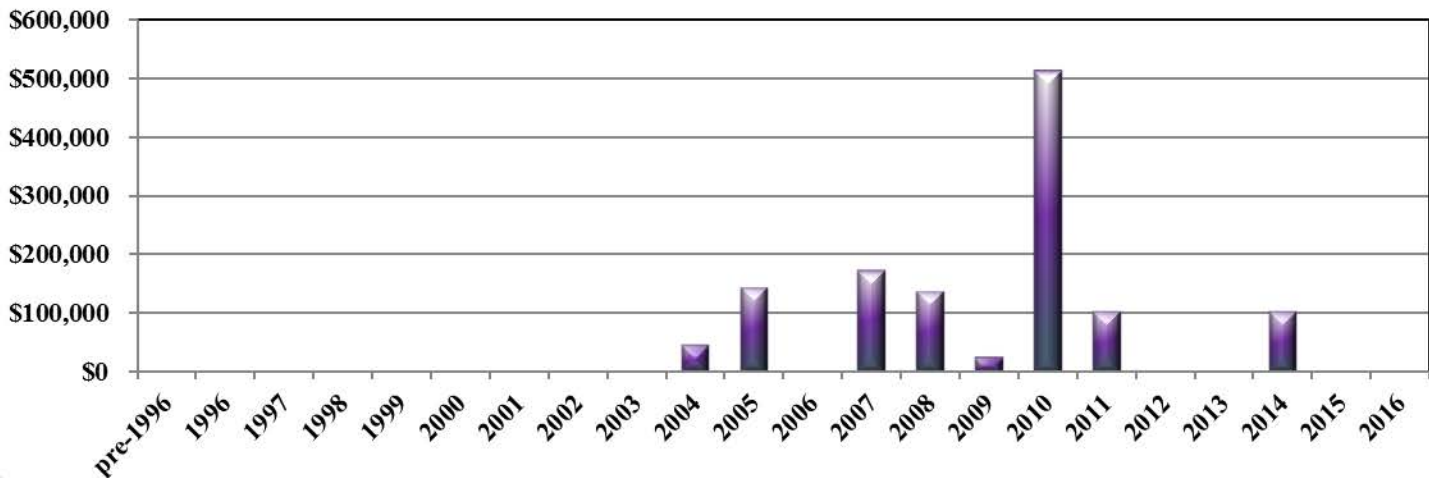
### Economic Damages Paid



### Non-Economic Damages Paid

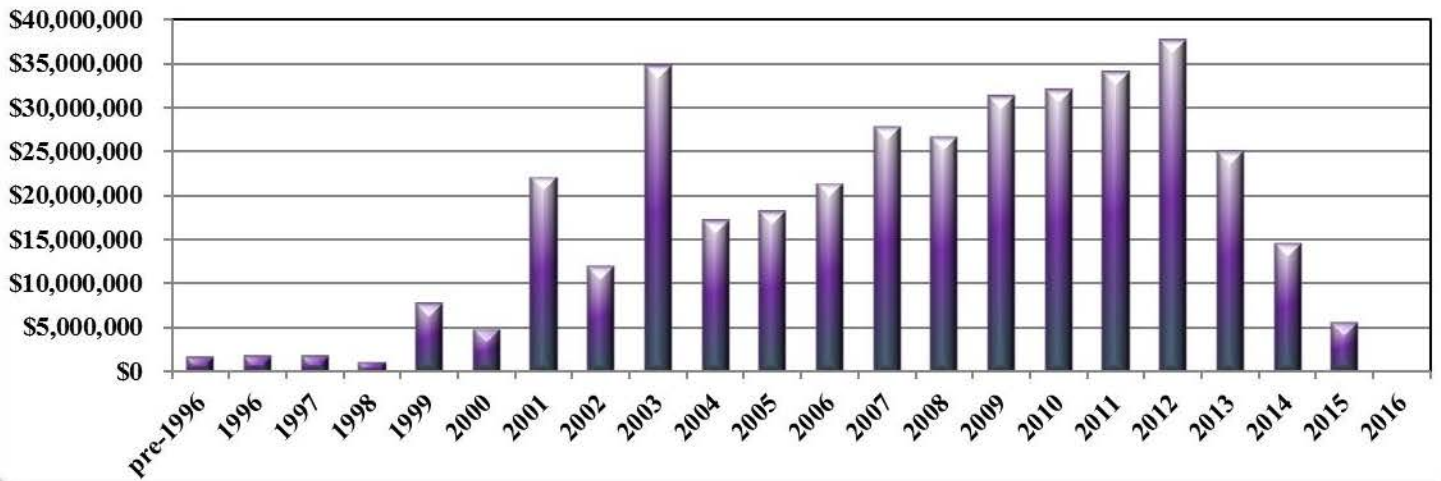


### Punitive Damages Paid

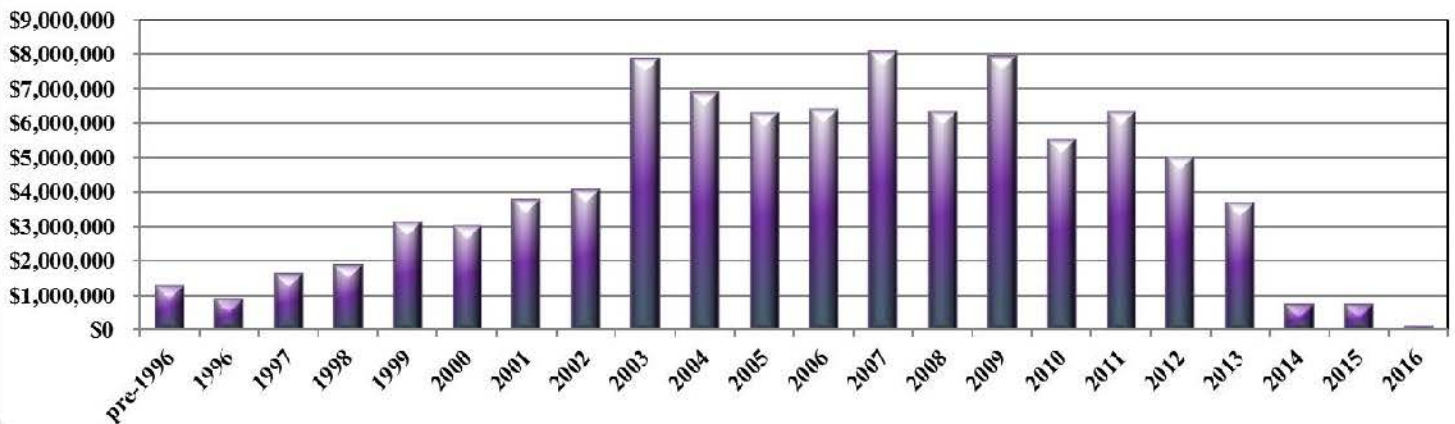




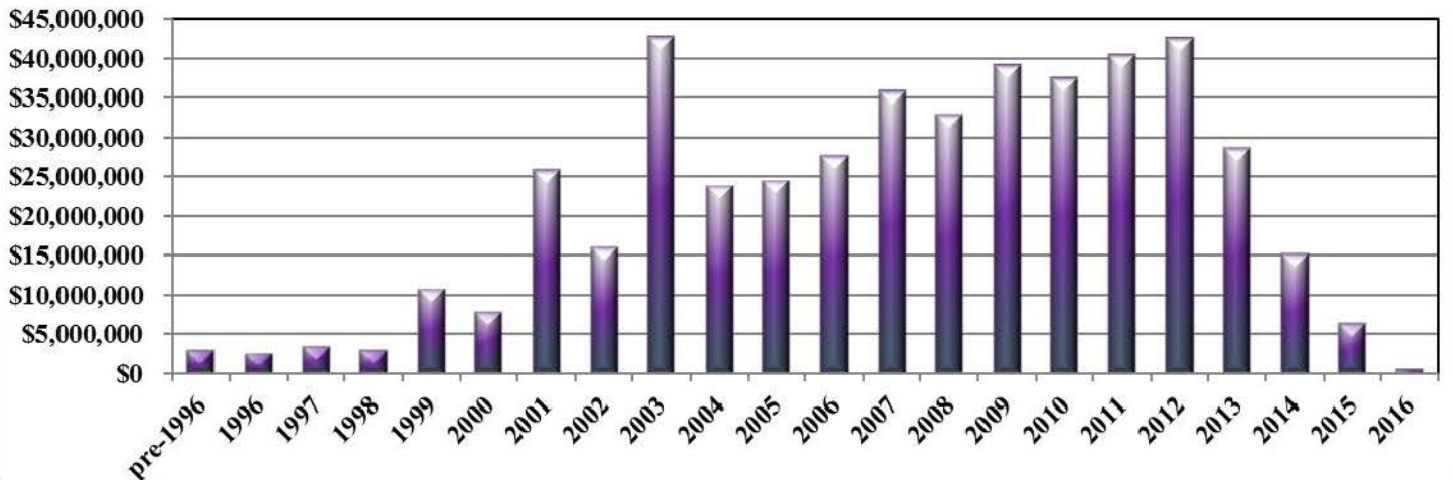
### Total Non-LAE Paid



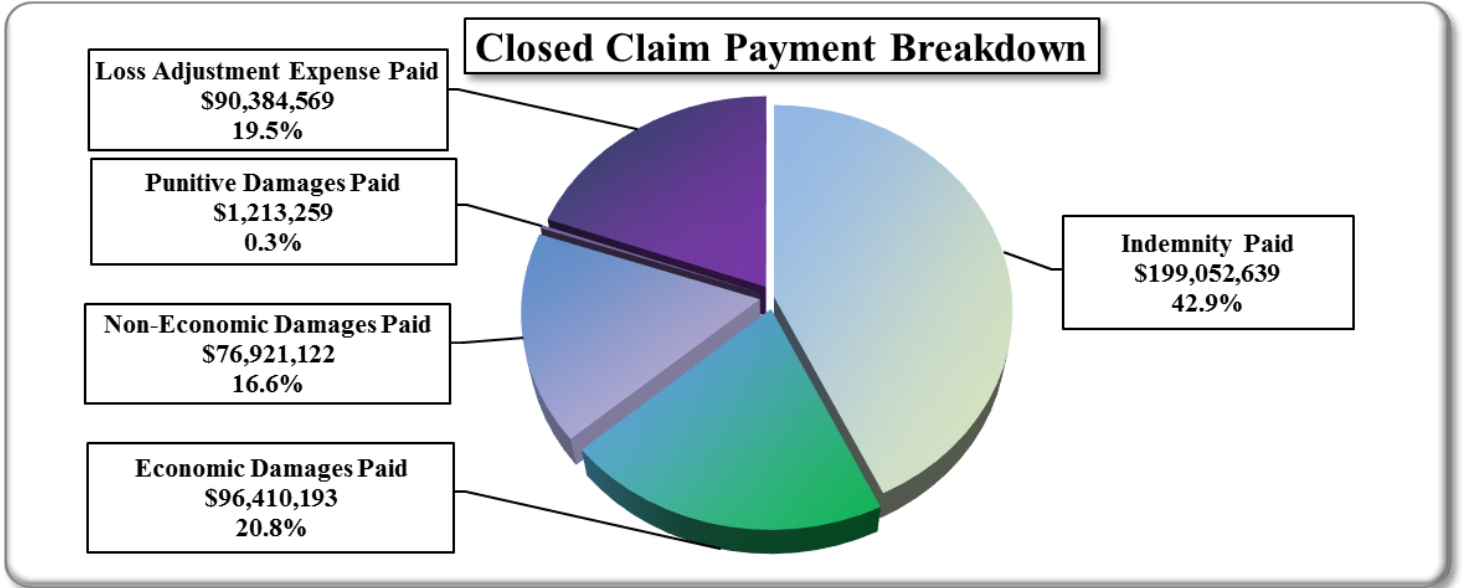
### LAE Paid



### Total Paid

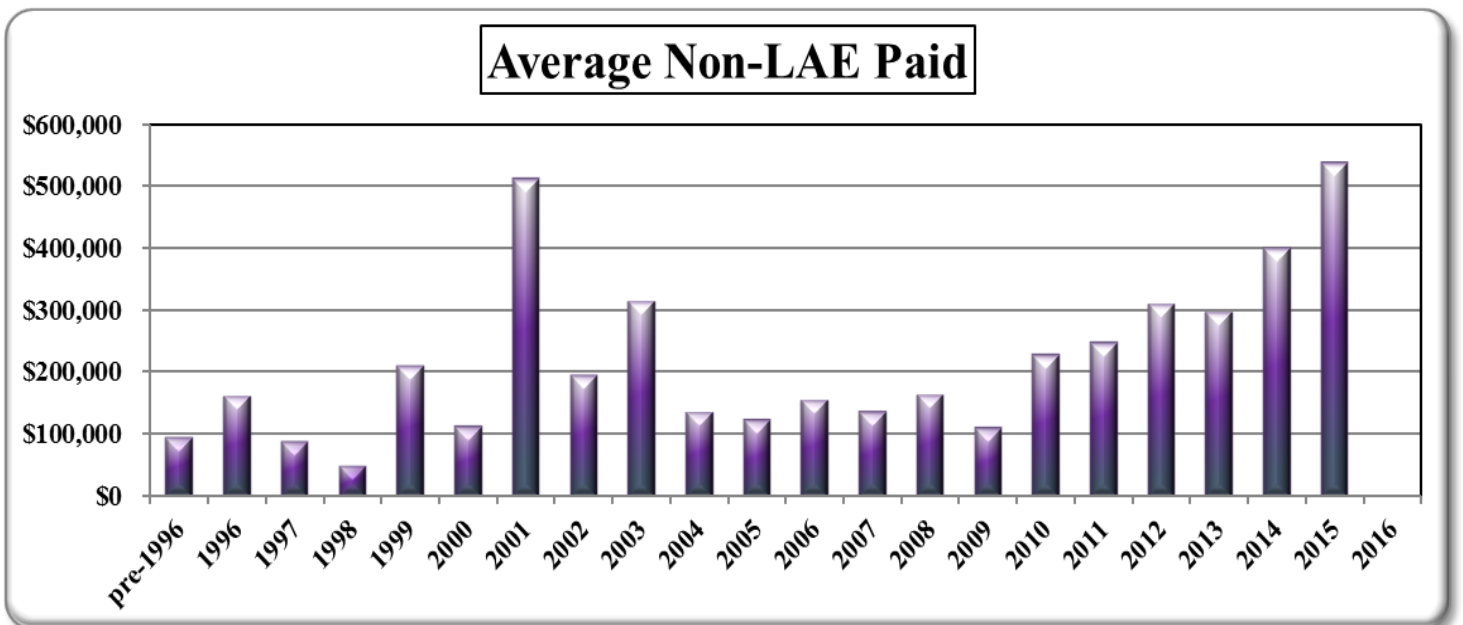


Then from the entire dataset, you can determine how each of the damage types and loss adjustment expenses are related.

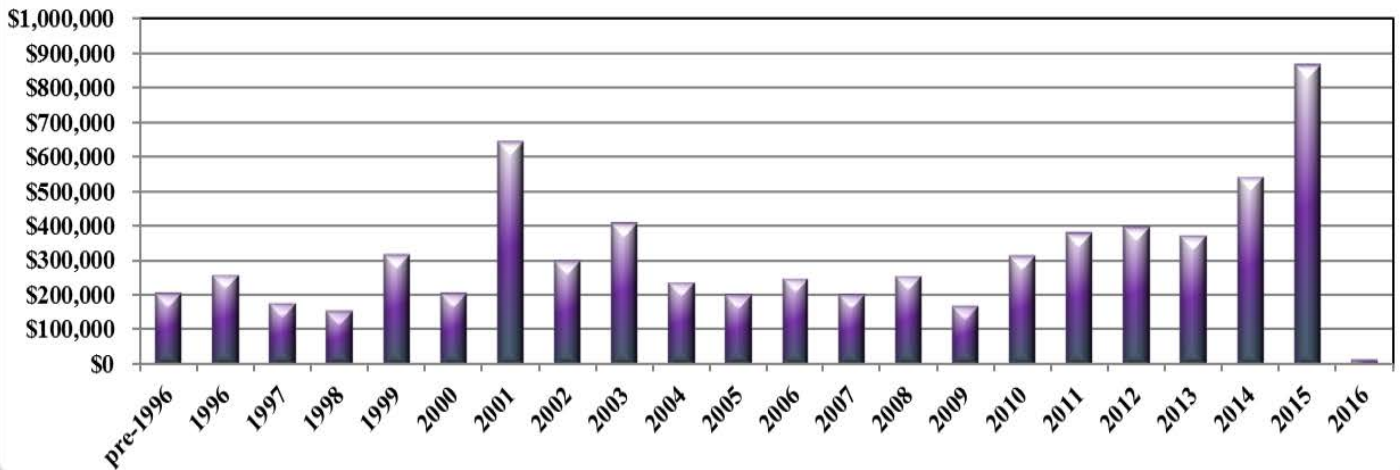


As you may determine, actual punitive damages are shown to constitute a very small portion of total damages, but economic and non-economic damages are shown to be fairly substantial and similar in payment allocation.

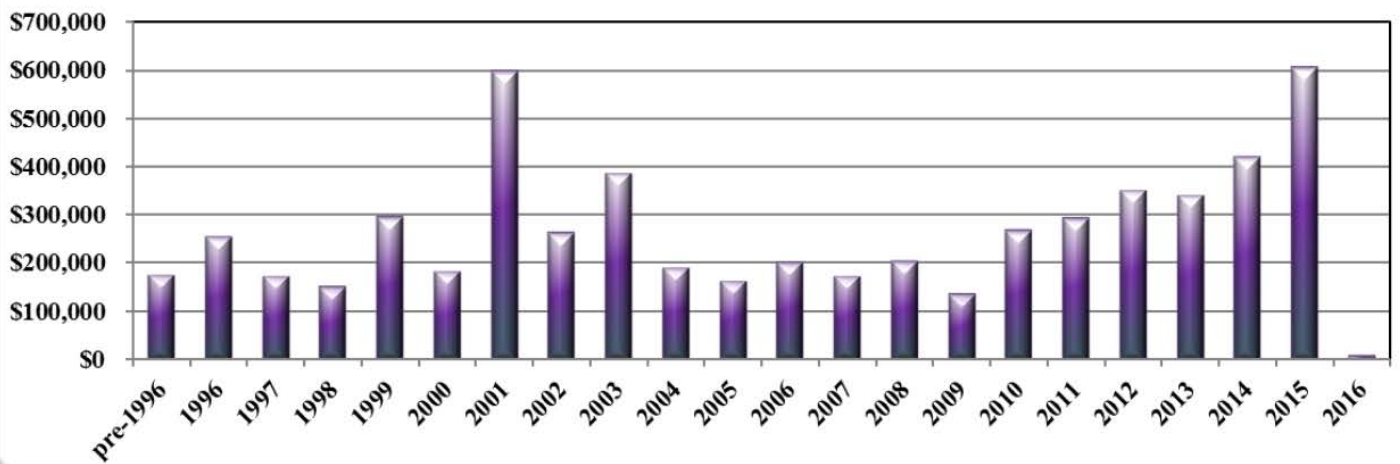
Next we will look at the averages.



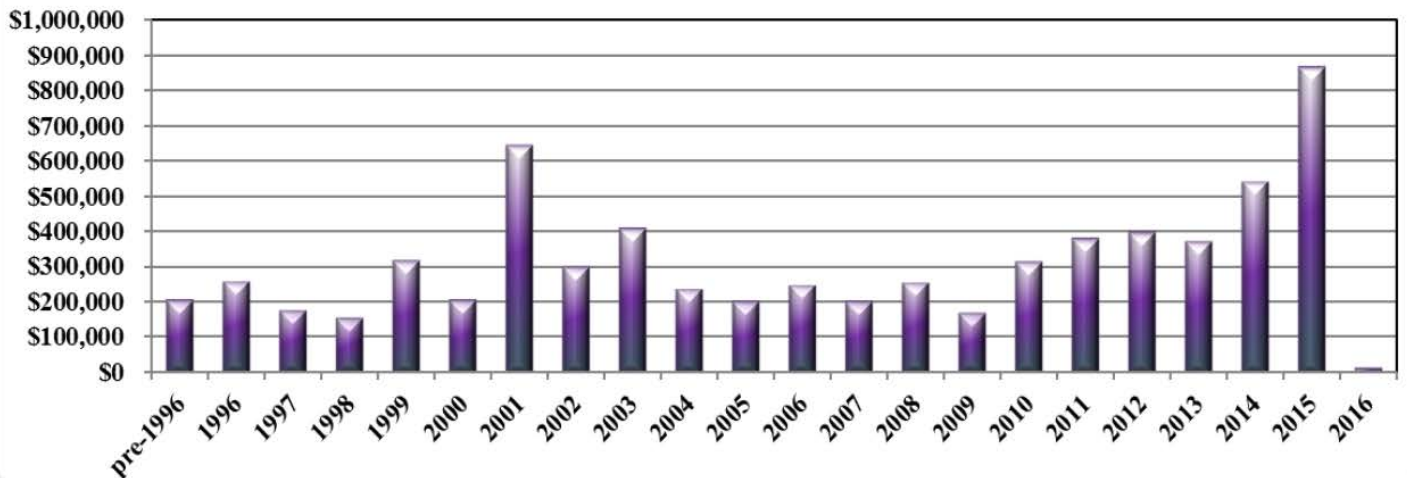
### Average Non-\$0 LAE Paid



### Average Total Paid



### Average Non-\$0 Total Paid



Being that these 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. Further, it is also imperative to understand that due to the relatively small volume of premiums in West Virginia, a few large losses can skew the overall data in an adverse manner.

Similar to the BOM data, we can also consider claim outcomes for those claims under which an outcome was provided by the company. Approximately 1,456 claims (74%) out of the 1,977 claims used in the above closed claim section were used in the analysis provided in the following table. The remaining 521 claims that were discarded from the analysis either did not have a claim disposition code or did not have a reported claim closure date.

Closed Year	Judgment	Settlement	Dismissal
2000	1	0	0
2001	0	1	1
2002	0	3	0
2003	1	1	2
2004	1	3	2
2005	1	3	2
2006	8	51	46
2007	16	69	46
2008	10	82	60
2009	9	63	62
2010	8	135	38
2011	7	139	51
2012	4	43	57
2013	7	66	46
2014	4	69	35
2015	7	80	33
2016	5	56	22
<b>Total</b>	<b>89</b>	<b>864</b>	<b>503</b>

Settlements account for the majority of the claim outcomes with 59.3%, dismissals account for 34.5% and judgments account for 6.1%.

We may also consider costs based upon the outcome type. Specifically:

<b>Claim Outcome</b>	<b>Total Non-LAE Paid</b>	<b>LAE Paid</b>	<b>Count</b>	<b>Avg Non-LAE</b>	<b>Avg LAE</b>
<b>Judgments</b>	\$19,954,516	\$15,520,742	89	\$224,208	\$174,390
<b>Settlements</b>	\$345,383,753	\$53,302,777	864	\$399,750	\$61,693
<b>Dismissals</b>	\$1,327,480	\$18,257,001	503	\$2,639	\$36,296

<b>Claim Outcome</b>	<b>\$0 Non-LAE Count</b>	<b>\$0 LAE Count</b>	<b>Avg Non-\$0 Non-LAE</b>	<b>Avg Non-\$0 LAE</b>	<b>Total Non-\$0 Avg Expenditure</b>
<b>Judgments</b>	66	4	\$867,588	\$182,597	\$1,050,185
<b>Settlements</b>	24	104	\$411,171	\$70,135	\$481,306
<b>Dismissals</b>	496	95	\$189,640	\$44,748	\$234,388

Please note the claims costs provided in the table are not capped at \$1M and are analyzed using the payment level and other claim information reported by the carrier. When comparing the total overall claim costs only, the average judgment is \$398,598 while the average settlement is \$461,443. It would appear that judgment awards are less on average than settlements. Seeing that statistic, one may ask why settlements are the prevailing outcome with 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.

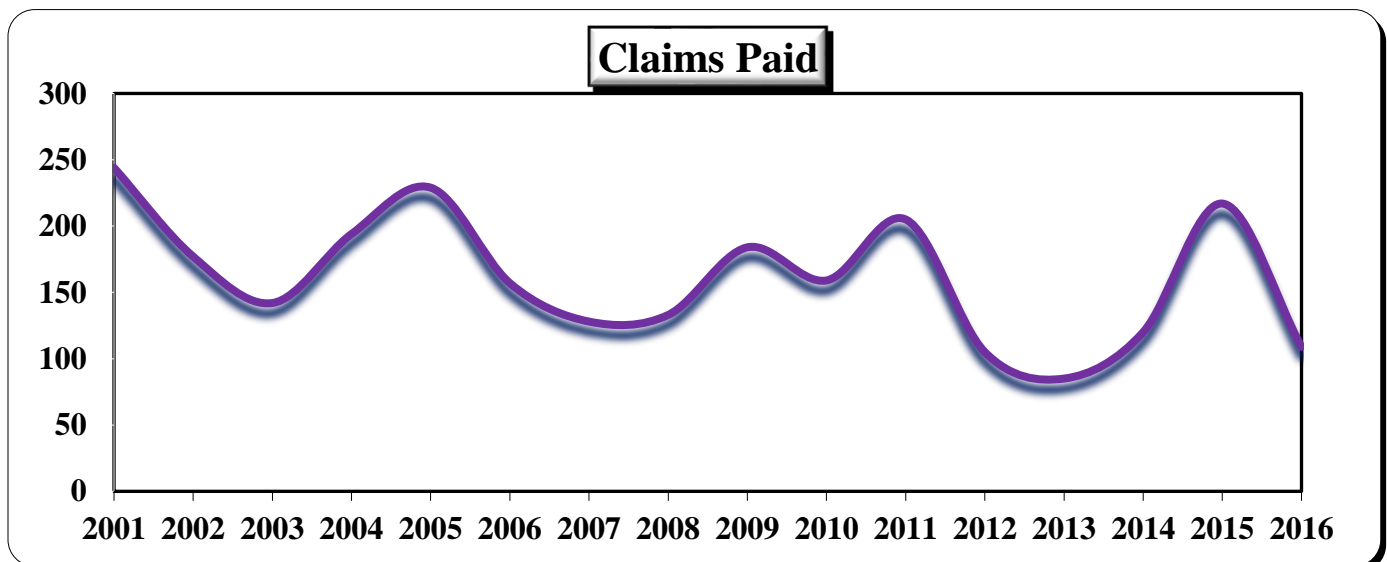
## II-E: Paid Data Collection

As a further source of information, examining financial statement information provided by insurance companies provides some insight as to the total number of active paid and reserved claims by year. However, these counts do not tie to the claims which are either paid or reserved in the reporting year to the year in which the claim initially occurred.

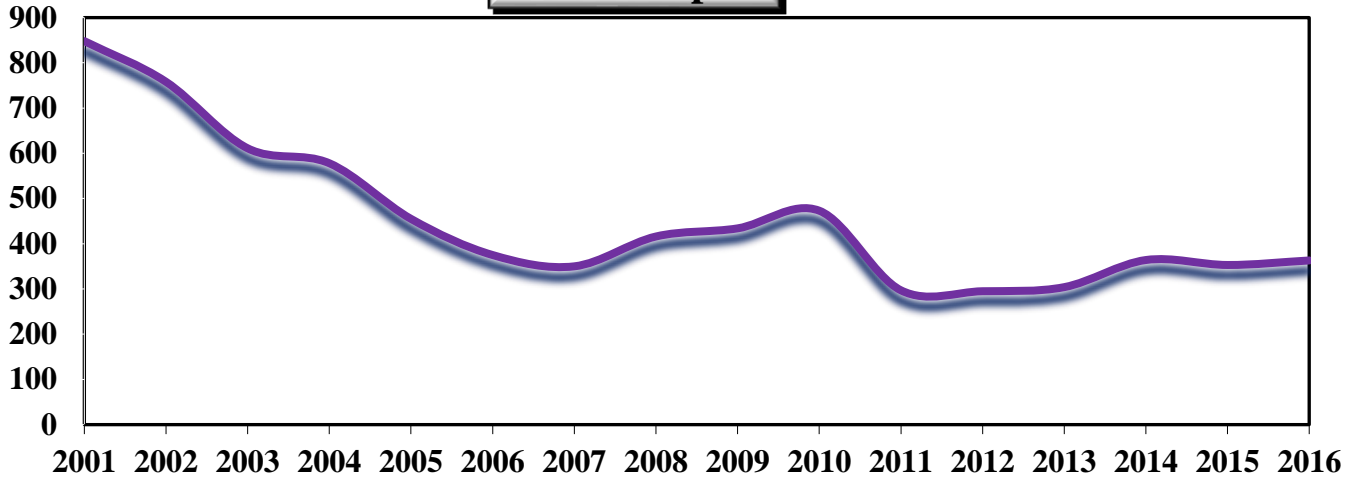
In looking at the paid and open claim information provided by insurers who write the malpractice insurance Physicians and Surgeons subline the following aggregated data is found.

Year	# of Paid Claims	# of Unpaid Claims	Total Claims
2001	244	848	1,092
2002	177	758	935
2003	142	611	753
2004	194	578	772
2005	229	455	684
2006	157	375	532
2007	128	350	478
2008	133	416	549
2009	184	434	618
2010	159	473	632
2011	205	297	502
2012	105	295	400
2013	85	304	389
2014	120	364	484
2015	217	353	570
2016	109	363	472

Again, graphical linear representations are provided below:



### Claims Unpaid



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**Section III**

**Review of 5% Market**

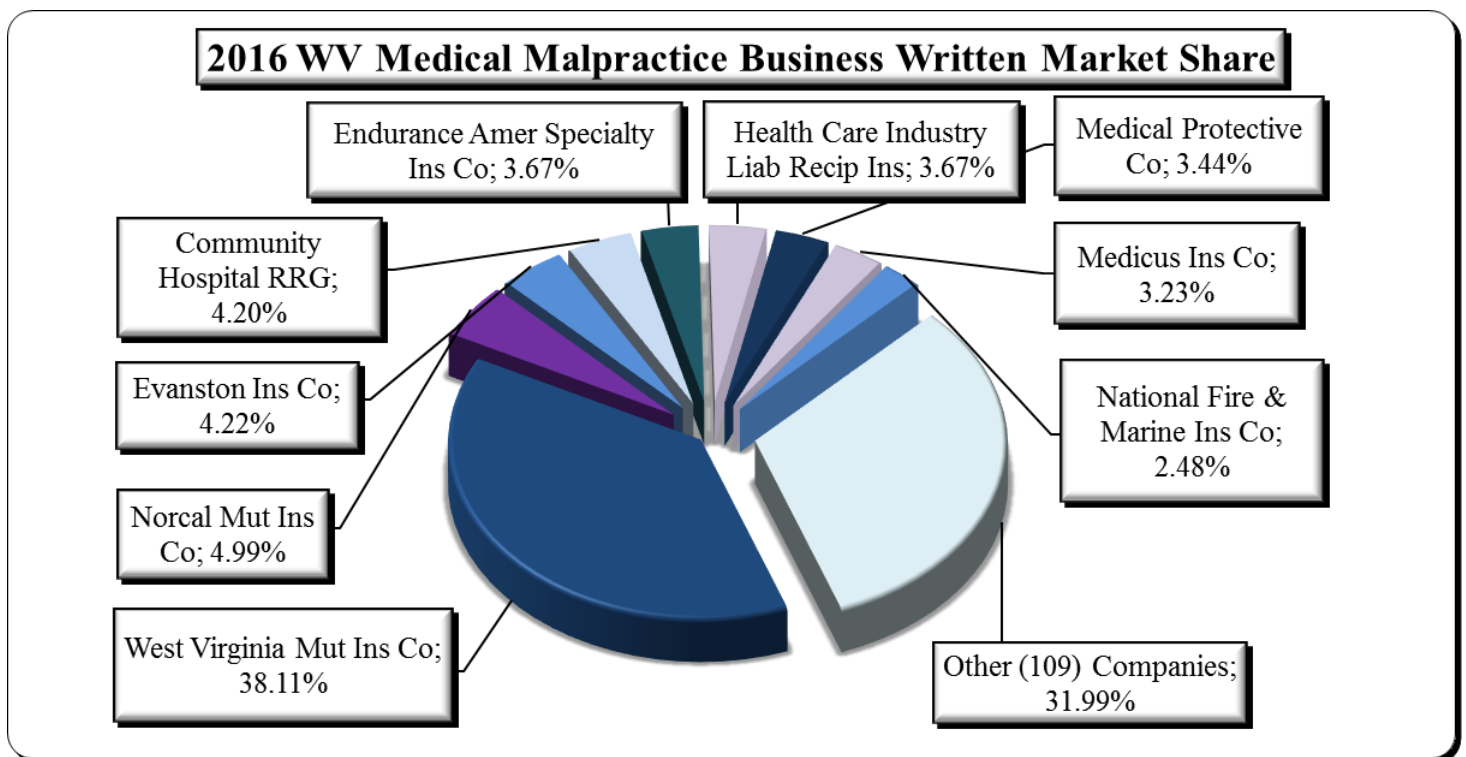
**Share Companies**



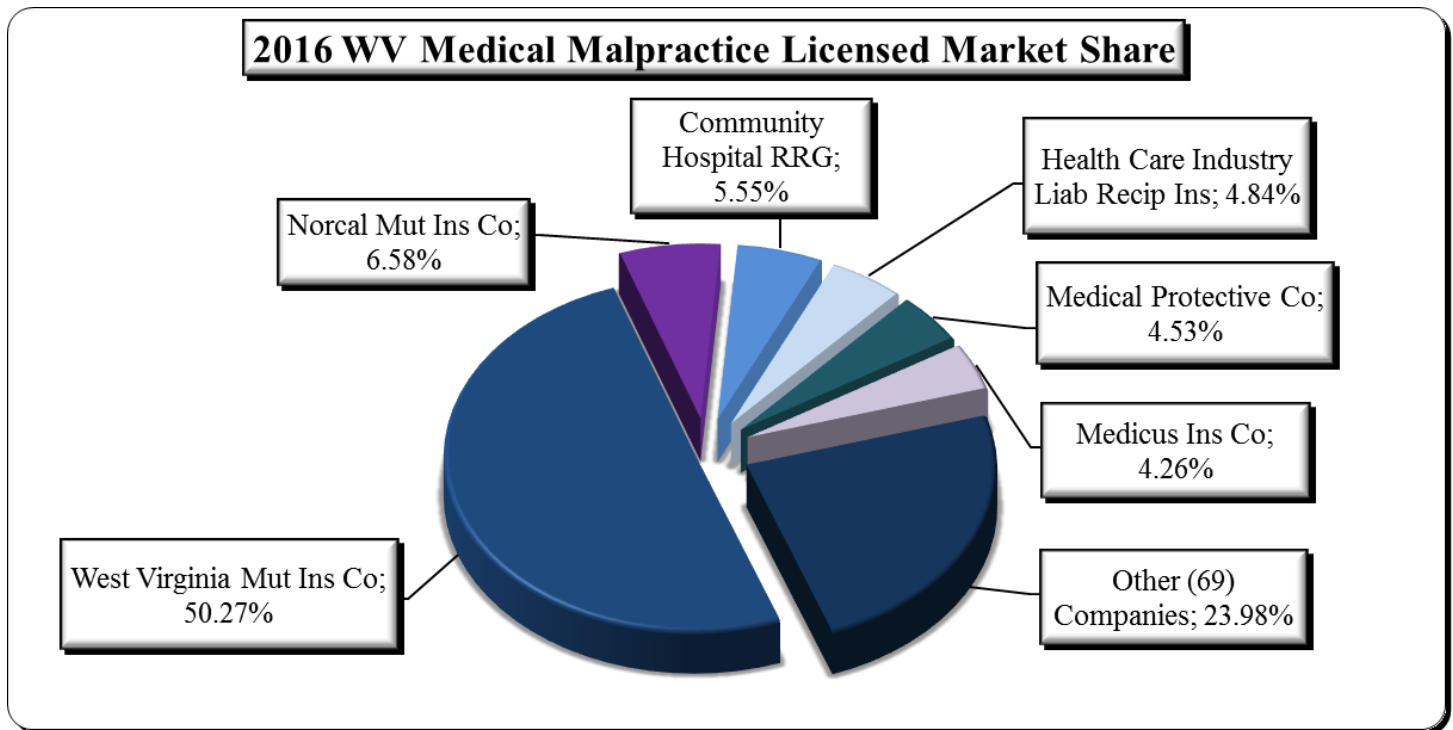
### III: Review of Major West Virginia Medical Malpractice Writers

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 carriers, whereas licensed excludes any unlicensed carrier 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. However, the 5% market share supplemental reporting requirement is based on licensed / regulated carriers. Both methods of market share are provided below.

Based on business written premiums for 2016, the West Virginia medical malpractice market currently consists of the following carriers and the subsequent market share for each:



Based on licensed basis premiums for 2016, the West Virginia medical malpractice market currently consists of the following carriers 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 \$15M (business written is \$62.6M and licensed is \$47.5M).

In the table below, three licensed insurers are shown to have met the statutory 2016 5% reporting requirement threshold for medical professional liability; West Virginia Mutual Insurance Company, NORCAL Mutual Insurance Company and Community Hospital RRG. Community Hospital RRG, also known as CHART, is an actively licensed risk retention group but is not required to fulfill the requirements in the 5% market share mandate as they do not file rates or forms with the state for regulatory purposes. The 5% threshold has historically been considered using the licensed percentages due to the excess and/or surplus lines carriers not having regulatory nor statutory oversight. If the WVOIC used the business written 5% threshold, only the West Virginia Mutual Insurance Company would be required to submit supplemental reporting requirements in compliance with West Virginia Code.

## Total Medical Malpractice Liability Summary

### 2016 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>	\$23,881,382	38.11%	\$25,996,626	\$10,330,833	39.74%
Norcal Mut Ins Co	\$3,124,751	4.99%	\$570,761	\$599,359	105.01%
Evanston Ins Co	\$2,641,307	4.22%	\$2,722,826	\$2,194,905	80.61%
Community Hospital RRG	\$2,634,493	4.20%	\$2,634,493	\$20,229,992	767.89%
Endurance Amer Specialty Ins Co	\$2,301,374	3.67%	\$2,694,104	\$420,982	15.63%
Health Care Industry Liab Recip	\$2,297,769	3.67%	\$2,409,895	\$1,279,719	53.10%
Medical Protective Co	\$2,153,381	3.44%	\$1,673,711	\$611,000	36.51%
Medicus Ins Co	\$2,024,679	3.23%	\$3,299,505	\$1,229,384	37.26%
National Fire & Marine Ins Co	\$1,554,409	2.48%	\$1,306,331	\$788,255	60.34%
Other (109) Companies	\$20,044,826	31.99%	\$20,241,480	\$13,600,031	67.19%
<b>Total</b>	\$62,658,371	100.00%	\$63,549,732	\$51,284,460	80.70%

Source: NAIC Database

### 2016 West Virginia Licensed Companies Market Share

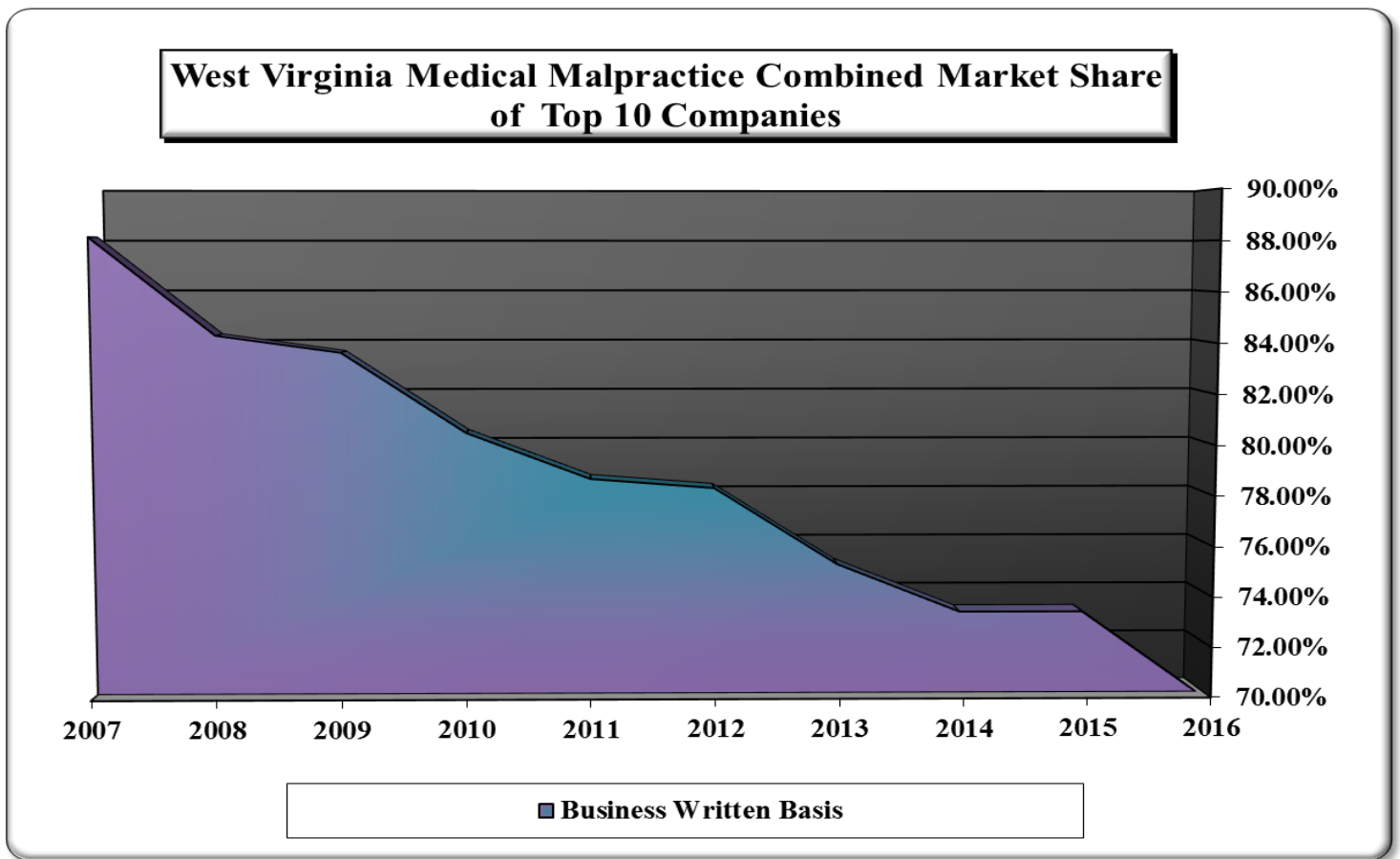
Company	Direct Written Premiums	Market Share	Direct Earned Premiums	Direct Incurred Losses	Pure Loss Ratio
<i>West Virginia Mut Ins Co</i>	\$23,881,382	50.27%	\$25,996,626	\$10,330,833	39.74%
<i>Norcal Mut Ins Co</i>	\$3,124,751	6.58%	\$570,761	\$599,359	105.01%
<i>Community Hospital RRG</i>	\$2,634,493	5.55%	\$2,634,493	\$20,229,992	767.89%
Health Care Industry Liab Recip	\$2,297,769	4.84%	\$2,409,895	\$1,279,719	53.10%
Medical Protective Co	\$2,153,381	4.53%	\$1,673,711	\$611,000	36.51%
Medicus Ins Co	\$2,024,679	4.26%	\$3,299,505	\$1,229,384	37.26%
Other (69) Companies	\$11,393,578	23.97%	\$11,276,373	\$6,882,887	61.04%
<b>Total</b>	\$47,510,033	100.00%	\$47,861,364	\$41,163,174	86.01%

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 2016 one carrier who had \$0 reported direct written and earned premium also reported a -\$3,194,155 direct incurred loss amount which did affect the overall pure loss ratio.

Year	Top 10 Market Share
2007	88.12%
2008	84.27%
2009	83.60%
2010	80.43%
2011	78.60%
2012	78.23%
2013	75.18%
2014	73.26%
2015	71.51%
2016	69.81%

The above chart shows the combined market shares for the top 10 carriers by year on a business written basis. The ten-year average market share for the top 10 writers captures approximately 78.30% of the entire market. However, the combined market share has decreased steadily since 2007 at an average rate of almost 2% per year. The 2016 combined market share is 20.78% less than the 2007 combined market share. While that decrease may be indicative of a more competitive marketplace due to more carriers providing coverage and thus spreading the market share margin, it's important to remember that the top 10 carriers retain 70% of the entire business written market share; 108 carriers share the remaining 30%.



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

<b>Company</b>	<b>Subline</b>	<b>2016 Written Premium</b>
<b>West Virginia Mut Ins Co</b>	<i>Physicians &amp; Surgeons</i>	\$23,838,409
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$42,973
	<b>Total</b>	<b>\$23,881,382</b>
<b>Norcal Mut Ins Co</b>	<i>Physicians &amp; Surgeons</i>	\$3,124,751
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$0
	<b>Total</b>	<b>\$3,124,751</b>
<b>Evanston Ins Co</b>	<i>Physicians &amp; Surgeons</i>	\$1,996,776
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$644,531
	<b>Total</b>	<b>\$2,641,307</b>
<b>Community Hospital RRG</b>	<i>Physicians &amp; Surgeons</i>	\$0
	<i>Hospitals</i>	\$2,634,493
	<i>Other</i>	\$0
	<b>Total</b>	<b>\$2,634,493</b>
<b>Endurance Amer Specialty Ins Co</b>	<i>Physicians &amp; Surgeons</i>	\$0
	<i>Hospitals</i>	\$2,301,374
	<i>Other</i>	\$0
	<b>Total</b>	<b>\$2,301,374</b>
<b>Health Care Industry Liab Recip Ins</b>	<i>Physicians &amp; Surgeons</i>	\$0
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$2,297,769
	<b>Total</b>	<b>\$2,297,769</b>
<b>Medical Protective Co</b>	<i>Physicians &amp; Surgeons</i>	\$1,782,479
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$370,902
	<b>Total</b>	<b>\$2,153,381</b>
<b>Medicus Ins Co</b>	<i>Physicians &amp; Surgeons</i>	\$2,024,679
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$0
	<b>Total</b>	<b>\$2,024,679</b>
<b>National Fire &amp; Marine Ins Co</b>	<i>Physicians &amp; Surgeons</i>	\$485,746
	<i>Hospitals</i>	\$751,758
	<i>Other</i>	\$316,905
	<b>Total</b>	<b>\$1,554,409</b>
<b>Doctors Co An Interins Exch</b>	<i>Physicians &amp; Surgeons</i>	\$1,125,747
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$2,457
	<b>Total</b>	<b>\$1,128,204</b>

### **III-A: Enabling Legislation**

The reporting of experience for insurance carriers 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

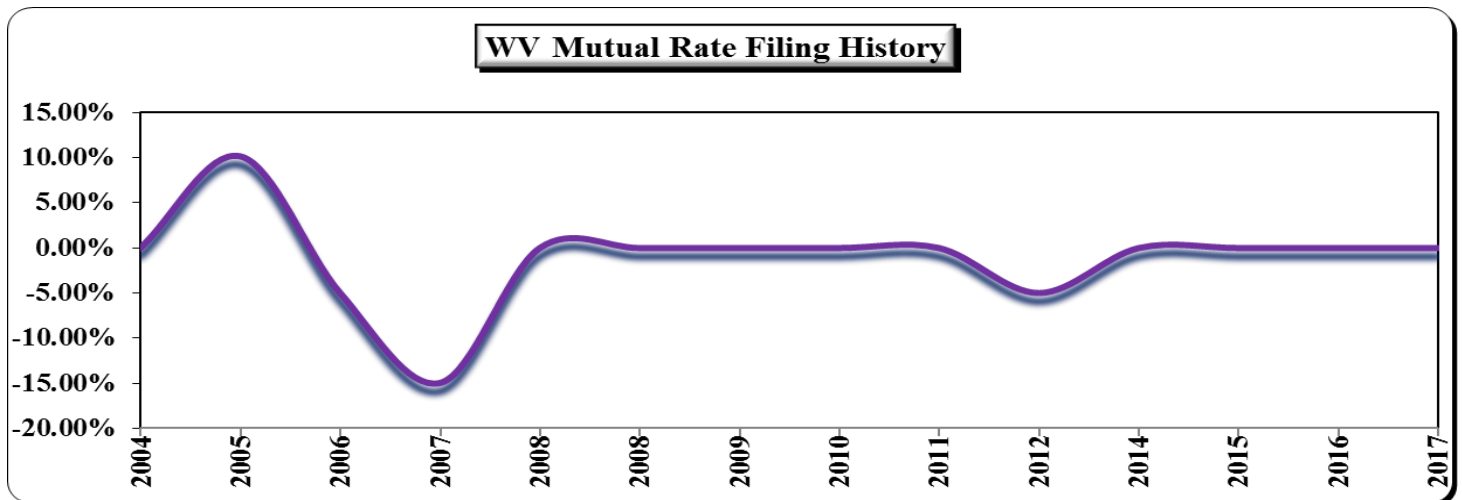
When considering calendar year 2016 admitted carrier market share report, there were three carriers meeting the criteria outlined in West Virginia Code §33-20B-6. These three carriers were West Virginia Mutual Insurance Company, NORCAL Mutual Insurance Company and Community Hospital RRG. Due to the proximity to the 5% threshold percentage, Medical Protective Company was asked to voluntarily submit supplemental data. The request was not granted and no data was provided on behalf of the company. Due to the lack of regulatory authority for Community Hospital RRG, a risk retention group, no data was requested nor received for the group. However, if this RRG qualifies in the future, a request will be sent to the company asking for a voluntary submission.

#### 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 new Company upon inception. The rate history of WVMIC since inception follows:

2016 Market Share	Company	Effective date	%Requested	% Granted*	WV #:
50.27% (admitted basis)	<i>West Virginia Mutual Ins Co</i> *fka W.V. Physicians Mutual	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%	-5%	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	-15.00%	-15.00%	60915016
		1/1/2006	-5.00%	-5.00%	50826007
		1/1/2005	10.20%	10.20%	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, as per the graph above. Their medical malpractice market share averaged 38.1% on a business written basis over the last five years.

As the WVMIC's 2016 market share for licensed companies is 50.27%, their results have a substantial impact on the overall market. In 2016, the pure loss ratio for the WVMIC was 39.74%. This is a decrease from the pure loss ratio of 43.7% in 2015.

**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 and has been a top 10 writer since 2008. On a business written basis, Medicus averaged an 8.2% market share in the last five years. The WVOIC has received and approved a transition plan that would move the entire book of business currently written by Medicus into NORCAL Mutual Insurance Company. The plan stated that if a current Medicus policy expires after May 2016, that policy will be renewed and underwritten by NORCAL Mutual Insurance Company. All new policies will be underwritten by NORCAL Mutual Insurance Company after May 2016. While the market share reports definitively show this movement of premium, Medicus reported a total of \$2M in business written direct premiums for 2016 which accounted for 3.23% of the overall medical malpractice West Virginia market share.

NORCAL experienced an unfavorable pure loss ratio of 105% in 2016. However, if reported premium and loss data were combined with Medicus then the pure loss ratio would be 47.3%.

The rate history of NORCAL follows:

2016 Market Share	Company	Effective date	%Requested	% Granted*	WV #:
6.58%	<i>Norcal Mut Ins Co</i>	1/1/2017	0%	0%	100039187
(admitted basis)		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.

### **Community Hospital RRG**

Community Hospital RRG, also known as CHART, is a Vermont domiciled insurer formed in 2002. As a reciprocal risk retention group, it is owned by its member insurers and this includes 6 West Virginia hospitals. CHART also operates in Pennsylvania and New York. As a risk retention group, CHART did not provide 5% market share information and no rate history information is available for this company. In 2016, their market share was 4.2% on a business written basis. The pure loss ratio for CHART is 767.89%. This is an astounding unfavorable ratio and the company reported \$20.2M in incurred losses. Further, the company reported 6 paid claims with a total paid of \$23.1M. The hospitals covered by CHART are:

- Boone Memorial Hospital
- Mon Health Medical Center
- St. John’s Hospital of Buckhannon
- Grafton City Hospital
- Mon Health Preston Memorial Hospital
- Wetzel County Hospital

## **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 – 1b** provides the premium and loss for each carrier.

- ✓ WVMIC figures (**Exhibit I-Sheet 1a**) are noted to have undergone favorable development as the experience of the legacy program which they had inherited is now better known. Pure loss and premium experience appears to be favorable and stable for WVMIC.
- ✓ NORCAL data (**Exhibit I-Sheet 1b**) includes Medicus loss experience and filing information due to the transition of policies occurring in 2016 and after. The table shows the data is increasing in credibility but remains immature and should be anticipated to undergo further development. Volatility is still a concern due to the small volume of business written by Medicus and now NORCAL. The experience over the most recent years has not been favorable but with the movement of business to NORCAL and subsequent correspondence regarding NORCAL's transition underwriting plans as well as the financial strength of the company, the WVOIC have no concerns at this time regarding loss development and rate stabilization.
- ✓ The WVOIC will monitor the NAIC annual premium and loss experience reported by CHART due to the current unfavorable development.

**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 67.9% 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.

To comprehend the reasonability of the Expense Provisions being employed, we can compare the filed provisions to the expense averages included in the countrywide 2016 A.M. Best’s Aggregates and Averages.

<u>Company</u>	<u>Commissions</u>	<u>General and Acquisition Expenses</u>	<u>Total Underwriting Expenses</u>
<b>WVMIC</b>	6.9%	19.5%	32.1%
<b>NORCAL</b>	8.0%	14.4%	48.6%
<b>Industry Average (A.M. Best)</b>	7.4%	15.6%	25.3%

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

\* Industry average is pre-dividend and investment percentages

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

**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.

**5. Does the filed information support our conclusion on the rates as of December 31, 2016?**

- ✓ 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. However, with the recent increase in loss ratios as well as the decrease in premium volume, 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 their annual filing effective January 1, 2018. This filing shows an indicated rate change of +12.8% which is down from the indicated rate change of +13.1% in the previous annual filing. The WVMIC did include a provision to decrease the renewal credit from 10% to 5% which is effectively a potential premium increase for policyholders. The renewal credit reduction follows a similar reduction in January 2017 where the renewal credit decreased from 12% to 10%. In a separate filing that is also effective January 1, 2018, the company adjusted other underwriting components that will result in a premium decrease for some policyholders. The affected components include increasing the Loss Free Credit percentage and adjusting the ancillary personnel premium from a percentage basis to a fixed dollar amount basis. These two adjustments result in a combined \$850,000 or 4.3% premium savings. The premium adjustments offset the renewal credit decrease. Due to the relatively small indication being offset by the 5% renewal credit decrease, a 0.0% company requested rate change was approved by the WVOIC. An actuarial review was provided in the WVMIC annual filing. The review included a surplus adequacy estimate of \$66M using a written premium basis. When considering the current medical malpractice market conditions, the rates and surplus appear to be stable and adequate for this company's book of business.

#### **NORCAL Insurance Company**

It was noted in last year's report that the WVOIC would monitor the transition of policies and premium between NORCAL and Medicus due to unfavorable loss development in Medicus' book of business. Based on the transition information received by the WVOIC, Medicus was not required to take a rate increase as NORCAL would utilize more stringent underwriting criteria to adequately determine premiums for policyholders. In the recent NORCAL filing that will go into effect on January 1, 2018, NORCAL stated that the policy transition has been completed with 122 out of 154 policies novated from Medicus. NORCAL did adjust underwriting guidelines and non-renewed seven policies and noted additional policies may have cancelled or nonrenewed due to premium differences between Medicus and NORCAL. In the filing effective in January 2018, NORCAL is showing an indicated rate of +23.5%. However, this reflects the business before and after the transition. When considering NORCAL's underwriting changes and the company's financial strength, the WVOIC determined that the current rates will be adequate on a going-forward basis. The WVOIC will monitor this business and take any appropriate actions after NORCAL is given sufficient time to underwrite the novated policies and any new business.

#### **Community Hospital RRG**

Rate and loss information is not provided to the WVOIC for the risk retention group.

### 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 2016 provides the following:

Company Name	\$ Written	Market Share	\$ Earned	Losses Incurred	Loss Ratio
West Virginia Mut Ins Co	\$23,881,382	38.11%	\$25,996,626	\$10,330,833	39.74%
Norcal Mut Ins Co	\$3,124,751	4.99%	\$570,761	\$599,359	105.01%
Evanston Ins Co	\$2,641,307	4.22%	\$2,722,826	\$2,194,905	80.61%
Community Hospital RRG	\$2,634,493	4.20%	\$2,634,493	\$20,229,992	767.89%
Endurance Amer Specialty Ins Co	\$2,301,374	3.67%	\$2,694,104	\$420,982	15.63%
Health Care Industry Liab Recip Ins	\$2,297,769	3.67%	\$2,409,895	\$1,279,719	53.10%
Medical Protective Co	\$2,153,381	3.44%	\$1,673,711	\$611,000	36.51%
Medicus Ins Co	\$2,024,679	3.23%	\$3,299,505	\$1,229,384	37.26%
National Fire & Marine Ins Co	\$1,554,409	2.48%	\$1,306,331	\$788,255	60.34%
Doctors Co An Interins Exch	\$1,128,204	1.80%	\$1,083,177	(\$299,994)	(27.70%)
Homeland Ins Co of NY	\$1,111,549	1.77%	\$1,043,662	\$2,553,415	244.66%
American Cas Co Of Reading PA	\$1,086,312	1.73%	\$1,095,235	\$303,728	27.73%
American Excess Ins Exch RRG	\$1,061,150	1.69%	\$1,070,346	\$5,539,538	517.55%
Capson Physicians Ins Co	\$1,025,685	1.64%	\$1,027,003	\$344,760	33.57%
Nautilus Ins Co	\$956,076	1.53%	\$1,003,167	\$3,875,342	386.31%
General Star Ind Co	\$833,817	1.33%	\$801,419	(\$384,500)	(47.98%)
Ophthalmic Mut Ins Co RRG	\$826,487	1.32%	\$860,247	(\$49,611)	(5.77%)
Applied Medico Legal Solutions RRG	\$808,476	1.29%	\$769,217	\$778,317	101.18%
National Guardian RRG Inc	\$808,101	1.29%	\$808,101	\$72,753	9.00%
Continental Cas Co	\$698,178	1.11%	\$797,016	\$613,204	76.94%
Illinois Union Ins Co	\$623,658	1.00%	\$872,285	(\$510,331)	(58.51%)
ProAssurance Specialty Ins Co	\$590,646	0.94%	\$550,205	\$279,631	50.82%
Arch Specialty Ins Co	\$582,186	0.93%	\$781,090	\$430,601	55.13%
Allied World Surplus Lines Ins Co	\$564,325	0.90%	\$552,470	(\$110,556)	(20.01%)
Cincinnati Ins Co	\$539,043	0.86%	\$578,940	\$317,601	54.86%
Professional Security Ins Co	\$518,711	0.83%	\$365,103	\$0	0.00%
Podiatry Ins Co Of Amer	\$508,903	0.81%	\$540,522	\$342,687	63.40%
Fair American Select Ins Co	\$507,632	0.81%	\$296,812	\$149,362	50.32%
Ironshore Specialty Ins Co	\$403,167	0.64%	\$440,418	\$315,476	71.63%
Admiral Ins Co	\$328,089	0.52%	\$321,509	\$539,360	167.76%
All Other 88 Companies	\$4,534,431	7.24%	\$4,583,536	(\$1,500,752)	(32.74%)
<b>Total</b>	<b>\$62,658,371</b>	<b>100.00%</b>	<b>\$63,549,732</b>	<b>\$51,284,460</b>	<b>80.70%</b>

The following is a detailed view of the carriers on an admitted company (licensed) basis for 2016:

Company Name	\$ Written	Market Share	\$ Earned	Losses Incurred	Loss Ratio
West Virginia Mut Ins Co	\$23,881,382	50.27%	\$25,996,626	\$10,330,833	39.74%
Norcal Mut Ins Co	\$3,124,751	6.58%	\$570,761	\$599,359	105.01%
Community Hospital RRG	\$2,634,493	5.55%	\$2,634,493	\$20,229,992	767.89%
Health Care Industry Liab Recip Ins	\$2,297,769	4.84%	\$2,409,895	\$1,279,719	53.10%
Medical Protective Co	\$2,153,381	4.53%	\$1,673,711	\$611,000	36.51%
Medicus Ins Co	\$2,024,679	4.26%	\$3,299,505	\$1,229,384	37.26%
Doctors Co An Interins Exch	\$1,128,204	2.37%	\$1,083,177	(\$299,994)	(27.70%)
American Cas Co Of Reading PA	\$1,086,312	2.29%	\$1,095,235	\$303,728	27.73%
American Excess Ins Exch RRG	\$1,061,150	2.23%	\$1,070,346	\$5,539,538	517.55%
Capson Physicians Ins Co	\$1,025,685	2.16%	\$1,027,003	\$344,760	33.57%
Ophthalmic Mut Ins Co RRG	\$826,487	1.74%	\$860,247	(\$49,611)	(5.77%)
Applied Medico Legal Solutions RRG	\$808,476	1.70%	\$769,217	\$778,317	101.18%
National Guardian RRG Inc	\$808,101	1.70%	\$808,101	\$72,753	9.00%
Continental Cas Co	\$698,178	1.47%	\$797,016	\$613,204	76.94%
Cincinnati Ins Co	\$539,043	1.13%	\$578,940	\$317,601	54.86%
Podiatry Ins Co Of Amer	\$508,903	1.07%	\$540,522	\$342,687	63.40%
Fair Amer Ins & Reins Co	\$325,590	0.69%	\$319,832	(\$102,589)	(32.08%)
NCMIC Ins Co	\$301,774	0.64%	\$303,214	\$317,938	104.86%
Oms Natl Ins Co Rrg	\$287,788	0.61%	\$302,862	\$581,658	192.05%
Liberty Ins Underwriters Inc	\$286,150	0.60%	\$276,414	\$106,742	38.62%
Preferred Physicians Medical RRG	\$226,799	0.48%	\$226,449	\$6,548	2.89%
Oceanus Ins Co A RRG	\$223,732	0.47%	\$12,883	\$432,082	3353.89%
Ace Amer Ins Co	\$184,997	0.39%	\$191,746	\$14,539	7.58%
ProAssurance Ind Co Inc	\$154,166	0.32%	\$172,898	(\$142,567)	(82.46%)
Pharmacists Mut Ins Co	\$124,541	0.26%	\$73,398	\$27,960	38.09%
The Doctors Co RRG a Recip Exch	\$111,503	0.23%	\$111,503	(\$77,471)	(69.48%)
Allied World Ins Co	\$94,703	0.20%	\$41,461	\$10,471	25.26%
Beazley Ins Co Inc	\$81,858	0.17%	\$89,313	\$278,635	311.98%
Preferred Professional Ins Co	\$81,310	0.17%	\$28,422	\$3,958	13.93%
American Alt Ins Corp	\$75,608	0.16%	\$75,802	\$29,665	39.13%
All Other 45 Companies	\$342,520	0.72%	\$420,372	(\$2,567,665)	(610.81%)
<b>Total</b>	<b>\$47,510,033</b>	<b>100.00%</b>	<b>\$47,861,364</b>	<b>\$41,163,174</b>	<b>86.01%</b>

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# **Section IV**

## **Other Sources of Data**

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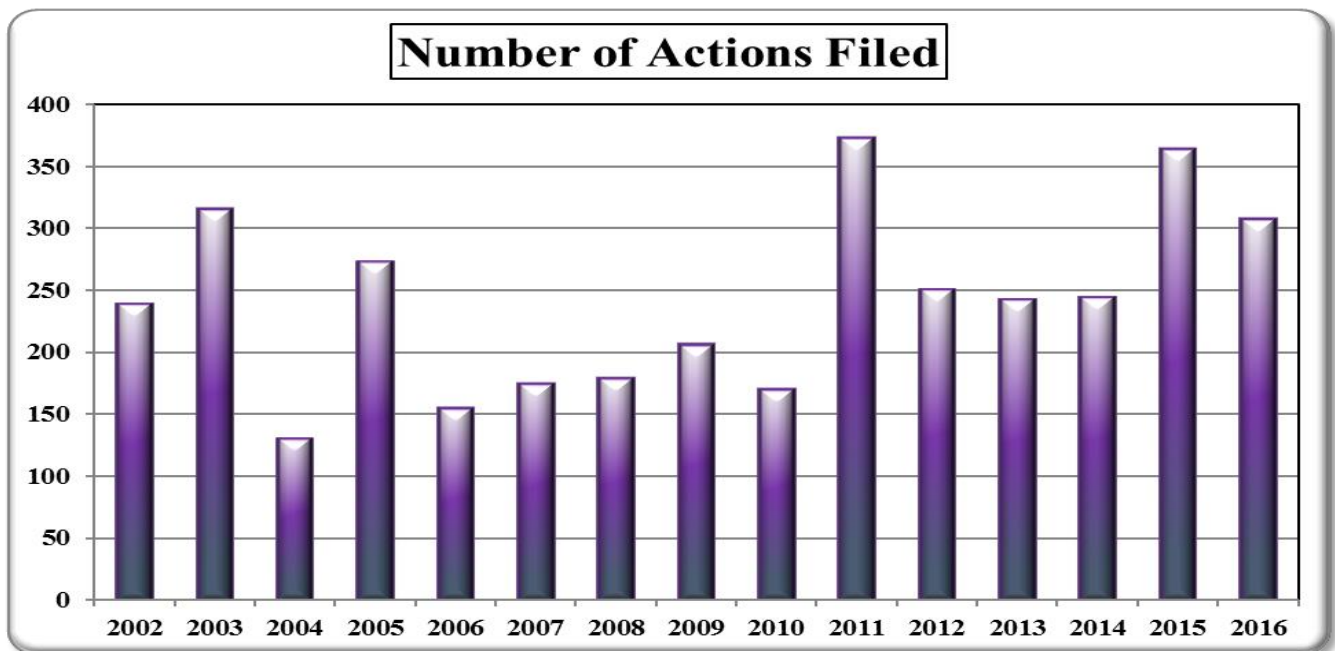


## IV: Other Sources of Data

### 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 moneys received for each action filed are received by the State Treasurers 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
2002	239
2003	315
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



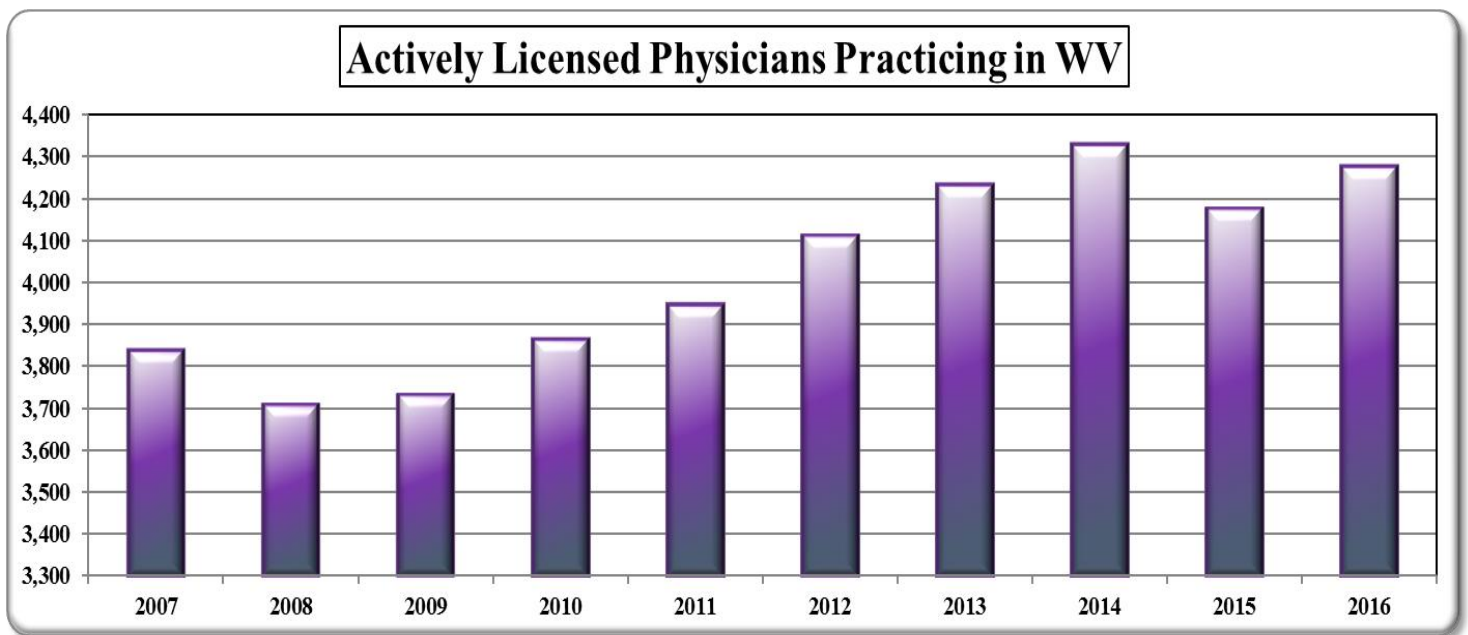
The 2016 number of actions decreased by more than 15%. This follows a 2015 substantial increase. This is yet another indication of the unpredictability this market may experience in any given year. As noted in the graph, counts are volatile with no clear trending indications.

#### IV-B: Board of Medicine Data

Obtaining data from the West Virginia Board of Medicine regarding physician licensure in West Virginia, the following history is observed.

West Virginia Board of Medicine Licensure Data	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Actively Licensed Physicians (M.D.)	5,379	5,594	5,776	5,857	5,962	6,020	6,282	6,636	6,533	6,780
Inactively Licensed Physicians	692	650	627	628	628	632	613	484	527	433
Actively Licensed Podiatrists (D.P.M.)	103	104	101	111	101	103	100	101	111	110
Inactively Licensed Podiatrists	16	16	15	14	15	15	12	12	11	8
Actively Licensed Physicians Practicing in WV	3,837	3,708	3,730	3,864	3,946	4,111	4,231	4,327	4,177	4,276
Actively Licensed Podiatrists Practicing in WV	75	73	64	68	72	74	65	67	71	73
Physician Assistants (P.A.)	542	580	604	658	671	732	781	821	791	891
Medical Corporations	513	502	500	498	495	498	487	432	450	422
Professional Limited Liability Companies	47	50	50	53	59	79	100	98	109	138
Special Volunteer Medical Licenses	13	16	15	16	17	16	15	11	11	9
Medical School Faculty Limited Licenses	4	2	3	4	3	3	3	3	4	3

Looking at only licensed physicians that report as actively practicing in West Virginia, the 2016 physician count did increase from the 2015 reports by more than 2%. However, this count is still below the 2014 reports.



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# **Section V**

## **Summary Observations**

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## V: Summary Observations

- In 2016, medical malpractice insurance in West Virginia continued to demonstrate favorable results, concluding with an overall business written pure loss ratio of 80.7% and admitted pure loss ratio of 86.0%. The premium volume remained relatively unchanged with a 2% premium decrease reported in 2016 on a business written basis.
- Countrywide net operating results for all property and casualty lines of business in 2016 were at 92.3%.
- During 2016, medical malpractice rates in West Virginia remained relatively unchanged. WVMIC held the substantial majority of the market share and initiated no overall rate changes with the exception of renewal credit and other premium determining adjustments. NORCAL proposed no rate changes from the previous Medicus filings.
- In the entire market for physicians and surgeons, the top five malpractice writers in West Virginia by premium written accounted for 80.0% of the market. When considering incurred losses, it should be noted that five carriers reported 83% of the incurred losses with four of those carriers incurring more in losses than in written premium.
- An analysis of West Virginia Board of Medicine data revealed the following:
  - The total number of claims in 2016 (145) is nearly 40% lower than the 2001 claim count.
  - On average, approximately 8% of claims filed actually go to court.
  - On average, most claims are settled outside of court; approximately 65%.
- A review of the Medical Liability fund data indicates that the number of filed actions in West Virginia decreased by more than 15%; from 362 in 2015 to 307 in 2016.
- Examination of the 5% market share company data as required by §114CSR22, §114CSR23, and §33-20B-6 notes some loss issues, but found no areas of material concern. The WVOIC will continually monitor and trend the companies for future loss development and rate stabilization.

# Glossary of Terms

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**Accident Year Experience:** Measures premiums and losses relating to accidents which occurred during a 12-month period. Ties loss dollars to the year in which the premiums were earned.

**Admitted Market:** Comprised of only Insurance Companies that are specifically authorized and licensed to write business in a given state. Contrast this with the market as a whole which would also include non-admitted insurers who write in a given state on an Excess and Surplus lines basis. (i.e. Business Written Basis.)

**BRIM:** West Virginia Board of Risk and Insurance Management

**Calendar Year Experience:** Measures premiums and losses entered on accounting records during the 12-month calendar. Losses may be from prior years.

**Claims-made Coverage:** A policy which provides coverage only when a claim is made during its active policy period or any automatic or purchased supplemental extended reporting period. For example, generally a claim that is made in the current year will be charged against the current policy even if the injury or loss giving rise to the claim had occurred many years in the past. However, a claims-made policy will also have a set specific retroactive date, prior to which any occurrence giving rise to a claim will not be covered. From a pricing perspective, claims-made coverage is much more straightforward since it strictly limits the insurers' exposure only to unknown future liabilities (called "incurred but not reported" claims). Contrast this coverage with "Occurrence Coverage". Claims-made coverage became a more accepted approach towards writing long-tailed exposure lines like medical malpractice and products liability during the mid-'80's after its introduction by the Insurance Services Organization (ISO).

**Combined Ratio:** The percentage of each premium dollar a property/casualty insurer spends on claims and expenses. A decrease in the combined ratio means financial results are improving; an increase means that they are deteriorating. When the ratio is over 100%, the insurer has an underwriting loss.

**Direct Combined Ratio:** The sum of expenses and incurred losses combined versus earned premiums. On a direct basis, this ratio does not take into account any adjustments for reinsurance recoveries or payments for reinsurance coverage.

**Direct Loss Ratio:** The ratio of incurred losses to earned premium. The direct loss ratio is in contrast to a ‘net loss ratio’ which compares losses after reinsurance recoveries to earned premiums after paying for reinsurance.

**Earned Premium:** The pro rata portion of written premium which represents the expired portion of the insurance contract. For example, an annual policy of \$100 written on July 1, 2001, assuming a calendar year accounting period, will be shown on the company’s books as being partially earned in 2001 and 2002, i.e. fifty dollars earned in 2001 and fifty dollars in 2002.

**Guide (a) rating (also known as ‘refer to company’ and ‘judgment rating’):** (a)-rating is typically used for large and/or unique commercial risks. It is generally provided for in the rules section of a company’s underwriting manual. When a risk, such as a hospital, qualifies for (a)-rating, the actual price for the risk will be determined by an experienced underwriter. In this situation, actual filed rates are superseded by the underwriter’s judgment.

**Incurred Loss:** A monetary payment and/or reserve on the part of the insurance company to cover claims of the insureds which are payable by the terms of the insurance contract.

**Investment Gain/(Loss):** The investment gain relates a company’s total return on all invested funds (premiums, reserves, and equity) to the calendar year earned premium. Thus this figure will usually be quite substantial for a long-tailed line like medical malpractice which requires considerable funds to be held in reserves and surplus.

**Loss Adjustment Expense (LAE):** Costs on the part of an insurance company to cover expenses incurred in settling their claims. This expense can be divided into two types: Allocated Loss Adjustment Expenses (ALAE aka Direct Cost Containment Expense [DCCE]) which are those expenses such as outside attorney and necessary court fees which can be directly tied to a specific claim, and Unallocated Loss Adjustment Expenses (ULAE aka Adjusting and Other [AO]) which are insurance company general claim department expenses, etc. and are not directly allocated to a particular claim.

**Loss Development Factors:** Designed to account for the subsequent development of losses or those that are late in being reported in order to attempt to reasonably estimate ultimate settlement amounts. Loss development factors are frequently utilized in those lines of insurance where claims develop slowly or are commonly reported later than the year in which the original premiums were earned. Prospective loss development factors are based upon changes in the relationships of historical claim data at specific and set periods during their subsequent development, such as after 12, 24, and 36 months, etc.

**Occurrence Coverage:** A policy that pays claims arising out of incidents that occur during the policy term, even if the claims are filed many years later.

**Operating Profit/(Loss):** Bottom-line profit or loss of an insurance company. Calculated by adding investment income to underwriting profit/(loss).

**Premium-to-Surplus Ratio:** The ratio of written premium to surplus. This ratio is commonly used in the property/casualty insurance industry as a measure of financial strength or to indicate the degree to which a company is leveraged. In Medical Malpractice insurance, this ratio is often less than one-to-one.

**Punitive Damages:** Damages awarded over and above compensatory (economic) damages to punish a negligent party because of wanton, reckless, or malicious acts or omissions.

**Pure Premium:** The portion of the total premium only needed to pay expected losses. The pure premium does not take into account the portion of premium necessary for company expenses (e.g., commissions, taxes, etc.)

**Risk Retention Group:** Liability Insurance Companies which are owned by their policyholders. Membership is limited to people in the same business or activity which exposes them to similar risks. The purpose is to assume and spread liability exposure to group members and to provide an alternative risk financing mechanism for liability. (See also the Federal Liability Risk Retention Act of 1986.)

**Severity:** Average loss per claim.

**Surplus Line:** (aka Excess Line) A risk or part of a risk for which there is no market available through the original broker or agent in its jurisdiction. Therefore, it is placed with non-admitted insurers on an unregulated basis, in accordance with the surplus or excess lines provisions of the state law.

**Underwriting Expense:** The expenses which are realized by an insurance company in acquiring, selecting, and servicing policies. Underwriting expense includes agents' commissions, general administration expenses, inspection and bureau expenses, and taxes, licenses and fees. It does not include any loss adjustment expenses.

**Underwriting Profit/(Loss):** The remainder when loss, loss adjustment expense and underwriting expense are subtracted from earned premium income.

**Written Premium:** The total premium from all policies with effective dates within a given time period.

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# Exhibits



**5% Market Share Report - Exhibit I Sheet 1a**

**Loss and Premium Information/Reconciliation**

**West Virginia Mutual Insurance Company**

**Physicians & Surgeons**

<b>2017 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Adj On-Lev EP	-	-	\$26,120,000	\$25,920,000	\$22,812,000	\$22,821,000	\$23,354,000
Tr, Dev Ult Loss & ALAE	-	-	\$16,489,602	\$17,451,615	\$19,539,806	\$20,998,699	\$16,246,687
Loss & ALAE Ratio	-	-	63.1%	67.3%	85.7%	92.0%	69.6%
<b>2016 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	
Adj On-Lev EP	-	\$29,555,000	\$28,078,000	\$25,198,000	\$26,545,000	\$26,241,000	
Tr, Dev Ult Loss & ALAE	-	\$15,768,966	\$17,497,749	\$18,140,502	\$17,452,882	\$18,715,003	
Loss & ALAE Ratio	-	53.4%	62.3%	72.0%	65.7%	71.3%	
<b>2015 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>		
Adj On-Lev EP	\$35,381,537	\$32,665,819	\$30,681,459	\$26,957,703	\$25,609,100		
Tr, Dev Ult Loss & ALAE	\$13,155,579	\$16,249,458	\$18,533,201	\$17,924,552	\$22,110,831		
Loss & ALAE Ratio	37.2%	49.7%	60.4%	66.5%	86.3%		
<b>2014 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>			
Adj On-Lev EP	\$35,381,537	\$32,665,819	\$30,681,459	\$26,957,703			
Tr, Dev Ult Loss & ALAE	\$14,107,366	\$16,223,241	\$20,193,516	\$20,115,135			
Loss & ALAE Ratio	39.9%	49.7%	65.8%	74.6%			
<b>2013 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>				
Adj On-Lev EP	\$37,249,928	\$34,390,162	\$31,446,307				
Tr, Dev Ult Loss & ALAE	\$15,553,561	\$17,936,037	\$19,839,475				
Loss & ALAE Ratio	41.8%	52.2%	63.1%				

**5% Market Share Report - Exhibit I Sheet 1b**

**Loss and Premium Information/Reconciliation**

**NORCAL Mutual Insurance Company AND Medicus Insurance Company**

**Physicians & Surgeons**

<b>2017 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Adj On-Lev EP	-	-	\$6,493,000	\$6,497,000	\$6,441,000	\$5,389,000	\$4,142,000
Tr, Dev Ult Loss & ALAE	-	-	\$110,000	\$6,473,000	\$7,916,000	\$7,746,000	\$1,852,000
Loss & ALAE Ratio	-	-	1.7%	99.6%	122.9%	143.7%	44.7%
<b>2016 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	
Adj On-Lev EP	-	\$5,539,000	\$6,493,000	\$6,497,000	\$6,441,000	\$5,389,000	
Tr, Dev Ult Loss & ALAE	-	\$6,930,000	\$110,000	\$6,473,000	\$7,916,000	\$7,746,000	
Loss & ALAE Ratio	-	125.1%	1.7%	99.6%	122.9%	143.7%	
<b>2015 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>		
Adj On-Lev EP	\$4,935,000	\$5,539,000	\$6,493,000	\$6,497,000	\$6,441,000		
Tr, Dev Ult Loss & ALAE	\$3,256,000	\$6,930,000	\$110,000	\$6,473,000	\$7,916,000		
Loss & ALAE Ratio	66.0%	125.1%	1.7%	99.6%	122.9%		
<b>2014 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>			
Adj On-Lev EP	\$4,935,000	\$5,539,000	\$6,493,000	\$6,497,000			
Tr, Dev Ult Loss & ALAE	\$3,256,000	\$6,930,000	\$110,000	\$6,473,000			
Loss & ALAE Ratio	66.0%	125.1%	1.7%	99.6%			
<b>2013 Rate Filing</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>				
Adj On-Lev EP	\$4,935,000	\$5,539,000	\$6,493,000				
Tr, Dev Ult Loss & ALAE	\$3,256,000	\$6,930,000	\$110,000				
Loss & ALAE Ratio	66.0%	125.1%	1.7%				
<b>2012 Rate Filing</b>	<b>2010</b>	<b>2011</b>					
Adj On-Lev EP	\$4,935,000	\$5,539,000					
Tr, Dev Ult Loss & ALAE	\$3,256,000	\$6,930,000					
Loss & ALAE Ratio	66.0%	125.1%					

**5% Market Share Report - Exhibit II**

**Comparison of Budgeted Expenses**

**West Virginia Mutual Insurance Company**

**Physicians & Surgeons**

Filing Number	100040549	100035423	100030006	100023353	100016727	100011255	100006008	90918009
Effective Date	1/1/2017	1/1/2016	1/1/2015	1/1/2014	1/1/2013	1/1/2012	1/1/2011	1/1/2010
<b>Variable Expense</b>								
Commission	6.90%	6.90%	7.00%	7.00%	n/a	n/a	n/a	n/a
Gen & Acq	19.50%	19.50%	7.30%	n/a	7.00%	6.50%	6.50%	6.00%
Taxes & Fees	3.40%	3.40%	4.20%	4.20%	5.00%	5.00%	5.00%	5.00%
Other	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Profit & Cont	2.30%	2.30%	2.30%	2.30%	2.25%	6.10%	6.10%	6.10%
<b>Total Var Exp</b>	<b>32.10%</b>	<b>32.10%</b>	<b>20.80%</b>	<b>13.50%</b>	<b>14.25%</b>	<b>17.60%</b>	<b>17.60%</b>	<b>17.10%</b>
<b>Fixed Expense</b>								
F E (Per Pol)	n/a*	n/a*	\$5,184	\$6,616	\$5,994	\$5,532	\$5,532	\$4,977
Base Rate (MC 3)	\$20,118	\$20,118	\$20,118	\$19,501	\$19,501	\$20,528	\$20,528	\$20,528
*data not included in filing								
<b>Total Exp</b>	<b>31.80%</b>	<b>31.80%</b>	<b>20.80%</b>	<b>13.50%</b>	<b>14.25%</b>	<b>17.60%</b>	<b>17.60%</b>	<b>17.10%</b>

**NORCAL Mutual Insurance Company**

**Physicians & Surgeons**

Filing Number	100044426	100035481
Effective Date	1/1/2017	5/1/2016
<b>Expenses</b>		
Commission	8.00%	8.00%
General & Administrative Expenses	14.40%	14.00%
Taxes & Fees	5.00%	5.00%
Death, Disability & Retire Load	5.00%	5.00%
ULAE Load	11.20%	7.50%
Profit & Cont	5.00%	5.00%
<b>Total Var Exp</b>	<b>48.60%</b>	<b>44.50%</b>
<b>Fixed Expense</b>		
F E (Per Pol)		
Base Rate	\$17,449	\$19,501
<b>Total Exp</b>	<b>48.60%</b>	<b>44.50%</b>

## 5% Market Share Report

### Investment Income Provisions - Exhibit III

	WVMIC	NORCAL
Bonds	\$140,002,717	\$975,461,397
Preferred Stocks	\$0	\$6,896,864
Common Stocks	\$15,560,396	\$393,733,619
Mortgage Loans on Real Estate	\$0	\$0
Real Estate	\$0	\$0
Cash	\$3,578,885	\$17,572,584
Cash Equivalents	\$1,250,000	\$2,019,532
Short-Term Investments	\$2,895,988	\$9,668,944
Contract Loans	\$0	\$0
Derivatives	\$0	\$0
Other Invested Assets	\$0	\$5,268,325
Receivables for Securities	\$0	\$0
Securities Lending Reinv. Coll. Assets	\$0	\$0
Agg. w/ins for Invested Assets	\$0	\$17,605,704
<b>Total Cash and Invested Assets</b>	<b>\$163,287,986</b>	<b>\$1,428,226,969</b>
Net Investment Income Earned	\$4,099,262	\$135,485,092
<b>Investment Yield</b>	<b>2.51%</b>	<b>9.49%</b>
<b>Total Loss Reserves</b>	<b>\$23,467,156</b>	<b>\$442,401,865</b>
<b>Total LAE Reserves</b>	<b>\$20,493,971</b>	<b>\$183,077,817</b>
<b>Total Loss and LAE Reserves</b>	<b>\$43,961,127</b>	<b>\$625,479,682</b>

**West Virginia Offices of the Insurance Commissioner  
5% Market Share Report  
Premium Reconciliation - Exhibit IV**

<u>Company</u>	<u>Schedule T-Written Premium</u>	<u>Filing Forms</u>
West Virginia Mutual Ins Co	\$23,881,382	\$23,380,524
NORCAL Mutual Ins Co	\$3,124,751	\$5,421,597*
<b>Total</b>	\$27,006,133	\$28,802,121

The NORCAL filing premium may have included the Medicus experience as the filing premium would be in line with the \$3M NORCAL premium plus the \$2M Medicus premium reported to the NAIC on the Schedule T Written Premium.

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# Appendix

## 2016 Physicians Business Written Totals

Company	Direct Premium Written	Physicians Market Share	Direct Premium Earned	Direct Loss Incurred	Pure Direct Loss Ratio
West Virginia Mut Ins Co	\$23,838,409	58.2%	\$25,964,800	\$10,330,833	39.8%
Norcal Mut Ins Co	\$3,124,751	7.6%	\$570,761	\$599,359	105.0%
Medicus Ins Co	\$2,024,679	4.9%	\$3,299,505	\$1,229,384	37.3%
Evanston Ins Co	\$1,996,776	4.9%	\$2,002,281	\$1,471,486	73.5%
Medical Protective Co	\$1,782,479	4.4%	\$1,315,483	\$236,000	17.9%
Doctors Co An Interins Exch	\$1,125,747	2.7%	\$1,070,022	(\$299,994)	(28.0%)
Capson Physicians Ins Co	\$1,025,685	2.5%	\$1,027,003	\$344,760	33.6%
General Star Ind Co	\$833,817	2.0%	\$788,515	(\$356,500)	(45.2%)
Ophthalmic Mut Ins Co RRG	\$826,487	2.0%	\$860,247	(\$49,611)	(5.8%)
Applied Medico Legal Solutions RRG	\$808,476	2.0%	\$769,217	\$778,317	101.2%
National Guardian RRG Inc	\$808,101	2.0%	\$808,101	\$72,753	9.0%
National Fire & Marine Ins Co	\$485,746	1.2%	\$564,856	\$317,186	56.2%
Homeland Ins Co of NY	\$470,462	1.1%	\$487,559	\$813,809	166.9%
Fair Amer Ins & Reins Co	\$325,590	0.8%	\$319,832	(\$102,589)	(32.1%)
Preferred Physicians Medical RRG	\$226,799	0.6%	\$226,449	\$6,548	2.9%
Oceanus Ins Co A RRG	\$223,732	0.5%	\$12,883	\$432,082	3353.9%
ProAssurance Ind Co Inc	\$154,166	0.4%	\$172,898	\$157,432	91.1%
Professional Security Ins Co	\$131,135	0.3%	\$107,227	\$0	0.0%
Admiral Ins Co	\$122,574	0.3%	\$125,119	(\$28,206)	(22.5%)
TDC Specialty Ins Co	\$114,151	0.3%	\$96,544	\$5,903	6.1%
The Doctors Co RRG a Recip Exch	\$111,503	0.3%	\$111,503	(\$77,471)	(69.5%)
Hallmark Specialty Ins Co	\$73,402	0.2%	\$95,131	\$102,612	107.9%
Cherokee Guar Co Inc a RRG	\$72,404	0.2%	\$109,730	\$9,951	9.1%
Preferred Professional Ins Co	\$69,789	0.2%	\$23,302	\$1,775	7.6%
Catlin Specialty Ins Co	\$48,325	0.1%	\$46,101	\$884,501	1918.6%
NORCAL Specialty Ins Co	\$45,368	0.1%	\$45,368	\$16,569	36.5%
Allied World Specialty Ins Co	\$33,197	0.1%	\$89,444	\$6,762	7.6%
Green Hills Ins Co RRG	\$23,482	0.1%	\$20,919	(\$3,755)	(18.0%)
MT Hawley Ins Co	\$12,047	0.0%	\$52,866	\$8,741	16.5%
The Cincinnati Ins Co	\$8,937	0.0%	\$7,242	(\$1,845)	(25.5%)
Academic Medical Professionals Ins	\$6,383	0.0%	\$4,845	\$1,708	35.3%
Columbia Cas Co	\$5,798	0.0%	\$4,927	(\$30,195)	(612.8%)
Ace Amer Ins Co	\$873	0.0%	\$873	(\$141)	(16.2%)
19 Other Companies	\$0	0.0%	\$70,776	\$953,071	1346.6%
<b>Total</b>	<b>\$40,961,270</b>	<b>100.0%</b>	<b>\$41,272,329</b>	<b>\$17,831,235</b>	<b>43.2%</b>

## 2016 Hospitals Business Written Totals

Company	Direct Premium Written	Hospitals Market Share	Direct Premium Earned	Direct Loss Incurred	Pure Direct Loss Ratio
Community Hospital RRG	\$2,802,652	25.2%	\$2,802,652	\$20,229,992	721.8%
Endurance Amer Specialty Ins Co	\$2,301,374	20.7%	\$2,694,104	\$420,982	15.6%
American Excess Ins Exch RRG	\$1,061,150	9.5%	\$1,070,346	\$5,539,538	517.5%
Nautilus Ins Co	\$956,076	8.6%	\$962,804	\$3,061,783	318.0%
National Fire & Marine Ins Co	\$751,758	6.8%	\$577,090	\$370,301	64.2%
Homeland Ins Co of NY	\$647,500	5.8%	\$313,334	\$1,111,263	354.7%
Illinois Union Ins Co	\$618,778	5.6%	\$867,754	(\$486,333)	(56.0%)
ProAssurance Specialty Ins Co	\$429,994	3.9%	\$429,994	\$225,350	52.4%
Arch Specialty Ins Co	\$417,500	3.8%	\$626,536	\$451,046	72.0%
Allied World Surplus Lines Ins Co	\$402,500	3.6%	\$402,783	(\$147,982)	(36.7%)
Professional Security Ins Co	\$387,576	3.5%	\$257,876	\$0	0.0%
Ironshore Specialty Ins Co	\$208,485	1.9%	\$238,174	\$154,161	64.7%
Allied World Assur Co US Inc	\$57,000	0.5%	\$208,701	\$78,019	37.4%
Columbia Cas Co	\$50,000	0.4%	\$50,092	(\$794)	(1.6%)
Admiral Ins Co	\$28,363	0.3%	\$25,395	\$498,201	1961.8%
Continental Cas Co	\$0	0.0%	\$0	(\$9)	0.0%
St Paul Mercury Ins Co	\$0	0.0%	\$0	(\$382)	0.0%
Zurich Amer Ins Co	\$0	0.0%	\$0	(\$1,128)	0.0%
Interstate Fire & Cas Co	\$0	0.0%	\$0	\$1,301	0.0%
Allied World Specialty Ins Co	\$0	0.0%	\$0	(\$647)	0.0%
First Specialty Ins Corp	\$0	0.0%	\$0	\$16,184	0.0%
Lexington Ins Co	\$0	0.0%	\$0	(\$344,498)	0.0%
Health Care Ind Inc	\$0	0.0%	\$0	(\$3,194,155)	0.0%
Executive Risk Specialty Ins Co	\$0	0.0%	\$0	(\$7,512)	0.0%
St Paul Fire & Marine Ins Co	\$0	0.0%	\$0	(\$19,691)	0.0%
Ace Amer Ins Co	\$0	0.0%	\$0	(\$314)	0.0%
Zurich Amer Ins Co Of IL	\$0	0.0%	(\$6)	(\$5,023)	83716.7%
Indian Harbor Ins Co	\$0	0.0%	\$0	(\$5,714)	0.0%
Steadfast Ins Co	\$0	0.0%	\$0	(\$42,819)	0.0%
Executive Risk Ind Inc	\$0	0.0%	\$0	(\$9,038)	0.0%
<b>Total</b>	\$11,120,706	100.0%	\$11,527,629	\$27,892,082	242.0%



## 2016 Other Professionals Business Written Totals

Company	Direct Premium Written	Professionals Market Share	Direct Premium Earned	Direct Loss Incurred	Pure Direct Loss Ratio
American Cas Co Of Reading PA	\$1,086,312	18.1%	\$1,095,235	\$293,764	26.8%
Continental Cas Co	\$698,178	11.6%	\$797,016	\$111,021	13.9%
Evanston Ins Co	\$529,134	8.8%	\$617,675	\$964,473	156.1%
Podiatry Ins Co Of Amer	\$508,903	8.5%	\$540,522	\$342,687	63.4%
The Cincinnati Ins Co	\$421,524	7.0%	\$463,351	(\$189,639)	(40.9%)
Medical Protective Co	\$370,902	6.2%	\$358,228	\$375,000	104.7%
NCMIC Ins Co	\$301,774	5.0%	\$303,214	\$317,938	104.9%
Western World Ins Co	\$292,121	4.9%	\$290,521	\$26,216	9.0%
Oms Natl Ins Co Rrg	\$287,788	4.8%	\$302,862	\$581,658	192.1%
Liberty Ins Underwriters Inc	\$286,150	4.8%	\$276,414	\$106,742	38.6%
Landmark Amer Ins Co	\$219,313	3.7%	\$241,937	\$27,183	11.2%
Ace Amer Ins Co	\$184,124	3.1%	\$190,874	\$14,994	7.9%
Admiral Ins Co	\$177,152	3.0%	\$170,995	\$69,366	40.6%
Columbia Cas Co	\$149,315	2.5%	\$143,598	(\$554,443)	(386.1%)
Pharmacists Mut Ins Co	\$124,541	2.1%	\$73,398	\$27,960	38.1%
TDC Specialty Ins Co	\$83,488	1.4%	\$79,610	\$0	0.0%
Beazley Ins Co Inc	\$81,858	1.4%	\$89,313	\$278,635	312.0%
State Farm Fire & Cas Co	\$23,476	0.4%	\$21,869	\$2,165	9.9%
Allied Professionals Ins Co RRG	\$20,669	0.3%	\$22,182	\$1,317	5.9%
The Cincinnati Specialty Underwriter	\$20,641	0.3%	\$20,392	\$58,214	285.5%
Great Divide Ins Co	\$20,529	0.3%	\$20,014	(\$11,145)	(55.7%)
Fortress Ins Co	\$15,884	0.3%	\$13,531	\$2,351	17.4%
The Cincinnati Ind Co	\$14,167	0.2%	\$14,168	(\$3,911)	(27.6%)
The Cincinnati Cas Co	\$14,127	0.2%	\$11,684	(\$1,372)	(11.7%)
American Assoc Of Othodontists RRG	\$11,966	0.2%	\$11,825	\$48	0.4%
PACO Assur Co Inc	\$11,796	0.2%	\$11,539	(\$3,306)	(28.7%)
Preferred Professional Ins Co	\$11,521	0.2%	\$5,120	\$2,183	42.6%
ProAssurance Specialty Ins Co	\$11,230	0.2%	\$6,275	\$2,805	44.7%
Liberty Surplus Ins Corp	\$5,767	0.1%	\$5,767	(\$582,075)	(10093.2%)
Lexington Ins Co	\$5,710	0.1%	\$5,710	(\$4,787)	(83.8%)
National Fire & Marine Ins Co	\$5,000	0.1%	\$5,019	\$3,495	69.6%
Berkley Assur Co	\$3,603	0.1%	\$5,155	(\$3,859)	(74.9%)
Doctors Co An Interins Exch	\$2,457	0.0%	\$13,154	\$0	0.0%
Aspen Specialty Ins Co	\$1,307	0.0%	\$1,315	(\$48)	(3.7%)
Church Mut Ins Co	\$982	0.0%	\$978	\$1,512	154.6%
Berkshire Hathaway Specialty Ins Co	\$249	0.0%	\$66	\$54	81.8%
21 Other Companies	(\$3,163)	(0.1%)	\$17,051	(\$361,360)	(2119.3%)
<b>Total</b>	\$6,000,495	100.0%	\$6,247,577	\$1,895,836	30.3%

## 2016 Other Healthcare Facilities Business Written Totals

Company	Direct Premium Written	Facilities Market Share	Direct Premium Earned	Direct Loss Incurred	Pure Direct Loss Ratio
Health Care Industry Liab Recip Ins	\$2,297,769	55.5%	\$2,409,895	\$1,265,195	52.5%
National Fire & Marine Ins Co	\$311,905	7.5%	\$159,366	\$97,273	61.0%
Ironshore Specialty Ins Co	\$194,682	4.7%	\$202,244	\$161,062	79.6%
Arch Specialty Ins Co	\$164,686	4.0%	\$154,555	(\$20,445)	(13.2%)
Allied World Surplus Lines Ins Co	\$161,825	3.9%	\$149,687	\$119,360	79.7%
MT Hawley Ins Co	\$161,659	3.9%	\$157,774	\$256,987	162.9%
ProAssurance Specialty Ins Co	\$149,422	3.6%	\$113,936	\$51,476	45.2%
Evanston Ins Co	\$115,397	2.8%	\$102,870	(\$241,054)	(234.3%)
The Cincinnati Ins Co	\$108,582	2.6%	\$108,347	\$509,086	469.9%
AXIS Surplus Ins Co	\$92,548	2.2%	\$38,070	\$17,134	45.0%
American Alt Ins Corp	\$75,608	1.8%	\$75,802	\$29,665	39.1%
Capitol Specialty Ins Corp	\$74,769	1.8%	\$74,018	\$13,659	18.5%
Lexington Ins Co	\$65,157	1.6%	\$144,062	\$131,517	91.3%
Church Mut Ins Co	\$60,890	1.5%	\$52,397	\$554,886	1059.0%
West Virginia Mut Ins Co	\$42,973	1.0%	\$31,826	\$0	0.0%
Columbia Cas Co	\$41,263	1.0%	\$38,942	\$272	0.7%
Allied World Assur Co US Inc	\$14,500	0.4%	\$14,584	\$5,223	35.8%
Capitol Ind Corp	\$11,118	0.3%	\$13,822	\$7,230	52.3%
Hallmark Specialty Ins Co	\$6,268	0.2%	\$6,045	\$1,493	24.7%
Illinois Union Ins Co	\$4,880	0.1%	\$4,531	(\$24,113)	(532.2%)
Hudson Ins Co	\$856	0.0%	\$1,017	\$673	66.2%
Affiliates Ins Recip a RRG	\$345	0.0%	\$345	\$151	43.8%
Nationwide Mut Fire Ins Co	\$0	0.0%	\$0	(\$41)	0.0%
Nationwide Mut Ins Co	\$0	0.0%	\$0	\$2,491	0.0%
St Paul Mercury Ins Co	\$0	0.0%	\$0	(\$114)	0.0%
St Paul Fire & Marine Ins Co	\$0	0.0%	\$0	(\$1,339)	0.0%
Zurich Amer Ins Co	\$0	0.0%	\$0	(\$811)	0.0%
Interstate Fire & Cas Co	\$0	0.0%	\$0	(\$110)	0.0%
Allied World Specialty Ins Co	\$0	0.0%	\$0	(\$99)	0.0%
Executive Risk Specialty Ins Co	\$0	0.0%	\$0	(\$4,970)	0.0%
General Star Ind Co	\$0	0.0%	\$12,904	(\$28,000)	(217.0%)
Princeton Excess & Surplus Lines Ins	\$0	0.0%	\$0	(\$1,019)	0.0%
Nautilus Ins Co	\$0	0.0%	\$0	(\$154,592)	0.0%
American Home Assur Co	\$0	0.0%	\$0	(\$619)	0.0%
Granite State Ins Co	\$0	0.0%	\$0	\$10,238	0.0%
AIG Specialty Ins Co	\$0	0.0%	\$0	\$811	0.0%
Atlantic Specialty Ins Co	\$0	0.0%	\$0	\$23,086	0.0%
Catlin Specialty Ins Co	\$0	0.0%	\$30	(\$16)	(53.3%)
Executive Risk Ind Inc	\$0	0.0%	\$0	(\$1,461)	0.0%
James River Ins Co	(\$431)	0.0%	(\$220)	(\$850)	386.4%
Homeland Ins Co of NY	(\$6,413)	(0.2%)	\$242,769	\$628,343	258.8%
The Cincinnati Specialty Underwriter	(\$8,534)	(0.2%)	\$22,467	(\$51,092)	(227.4%)
<b>Total</b>	\$4,141,724	100.0%	\$4,332,085	\$3,356,566	77.5%

## 2016 Medical Malpractice Business Written Totals

Company	Direct Premium Written	Total Market Share	Direct Premium Earned	Direct Loss Incurred	Pure Direct Loss Ratio
West Virginia Mut Ins Co	\$23,881,382	38.1%	\$25,996,626	\$10,330,833	39.7%
Norcal Mut Ins Co	\$3,124,751	5.0%	\$570,761	\$599,359	105.0%
Evanston Ins Co	\$2,641,307	4.2%	\$2,722,826	\$2,194,905	80.6%
Community Hospital RRG	\$2,634,493	4.2%	\$2,634,493	\$20,229,992	767.9%
Endurance Amer Specialty Ins Co	\$2,301,374	3.7%	\$2,694,104	\$420,982	15.6%
Health Care Industry Liab Recip Ins	\$2,297,769	3.7%	\$2,409,895	\$1,279,719	53.1%
Medical Protective Co	\$2,153,381	3.4%	\$1,673,711	\$611,000	36.5%
Medicus Ins Co	\$2,024,679	3.2%	\$3,299,505	\$1,229,384	37.3%
National Fire & Marine Ins Co	\$1,554,409	2.5%	\$1,306,331	\$788,255	60.3%
Doctors Co An Interins Exch	\$1,128,204	1.8%	\$1,083,177	(\$299,994)	(27.7%)
Homeland Ins Co of NY	\$1,111,549	1.8%	\$1,043,662	\$2,553,415	244.7%
American Cas Co Of Reading PA	\$1,086,312	1.7%	\$1,095,235	\$303,728	27.7%
American Excess Ins Exch RRG	\$1,061,150	1.7%	\$1,070,346	\$5,539,538	517.5%
Capson Physicians Ins Co	\$1,025,685	1.6%	\$1,027,003	\$344,760	33.6%
Nautilus Ins Co	\$956,076	1.5%	\$1,003,167	\$3,875,342	386.3%
General Star Ind Co	\$833,817	1.3%	\$801,419	(\$384,500)	(48.0%)
Ophthalmic Mut Ins Co RRG	\$826,487	1.3%	\$860,247	(\$49,611)	(5.8%)
Applied Medico Legal Solutions RRG	\$808,476	1.3%	\$769,217	\$778,317	101.2%
National Guardian RRG Inc	\$808,101	1.3%	\$808,101	\$72,753	9.0%
Continental Cas Co	\$698,178	1.1%	\$797,016	\$613,204	76.9%
Illinois Union Ins Co	\$623,658	1.0%	\$872,285	(\$510,331)	(58.5%)
ProAssurance Specialty Ins Co	\$590,646	0.9%	\$550,205	\$279,631	50.8%
Arch Specialty Ins Co	\$582,186	0.9%	\$781,090	\$430,601	55.1%
Allied World Surplus Lines Ins Co	\$564,325	0.9%	\$552,470	(\$110,556)	(20.0%)
Cincinnati Ins Co	\$539,043	0.9%	\$578,940	\$317,601	54.9%
Professional Security Ins Co	\$518,711	0.8%	\$365,103	\$0	0.0%
Podiatry Ins Co Of Amer	\$508,903	0.8%	\$540,522	\$342,687	63.4%
Fair American Select Ins Co	\$507,632	0.8%	\$296,812	\$149,362	50.3%
Ironshore Specialty Ins Co	\$403,167	0.6%	\$440,418	\$315,476	71.6%
Admiral Ins Co	\$328,089	0.5%	\$321,509	\$539,360	167.8%
Fair Amer Ins & Reins Co	\$325,590	0.5%	\$319,832	(\$102,589)	(32.1%)
NCMIC Ins Co	\$301,774	0.5%	\$303,214	\$317,938	104.9%
Western World Ins Co	\$292,121	0.5%	\$290,521	\$26,216	9.0%
Oms Natl Ins Co Rrg	\$287,788	0.5%	\$302,862	\$581,658	192.1%
Liberty Ins Underwriters Inc	\$286,150	0.5%	\$276,414	\$106,742	38.6%
83 Other Companies	\$3,041,008	4.9%	\$3,090,693	(\$2,430,717)	(78.6%)
<b>Total</b>	\$62,658,371	100.0%	\$63,549,732	\$51,284,460	80.7%

## 2016 Malpractice Actions Filed by County

County	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Barbour	0	1	0	0	0	0	0	2	1	0	4
Berkeley	3	2	2	2	5	12	9	9	6	7	57
Boone	1	0	1	1	0	4	6	5	1	4	23
Braxton	0	0	0	1	0	0	0	1	0	0	2
Brooke	2	3	2	1	4	3	4	7	1	8	35
Cabell	14	13	27	17	18	18	13	9	27	18	174
Calhoun	0	0	0	0	0	1	0	0	0	0	1
Clay	0	0	0	0	0	0	0	0	0	0	0
Doddridge	1	0	0	0	0	0	0	0	0	0	1
Fayette	3	2	5	0	9	1	6	2	1	1	30
Gilmer	0	0	0	0	0	0	0	0	0	0	0
Grant	1	1	0	0	0	0	2	1	0	0	5
Greenbrier	5	5	6	5	4	5	3	2	4	6	45
Hampshire	1	0	0	0	0	0	0	0	0	0	1
Hancock	0	1	0	0	0	0	0	0	0	1	2
Hardy	0	0	0	0	0	0	0	0	0	0	0
Harrison	9	6	5	7	6	8	5	14	12	3	75
Jackson	4	1	5	1	2	1	0	1	2	0	17
Jefferson	2	3	2	1	2	2	2	3	2	3	22
Kanawha	46	49	53	57	84	100	102	74	126	131	822
Lewis	1	0	0	0	0	0	0	0	1	1	3
Lincoln	0	0	0	0	0	0	0	0	0	0	0
Logan	4	6	7	9	6	9	8	6	3	5	63
Marion	0	4	4	2	3	6	3	8	5	4	39
Marshall	2	0	0	0	1	1	1	3	1	8	17
Mason	2	5	3	2	3	0	1	1	2	3	22
McDowell	1	3	4	0	1	2	1	8	4	4	28
Mercer	9	8	15	5	11	7	8	11	11	9	94
Mineral	0	0	1	1	1	1	1	1	0	1	7
Mingo	3	2	4	3	5	6	1	1	0	2	27
Monongalia	15	14	17	15	16	21	6	16	16	15	151
Monroe	1	0	0	0	0	0	0	3	0	0	4
Morgan	0	0	1	0	1	0	0	0	0	0	2
Nicholas	2	1	5	0	3	4	3	4	1	9	32
Ohio	6	5	4	11	9	8	14	15	9	4	85
Pendelton	0	0	0	0	0	0	0	0	0	0	0
Pleasants	0	0	0	0	0	0	0	0	1	0	1
Pocahontas	0	0	0	0	0	0	0	0	0	0	0
Preston	0	0	0	0	1	1	1	0	1	3	7
Putnam	5	7	6	5	15	3	5	3	1	7	57
Raleigh	14	18	13	6	135	14	20	18	95	32	365
Randolph	5	3	4	4	2	1	1	2	1	4	27
Ritchie	1	0	0	0	0	0	0	0	0	0	1
Roane	1	1	0	0	1	1	1	2	0	1	8
Summers	1	0	1	0	2	0	0	0	0	0	4
Taylor	0	1	0	0	0	0	0	0	0	1	2
Tucker	1	0	0	0	0	0	0	0	0	0	1
Tyler	0	0	0	0	1	0	0	0	2	0	3
Upshur	1	1	0	4	3	3	2	2	0	0	16
Wayne	0	0	0	0	0	0	0	0	1	1	2
Webster	0	0	1	0	1	0	0	0	0	0	2
Wetzel	0	1	1	1	1	1	0	1	1	1	8
Wirt	0	0	0	0	0	0	0	0	0	0	0
Wood	6	11	8	9	15	5	15	8	21	9	107
Wyoming	1	0	1	0	2	1	1	1	2	1	10
<b>Total</b>	174	178	208	170	373	250	245	244	362	307	2,511