

Florida Office of Insurance Regulation



2009 Annual Report – October 1, 2009

Medical Malpractice Financial Information
Closed Claim Database and Rate Filings

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Executive Summary

Section 627.912(6)(b)&(c), Florida Statutes, requires the Office of Insurance Regulation (Office) to prepare an annual report about the medical malpractice insurance market in Florida. The report provides a review of the profitability and solvency characteristics of the medical malpractice insurers doing business in Florida, a review of rate filings received by the Office during the year, and a review of the characteristics of the medical malpractice closed claims required to be filed with the Office.

This report satisfies the statutory requirement and, in particular, provides information about the Florida market compared to other states, the financial performance of the 22 medical malpractice insurance writers that constituted 80% of the Florida market in 2008, a review of rate filings, and an analysis of the closed claims data.

Regarding overall profitability, this report shows that the return on surplus for Florida's leading medical malpractice writers was 9.5%, while this shows the fifth consecutive year of broad profitability, although down from 2007, it is important to put this into context.

Return on surplus is a national number taking into account profitability in states other than Florida. Moreover, for multi-line writers, this result also accounts for profitability in other lines of insurance. In fact, the return on surplus for those leading companies only writing medical malpractice in Florida was 10.4%.

Another interesting finding was that the average approved rate for rate filings in the primary medical malpractice market (physicians and surgeons) was negative (-7.1%). This is potentially misleading as some carriers did not file a change. Including these carriers, the average affect on the primary market was still negative. When looking at the effective rate trend based on all approved rates in force, this market has shown a decline in rates of over 10%.

However, some specialized areas of medical malpractice did experience rate increases based on the 2008 rate filings, dentists (+4.61%), and podiatrists, optometrists, and chiropractors, and other specialized areas (+3.65%). Rate filings for professional nurses yielded a reduction of 12%.

The Office has continued to monitor the profitability of the medical malpractice insurance market in Florida. Prior to the 2003 legislative changes, aimed at reducing costs associated with medical malpractice insurance, the market was experiencing double-digit rate increases, an availability crisis, and experienced one of the highest defense cost and containment expense ratios in the country.

The Office developed a "presumed factor of savings" of 7.8%, which estimated the savings on future costs based on the 2003 Legislative modifications, but indicated this factor should be revisited after the Office had historical data to analyze the impact of the new law. There were no major legislative changes made to the medical malpractice laws in Florida during the 2008 Legislative Session.

Based on the trends found in this report, it would appear that the 2003 changes to the law have benefited policyholders, the industry, assisted with the solvency of medical malpractice carriers, and directly contributed to lowering the Defense Cost and Containment ratio in the State of Florida.

In particular, the report finds:

- When the Florida market is compared to other large states;
 - Florida is the fifth largest market as measured by direct premium written,
 - Florida ranks fourth among the ten most populous states when measured by losses incurred to earned premium (22.4%).¹

- For the 22 firms comprising 80% of the market;
 - Medical Malpractice is not generally the only line of business written,
 - Florida is generally one of their top five markets,
 - Their loss and expense ratios in Florida, while varied across companies are in line to what they experienced in their other major markets,
 - The premium weighted effective average return on surplus was 9.5% in 2008, down from 11% in 2007 and from 19.67% in 2006,
 - Solvency risk, as measured several ways, does not appear to be a critical issue with these sample firms, and these firms have shown favorable reserve development in 2008 for the third year in a row, reversing a previous trend of adverse reserve development.

- Reviewing the rate filings received in 2008;
 - 31 medical malpractice rate filings were processed with the Office during 2008,
 - On average, when the latest approved rates are examined, rates for companies writing the admitted market decreased over 10%.

- From the reported closed claims data files;
 - 3,336 claims were reported as closed during 2007, 1,730 for females, 1,606 for males,
 - Hospital inpatient facilities, as in previous reports, were the most commonly reported claims location.
 - Most claims were in the severe to moderate severity category, and
 - An estimated \$700.2 million was paid in total; \$519.1 million in damages paid, and the remainder in loss adjustment expense.

¹ For reasons explained later in the report, the data for Health Care Indemnity Inc. was excluded from this calculation. With HCII included Florida would rank 6th with a pure loss ratio of 22.4%

Purpose and Scope

Senate Bill 2-D, enacted in 2003, requires the Office to publish an annual report of the state of the medical malpractice insurance market in Florida. The legislation, codified in Section 627.912(6) (b) &(c), Florida Statutes, requires the Office to draw upon three data resources:

1) The National Association of Insurance Commissioners (NAIC) annual financial statement filings; 2) The closed claims database maintained by the Office; and 3) An analysis of rate filings filed with the Office during the previous year. Specifically:

(6)(b) The office shall prepare an annual report by October 1 of each year, beginning in 2004, which shall be available on the Internet, which summarizes and analyzes the closed claim reports for medical malpractice filed pursuant to this section and the annual financial reports filed by insurers writing medical malpractice insurance in this state.

The report must include an analysis of closed claim reports of prior years, in order to show trends in the frequency and amount of claims payments, the itemization of economic and noneconomic damages, the nature of the errant conduct, and such other information as the office determines is illustrative of the trends in closed claims. The report must also analyze the state of the medical malpractice insurance market in Florida, including an analysis of the financial reports of those insurers with a combined market share of at least 80 percent of the net written premium in the state for medical malpractice for the prior calendar year, including a loss ratio analysis for medical malpractice written in Florida and a profitability analysis of each such insurer. The report shall compare the ratios for medical malpractice in Florida compared to other states, based on financial reports filed with the National Association of Insurance Commissioners and such other information as the office deems relevant.

(c) The annual report shall also include a summary of the rate filings for medical malpractice which have been approved by the office for the prior calendar year, including an analysis of the trend of direct and incurred losses as compared to prior years.

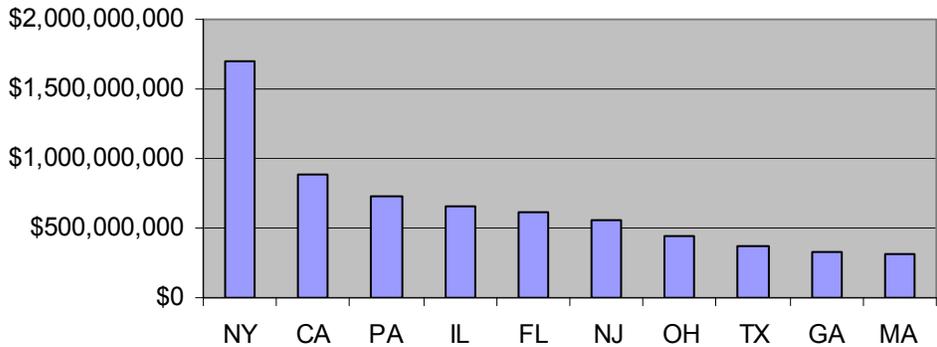
A Comparative Overview of the Florida Medical Malpractice Insurance Market

Although this report, by statute, focuses on the characteristics of the companies comprising 80% of the Florida Medical Malpractice insurance marketplace, some national and state specific comparisons are useful to put the results in context.

Since Florida's population ranks fourth in the country, it would be expected that Florida would represent one of the largest medical malpractice insurance markets. Although data was compiled for all 50 States and Territories (Appendix A), for purposes of comparison, this report compares Florida with other states in the top ten for most medical malpractice premium in the admitted market: New York, California, Pennsylvania, Illinois, Florida, New Jersey, Ohio, Texas, Georgia, and Massachusetts.

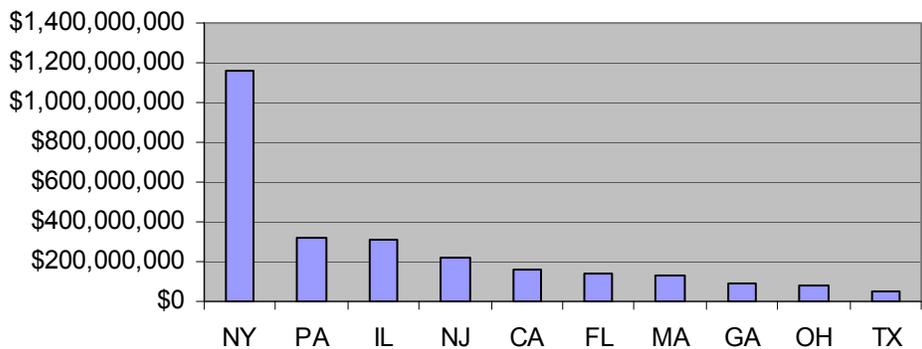
As the figure below shows, however, there is not a direct 1:1 correlation between state population and total medical malpractice earned premium in the private market. California, by far the most populous state, is a distant second to New York in the amount of medical malpractice premium earned. Meanwhile, Texas is the second most populous state, but ranks eighth in terms of medical malpractice premium.

**Medical Malpractice Earned Premium
2008**



We should expect these ranking to be similar for medical malpractice direct losses incurred:

**Medical Malpractice Direct Losses Incurred
2008**



Again, the most populous states would be expected to incur the most losses simply based on the number of people; however, there still seem to be some significant state specific differences. New York, for example, is not the most populous state (it is third), but has the largest amount of reported losses, more than triple that of the next state, Pennsylvania. Interestingly, California now ranks fifth on this list, despite having the largest population and the second largest amount of premium earned. Other states appear in this top ten list despite not being ranked within the top ten states for premium: # 8 Maryland, and # 9 Tennessee. From the previous list – Ohio ranks # 12 (\$83 million), and Texas ranks # 21 with (\$52 million).

Comparing the reported losses to the earned premium by state allows for the calculation of state loss ratios, which can then be ranked. The loss ratios of the states with the most medical malpractice earned premium:

State	Incurred Losses/ Direct Premium Earned
New York	68.4%
Illinois	46.9%
Pennsylvania	44.0%
Massachussetts	43.0%
New Jersey	40.2%
Georgia	27.0%
Florida	22.4%
Ohio	18.6%
California	18.3%
Texas	14.1%

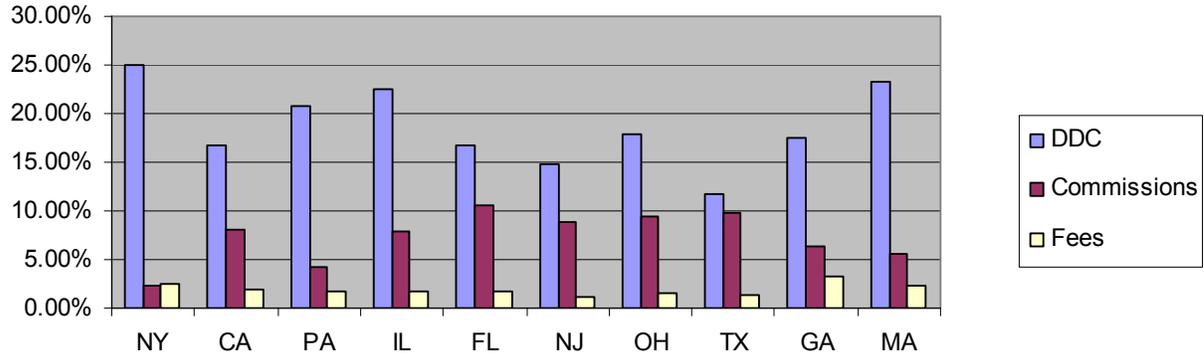
This data has been adjusted to remove data from Health Care Indemnity Inc. (HCII) This captive insurer engaged in internal accounting adjustments that produced negative loss results in some states. The official data reported to the NAIC (including HCII), and the loss ratio calculations appear in Appendix A.

New York continues to lead this group followed by New Jersey. The aggregate direct loss ratio for the Florida market has dropped 15% since last year (from 37.2%) - and at 22.4% is roughly comparable to this peer group. The national average in 2008 for all states and territories is 35.5% (with HCII excluded) - a decrease from the 43.4% loss ratio in 2007. Of the ten “largest” medical malpractice states, New York, Illinois, Massachussets, New Jersey, and Pennsylvania had loss ratios higher than the national average.

Non-Loss Costs

Although direct losses from claims is the primary component in determining the costs, and ultimately the rates being charged for medical malpractice products, it is important to look at other “non-loss costs,” to determine their importance in the overall expenses. These non-loss costs include three broad categories: 1.) Agent commissions and brokerage fees; 2.) Taxes and licensing fees; and 3.) Defense cost containment, which is correlated to the amount of legal fees. The chart below highlights the relative magnitude of these costs for each of the ten large states:

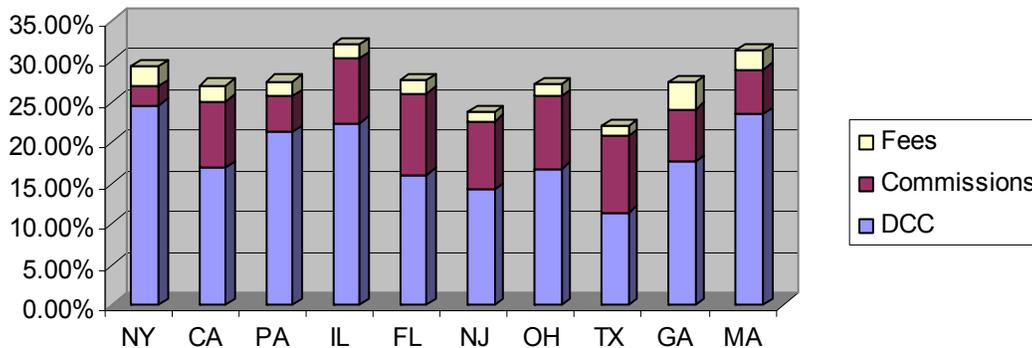
Non-Loss Costs as Percentage of Direct Written Premium 2008



Data from HCII was removed from this analysis.

Clearly, for all ten peer states, the main component of total non-loss cost is the defense cost and containment (DCC) expense – although Ohio had a higher ratio of agent commissions expense than defense costs and containment expenses. When compared to other large states, Florida ranks eighth with a DCC expense ratio of 16.8%. Florida’s percent of earned premium paid on commissions (10.0%) was the highest in this group. Florida ranked eighth in the amount of earned premium paid for taxes, licenses, and fees at 1.5%. In fact, Florida ranked in the lowest one third in the nation.

Combined Non-Loss Costs as a Percentage of Premium 2008



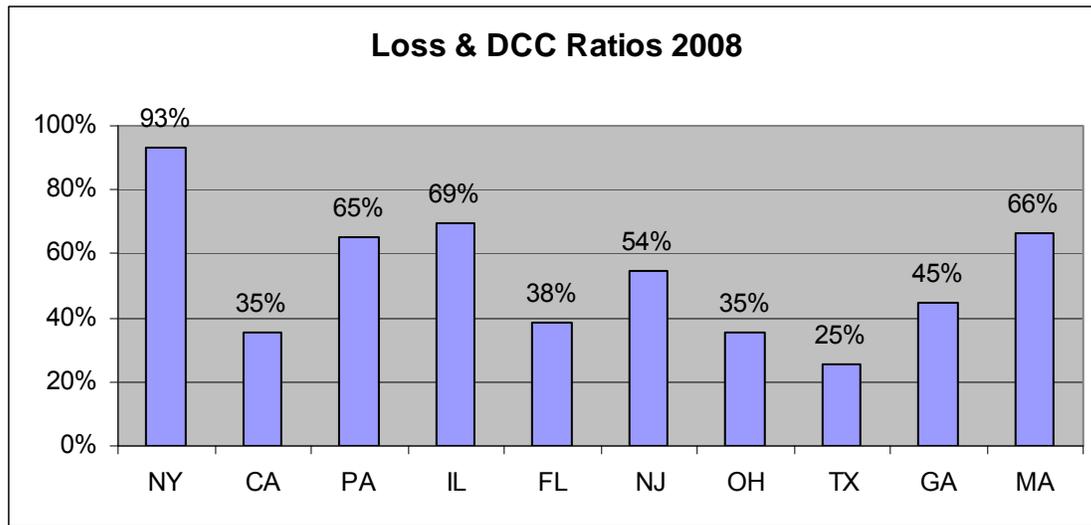
Data from HCII was removed from this analysis.

As the chart above shows, the Florida’s DCC ratio is comparable to other members of this peer group; The Tax/Fees percentage in Florida is roughly comparable to other states in this group, while the commissions percentage is among the highest among the 10 states in the peer group (it is third); although it is important to note that even at 8.9% in Florida, this still does not

represent a significant percentage of the premium dollar. At 27.2%, Florida's non-loss costs as a percentage of premium is comparable for this group, and is also near the national average of 26.8% -- if HCII data is removed.

Overall Profitability (Loss + DCC Ratios)

Combining the loss ratio and the DCC ratio on a statewide basis provides an approximate, commonly used, measure of the general profitability of the medical malpractice insurance market in each state. The lower the ratio the stronger the indication of profitability.



Data from HCII was removed from this analysis.

As the chart shows, the Loss + DCC ratio for the Florida market compares favorably to the other large sample states. This ratio measure shows that the Florida market is profitable, and at 38.4%, is below the national average of 54% if HCII data is excluded.

Leading Writers of Medical Malpractice Insurance in Florida

Section (6)(b) of Section 627.912, Florida Statutes, requires that this report include a financial analysis of the companies that comprise 80% of the medical malpractice *net written premium* in Florida. Financial information is reported by insurers in their statutory annual statements on both an aggregate, nationwide basis, and as well on a by-state, by-line of business basis. Net written premiums are reported in the annual statements in Schedule P Part 1F Sections 1 & 2. However, these premiums are aggregated on a nationwide basis. As such, the Office cannot fulfill this statutory requirement.

State specific data is primarily limited to information on page 20 of the annual statement, commonly referred to as the “state page.” Data reported on the Florida market, by line of business, include:

- Direct Premiums Written
- Direct Premiums Earned
- Dividends to Policyholders
- Direct Losses
- Direct Defense Cost and Containment (DCC)
- Commissions & Brokerage Expenses
- Taxes, Licenses and Fees

The 2004 Annual report, prepared by Deloitte, provided a financial analysis of insurers representing 80% of the market on a *direct written premium* basis as a surrogate for net written premium. The Office repeated this analysis for the 2005, 2006, 2007, and now 2008 reports. In actuality, 80% of the medical malpractice on a direct written premium basis should be a reasonable approximation of 80% of the market measured on a net written premium basis, although the analysis in this report does include a few companies that cede significant portions of their premium to other companies.

Another distinction typically made in the insurance marketplace is between medical malpractice written for individuals (usually doctors), and those written for institutions (usually hospitals). The legislative intent for the reporting requirements appears to be aimed at medical malpractice availability and rates for individual doctors. However, the annual statement reporting requirements do not allow for a distinction of hospital insurance versus physician insurance on a state or countrywide basis. These two types of insurance are aggregated into the “Medical Malpractice Insurance” category regardless of who is insured.

With those caveats, the companies that comprise 80% of the medical malpractice insurance market in Florida include the following:

Rank	Company	Direct Premium Written	Market Share	Cumulative Market Share
1	First Professionals Insurance Company	\$139,231,343	23.50%	23.50%
2	MAG Mutual Insurance Company	\$65,620,806	11.10%	34.60%
3	Doctors Company, An Interinsurance Exchange	\$48,048,126	8.10%	42.70%
4	Proassurance Casualty Company	\$31,029,000	5.20%	48.00%
5	Florida Doctors Insurance Company	\$22,477,033	3.80%	51.80%
6	Medical Protective Company	\$18,403,365	3.10%	54.90%
7	Physicians Preferred Insurance Company	\$17,179,907	2.90%	57.80%
8	Evanston Insurance Company	\$14,915,796	2.50%	60.30%
9	Continental Casualty Company	\$13,749,080	2.30%	62.60%
10	American Casualty Company of Reading Pennsylvania	\$10,683,487	1.80%	64.40%
11	Columbia Casualty Company	\$10,140,311	1.70%	66.10%
12	Healthcare Underwriters Group of FL	\$9,703,666	1.60%	67.80%
13	Physicians Insurance Company	\$9,155,948	1.50%	69.30%
14	Landmark American Insurance Company	\$8,917,987	1.50%	70.80%
15	Anesthesiologists Professional Assurance Company	\$8,486,644	1.40%	72.30%
16	Physicians Professional Liability Risk Retention Group, Inc.	\$8,222,988	1.40%	73.60%
17	Admiral Insurance Company	\$7,384,158	1.20%	74.90%
18	National Union Fire Insurance Company Of Pittsburg	\$7,155,590	1.20%	76.10%
19	Darwin Select Insurance Company	\$6,991,753	1.20%	77.30%
20	Podiatry Insurance Company Of America	\$6,642,433	1.10%	78.40%
21	Ophthalmic Mutual Insurance Company, (A R.R.G.)	\$6,472,249	1.10%	79.50%
22	Oms National Insurance Company, Risk Retention Group	\$5,350,098	0.90%	80.40%
	Top 80% Total	\$475,961,768		
	Total Florida Market	\$596,894,986		

In terms of organizational structure, 13 of the sample companies are admitted Property & Casualty insurers, five are surplus lines companies (# 8 Evanston, # 11 Columbia Casualty, # 14 Landmark American, # 17 Admiral, and #19 Darwin Select). There was one reciprocal insurer (# 12 Healthcare Underwriters of FL), two Risk Retention Groups (#21 Ophthalmic Mutual Insurance Company and # 22 Oms National Insurance Company), one risk purchasing group (#16 Physicians Professional Liability), and one fiscal intermediary services organization (Doctor's Company).

The list shows some differences and similarities in the market when compared to the sample firms in the 2008 Annual Report. This year, achieving the 80% market share requirement again required the inclusion of 22 insurers as in the previous year; 17 were required in the 2007 report, 15 insurers for the 2006 annual report, 12 in the 2005 annual report, and only 11 for the 2004 report. The highlighted rows above indicate insurers that are domiciled in Florida. Sixteen (16) of the 22 companies are domiciled outside of Florida; six (6) are Florida domiciled – the same as the 2008 report.

Five companies appear on the list this year that were not part of the 80% group in last year's report -- #4 Proassurance Casualty Company, #17 Admiral Insurance Company, #18 National Union Fire Insurance Company of Pittsburg, #21 Ophthalmic Mutual Insurance Company, #22 Oms National Insurance Company.

Another interesting finding is that the total medical malpractice insurance premium for the state of Florida dropped in 2008 for the fifth consecutive year. The 2004 report illustrated total gross medical malpractice insurance premium in Florida of \$860 million; the 2005 total was \$850 million; the 2006 total was \$847 million, the 2007 total was \$663 million, and the 2008 total was \$596 million.

This represents a dramatic decrease (30.7%) in the overall medical malpractice premium reported in Florida in 2008. This could be partially attributable to the lowering of rates, however, it may also be due to new arrangements by physicians including the use of individual bonding, purchasing malpractice insurance through hospitals/employers as well as utilization of self-insurance funds, or other non-traditional insurance mechanisms.

Percentage of Business that is Medical Malpractice

Following the identification of the 80% market share sample as required, the analysis next turns to analyzing the degree of underwriting risk diversification observed in the sample firms. Economic theory suggests that companies that are diversified in the types of business (i.e. writing non-medical malpractice insurance), and with proper geographic distribution of business (i.e. writing in other states) may be better positioned to handle a downturn in a specific segment of the insurance marketplace. As the table below shows, the degree of diversification, based on their nationwide business, is varied among these twenty-two companies:

Company	Occurrence	Claims Made	Workers' Compensation	Total Direct Premium
Admiral Insurance Company	\$367,337	\$80,575,502	\$0	\$437,249,044
American Casualty Company of Reading, Pennsylvania	\$141,910,663	\$28,505,767	\$127,964,450	\$545,815,950
Anesthesiologists Professional Assurance Company	\$313,633	\$14,095,755	\$2,846	\$14,412,234
Columbia Casualty Company	\$390,781	\$140,046,808	\$0	\$737,532,213
Continental Casualty Company	\$115,470	\$207,878,525	\$145,645,911	\$4,289,533,785
Darwin Select Insurance Company	\$0	\$90,409,545	\$0	\$187,517,909
Doctors Company, an Interinsurance Exchange	\$22,003,870	\$462,945,386	\$0	\$485,018,731
Evanston Insurance Company	\$16,993	\$122,643,099	\$0	\$616,375,728
First Professionals Insurance Company	\$7,574,850	\$155,571,200	\$0	\$163,765,029
Florida Doctors Insurance Company	\$1,066,335	\$21,410,698	\$0	\$22,477,033
Healthcare Underwriters Group of FL	\$236,194	\$9,467,472	\$0	\$9,703,666
Landmark American Insurance Company	\$0	\$55,985,725	\$0	\$588,216,809
MAG Mutual Insurance Company	\$18,788,207	\$271,665,063	\$5,020,089	\$298,654,459
Medical Protective Company	\$291,454,643	\$386,497,615	\$0	\$680,400,327
National Union Fire Insurance Company Of Pittsburgh	\$38,572,859	\$69,109,868	\$795,265,958	\$6,346,614,262
Oms National Insurance Company, Risk Retention Group	\$2,189,332	\$60,363,016	\$0	\$62,552,348
Ophthalmic Mutual Insurance Company (A R.R.G.)	\$787,607	\$43,186,267	\$0	\$44,682,363
Physicians Insurance Company	\$145,330	\$9,176,659	\$0	\$9,321,989

Company	Occurrence	Claims Made	Workers' Compensation	Total Direct Premium
Physicians Preferred Insurance Company	\$1,200,894	\$15,979,014	\$0	\$17,179,907
Physicians Professional Liability Risk Retention Group	\$0	\$8,235,177	\$0	\$8,235,177
Podiatry Insurance Company Of America	\$412,965	\$78,967,930	\$0	\$79,594,877
Proassurance Casualty Company	\$6,229,378	\$114,211,262	\$0	\$128,155,446

As the table shows, over half of the insurers write exclusively medical malpractice insurance. For the other insurers, the most common other type of insurance written is workers' compensation insurance. Other than Medical Protective Company, American Casualty Company of Reading, PA and to a lesser extent National Union Fire Insurance Company of Pittsburg, all of the leading writers in Florida overwhelmingly write "claims-made" types of medical malpractice insurance as opposed to "occurrence" type of medical malpractice coverage.

Geographic Distribution of Premium for Florida's Top Medical Malpractice Writers

The distribution of all of the companies' business (by direct written premium) is shown below. The table ranks the premium by state for each company. Therefore, "State 1" is the state for which the individual company wrote the most premium, and could be different for each company:

Direct Written Premium by State for Top Med Mal Companies

Company	State 1	State 2	State 3	State 4	State 5
First Professionals Insurance Company	FL \$139,231,343	GA \$11,786,635	AR \$10,195,860	IL \$1,929,676	OH \$2,537
MAG Mutual Insurance Company	GA \$133,300,065	FL \$65,620,806	NC \$55,487,252	SC \$13,966,731	VA \$12,686,589
Doctors Company, An Interinsurance Exchange	CA \$151,261,024	OH \$59,177,832	FL \$48,048,126	VA \$42,265,267	GA \$27,592,768
Proassurance Casualty Company	FL \$31,029,000	MI \$29,105,588	KY \$19,477,661	IL \$17,999,254	DE \$15,142,886
Florida Doctors Insurance Company	FL \$22,477,033				
Medical Protective Company	FL \$18,403,365	MI \$10,079,505	KY \$41,122,132	IL \$25,218,668	DE \$2,076,347
Physicians Preferred Insurance Company	FL \$17,179,907				
Evanston Insurance Company	CA \$15,395,724	FL \$14,915,796	TX \$8,552,635	PA 7629289	NY \$6,953,227
Continental Casualty Company	OR 35130950	COMPANY 31759480	WI 4104836	CT \$14,025,838	FL \$13,749,080

Company	State 1	State 2	State 3	State 4	State 5
American Casualty Company Of Reading, Pennsylvania	CA \$14,923,219	NY 12293347	FL \$10,683,487	PA 10013504	TX 8323655
Columbia Casualty Company	FL \$10,140,311	CA \$8,385,492	TX \$8,295,308	PA \$8,033,480	TN \$7,797,084
Healthcare Underwriters Group of FL	FL \$9,703,666				
Physicians Insurance Company	FL \$9,155,948	TX \$166,041	CA	PA	TN
Landmark American Insurance Company	CA \$10,634,739	FL \$8,917,987	NY \$3,131,051	TX \$2,893,535	NJ \$2,888,055
Anesthesiologists Professional Assurance Company	FL \$8,486,644	TX \$1,983,006	AZ \$1,618,965	OH \$1,016,020	GA \$925,015
Physicians Professional Liability, Risk Retention Group	FL \$8,222,988	IL \$12,189	VT	TX	AZ
Admiral Insurance Company	CA \$15,906,083	PR \$8,656,218	TX \$7,796,473	FL \$7,384,158	GA \$4,142,782
National Union Fire Insurance Company Of Pittsburgh	NY \$18,487,619	CA \$16,378,872	PA \$7,328,056	FL \$7,155,590	IL \$5,555,508
Darwin Select Insurance Company	PA \$9,668,842	CA \$7,553,606	TX \$7,187,241	FL \$6,991,753	CT \$6,415,746
Podiatry Insurance Company Of America	NY \$9,064,903	FL \$6,642,433	CA \$6,011,530	IL \$5,756,888	NJ \$4,830,578
Ophthalmic Mutual Insurance Company (A R. R. G.)	FL \$6,472,249	IL \$5,486,318	CA \$4,493,884	TX \$3,328,529	VA \$2,351,644
Oms National Insurance Company, Risk Retention Group	NY \$9,654,589	FL \$5,350,098	CA \$4,197,371	PA \$4,067,673	NJ \$3,870,014

As the table shows, Florida is the largest market for 11 of the insurers. For three of these ten, Florida is their only market for medical malpractice insurance. The remainder show substantial geographic diversification across their medical malpractice book of business.

Comparative Ratios: Florida vs. Other States

Loss ratios and defense cost containment ratios can be calculated on a state-by-state basis. These ratios are useful in that they allow for a comparison of the relative cost of operating in Florida, versus other states. This can also indirectly measure the adequacy of the premium given the specific books of business. The loss ratios for the top 22 medical malpractice writers in Florida and for their other top state markets are listed below:

Direct Loss Ratios 2008

Company	State 1	State 2	State 3	State 4	State 5
First Professionals Insurance Company	FL 18.40%	GA 60.2%	AR 48.2%	IL 40.0%	OH 80292.6%
MAG Mutual Insurance Company	GA 30.1%	FL 37.1%	NC 20.7%	SC 44.3%	VA 44.3%
Doctors Company, an Interinsurance Exchange	CA 18.4%	OH 40.4%	FL 28.0%	VA 24.4%	GA 20.0%
Proassurance Casualty Company	FL 86.6%	MI 22.8%	KY 24.5%	IL 40.5%	DE 32.4%
Florida Doctors Insurance Company	FL 38.5%				
Medical Protective Company	FL 47.0%	MI -3.0%	KY 60.6%	IL 42.6%	DE 174.2%
Physicians Preferred Insurance Company	FL 56.6%				
Evanston Insurance Company	CA 51.7%	FL 17.2%	TX 17.7%	PA 36.3%	NY 36.6%
Continental Casualty Company	OR -48.0%	COMPANY 84.7%	WI -15.4%	CT 180.8%	FL -75.6%
American Casualty Company Of Reading Pennsylvania	CA 14.1%	NY 56.4%	FL -27.4%	PA 21.6%	TX -15.0%
Columbia Casualty Company	FL 121.7%	CA 35.3%	TX 143.4%	PA 90.6%	TN -26.0%
Healthcare Underwriters Group of FL	FL 25.4%				
Physicians Insurance Company	FL 18.5%	TX 25.0%	CA	PA	TN
Landmark American Insurance Company	CA 14.2%	FL 23.7%	NY 4.2%	TX 35.3%	NJ 14.2%
Anesthesiologists Professional Assurance Company	FL -42.9%	TX 41.5%	AZ 42.2%	OH 41.4%	GA 41.8%
Physicians Professional Liability Risk Retention Group, Inc.	FL 9.9%	IL 0.0%	VT	TX	AZ
Admiral Insurance Company	CA 25.8%	PR 38.7%	TX 48.8%	FL 2.0%	GA 38.0%
National Union Fire Insurance Company Of Pittsburgh	NY 65.5%	CA 65.5%	PA 38.9%	FL 59.8%	IL 76.0%
Darwin Select Insurance Company	PA 20.7%	CA 26.3%	TX 25.0%	FL 30.5%	CT 55.5%
Podiatry Insurance Company Of America	NY 68.4%	FL 2.0%	CA 39.2%	IL 70.9%	NJ 150.4%
Ophthalmic Mutual Insurance Company (A R.R.G.)	FL -1.2%	IL 2.3%	CA 0.2%	TX -37.8%	VA -17.7%
Oms National Insurance Company, Risk Retention Group	NY 20.6%	FL 14.8%	CA 49.1%	PA 15.6%	NJ 52.1%

Medical Malpractice Insurance Loss Ratios by State

The sample companies' operating experience in Florida for 2008 appears to be roughly in line with their experience in their other state markets. In the majority of cases, the Florida direct loss ratio was among the lower loss ratios experienced by these companies in their top five markets.

Another useful measure is the Defense Cost Containment (DCC) expense ratio. In general terms these are the costs incurred by the insurance company associated with defending lawsuits. The DCC combined with the loss ratio is a commonly used general measure used to determine overall profitability.

The table below shows the combined loss and DCC ratio for the sample firms in their major markets. As the reported ratios show, the combined Loss + DCC ratio tends to be slightly higher than that generally observed in the other major market for these companies; although this is not universally true.

Medical Malpractice Insurance Loss & DCC Ratios by State

Company	State 1	State 2	State 3	State 4	State 5
First Professionals Insurance Company	FL 37.9%	GA 100.3%	AR 80.4%	IL 60.0%	OH 80332.6%
MAG Mutual Insurance Company	GA 53.4%	FL 54.9%	NC 40.6%	SC 66.4%	VA 51.2%
Doctors Company, an Interinsurance Exchange	CA 34.6%	OH 56.6%	FL 52.2%	VA 28.2%	GA 25.3%
Proassurance Casualty Company	FL 57.4%	MI 52.8%	KY 48.8%	IL 62.4%	DE 58.1%
Florida Doctors Insurance Company	FL 57.4%				
Medical Protective Company	FL 57.4%	MI 20.7%	KY 96.8%	IL 61.3%	DE 168.7%
Physicians Preferred Insurance Company	FL 71.3%				
Evanston Insurance Company	CA 47.1%	FL 9.3%	TX 11.2%	PA 33.0%	NY 32.5%
Continental Casualty Company	OR -25.9%	CO 99.9%	WI -8.8%	CT 179.8%	FL -52.4%
American Casualty Company Of Reading PA	CA 14.1%	NY 56.4%	FL -27.4%	PA 21.6%	TX -15.0%
Columbia Casualty Company	FL 166.7%	CA 53.1%	TX 161.7%	PA 101.7%	TN -38.1%
Healthcare Underwriters Group of FL	FL 53.2%				
Physicians Insurance Company	FL 30.6%	TX 49.7%	CA CA	PA PA	TN TN
Landmark American Insurance Company	CA 17.4%	FL 27.8%	NY 3.9%	TX 43.0%	NJ 14.3%
Anesthesiologists Professional Assurance Company	FL -20.1%	TX 64.9%	AZ 64.9%	OH 64.9%	GA 65.0%
Physicians Professional Liability Risk Retention Group	FL 17.9%	IL 0.0%	VT VT	TX TX	AZ AZ
Admiral Insurance Company	CA 38.1%	PR 64.4%	TX 57.2%	FL 11.8%	GA 45.8%
National Union Fire Insurance Company Of Pittsburgh	NY 106.5%	CA 86.2%	PA 72.9%	FL 111.0%	IL 111.0%
Darwin Select Insurance Company	PA 29.6%	CA 47.2%	TX 39.2%	FL 48.6%	CT 71.3%
Podiatry Insurance Company Of America	NY 88.6%	FL 10.1%	CA 42.1%	IL 55.7%	NJ 144.9%
Ophthalmic Mutual Insurance Company (A R.R.G.)	FL 3.3%	IL -1.6%	CA -4.7%	TX -43.4%	VA -25.8%
Oms National Insurance Company, Risk Retention Group	NY 34.3%	FL 28.4%	CA 62.7%	PA 29.2%	NJ 65.7%

Balance Sheet Information

The following section pertains primarily to the “balance sheet” information for the top 22 writers of medical malpractice insurance in Florida. The charge of the Legislature is ultimately to determine the profitability of the insurers in the medical malpractice market in Florida. As mentioned at the outset, this charge is complicated by the nature of the annual statutory financial statements along with the recognition that:

- Written business is often ceded to other companies
- Companies are frequently not mono-line writers
- Companies generally do not write exclusively in Florida

The combined impact is that it is ultimately difficult to assign profit by line, or by state. With these restrictions, this report presents the data and analysis for these 22 companies to determine overall profitability, and potential trends in the marketplace.

Ceding Business

More than in other lines of insurance, companies writing medical malpractice insurance typically engage in a substantial amount of risk management that is reflected in a large amount of business being either assumed from or ceded to other entities as reflected in their reported premium flow. In the state-wide numbers, the report typically relies on the “earned” premium number to capture the potential for assumed and ceded risk that may be misrepresented by a “written” premium number.

Another difference in the premium is the type of medical malpractice insurance. Medical malpractice insurance can be written on an “occurrence” basis, or a “claims made” basis. Medical malpractice insurance in the 1970s, 1980s, and even into the 1990s often was sold on an “occurrence” basis, which covers a doctor or medical provider based on when the alleged malpractice occurred, not when it was noticed, and/or when a malpractice claim was filed. This is similar to other types of property & casualty insurance, which are usually based on “coverage periods,” and covers damage resulting during that period regardless of when it was noticed, or a claim was filed.

Although this worked well from the standpoint of the medical community, medical malpractice on an occurrence basis presented some problems to the insurance industry. Specifically, this makes medical malpractice a “long-tailed” insurance coverage, which makes accounting and reserving more difficult as a medically negligent procedure may not result in health problems for as many as 5 to 10 years in the future.

As a result, the recent trend in the insurance industry is to offer more medical malpractice insurance on a “claims made” basis – which covers the claim period regardless of when the actual alleged negligence occurred. This makes reserving requirements more certain as it gives a clear identifying scope to the insurance company as to what claims have been filed during what period. Due to litigation and the uncertainty of outcome, there are still reserving uncertainties and a “long-tail” element to

medical malpractice insurance, but at least the insurance company should know the entire universe of claims that could ever be filed after the end of the coverage period.

To incorporate these considerations, the financial analysis that follows includes the amount of business assumed and ceded, as well as the type of medical malpractice insurance, claims-made or occurrence type insurance. The tables summarizing both types of insurance for Florida's top 22 writers follow:

**Net Written Premium and Ceded Percentage
2008 Nationwide Data
OCCURRENCE**

Company	Direct	Assumed	Gross	Ceded	Net	Premium Ceded
Admiral Insurance Company	\$367,337	-\$785,000	-\$417,663	-\$779,263	\$361,600	-212%
American Casualty Company Of Reading Pennsylvania	\$141,910,663	\$0	\$141,910,663	\$141,910,663	\$0	100%
Anesthesiologists Professional Assurance Company	\$313,633	\$591,198	\$904,831	\$313,633	\$591,198	100%
Columbia Casualty Company	\$390,781	\$0	\$390,781	\$390,781	\$0	100%
Continental Casualty Company	\$115,470	\$142,309,651	\$142,425,121	\$93,304	\$142,331,817	81%
Darwin Select Insurance Company	\$0	\$0	\$0	\$0	\$0	N/A
Doctors Company, an Interinsurance Exchange	\$22,003,870	\$0	\$22,003,870	\$15,389,745	\$6,614,125	70%
Evanston Insurance Company	\$16,993	\$0	\$16,993	\$4,248	\$12,745	25%
First Professionals Insurance Company	\$7,574,850	\$564,751	\$8,139,601	\$2,894,253	\$5,245,349	38%
Florida Doctors Insurance Company	\$1,066,335	\$0	\$1,066,335	\$141,768	\$924,567	13%
Healthcare Underwriters Group of FL	\$236,194	\$0	\$236,194	\$12,803	\$223,391	5%
Landmark American Insurance Company	\$0	\$0	\$0	\$0	\$0	N/A
MAG Mutual Insurance Company	\$18,788,207	\$0	\$18,788,207	\$3,297,331	\$15,490,876	18%
Medical Protective Company	\$291,454,643	\$183,511	\$291,638,154	\$143,224,341	\$148,413,813	49%
National Union Fire Insurance Company Of Pittsburgh	\$38,572,859	\$15,124,843	\$53,697,702	\$46,351,771	\$7,345,931	120%
Oms National Insurance Company, Risk Retention Group	\$2,189,332	\$4,465,434	\$6,654,766	\$135,439	\$6,519,327	6%
Ophthalmic Mutual Insurance Company (A R. R. G.)	\$787,607	\$0	\$787,607	\$101,991	\$685,616	13%
Physicians Insurance Company	\$145,330	\$0	\$145,330	\$75,818	\$69,512	52%
Physicians Preferred Insurance Company	\$1,200,894	\$0	\$1,200,894	\$7,825	\$1,193,068	1%
Physicians Professional Liability Risk Retention	\$0	\$0	\$0	\$0	\$0	N/A

Company	Direct	Assumed	Gross	Ceded	Net	Premium Ceded
Group						
Podiatry Insurance Company Of America	\$412,965	\$0	\$412,965	\$0	\$412,965	0%
Proassurance Casualty Company	\$6,229,378	\$77,588	\$6,306,966	\$93,339	\$6,213,627	1%

**Net Written Premium and Ceded Percentage
2008 Nationwide Data
CLAIMS-MADE**

Company	Direct	Assumed	Gross	Ceded	Net	Premium Ceded
Admiral Insurance Company	\$80,575,502	\$689,510	\$81,265,012	\$5,862,208	\$75,402,804	7.28%
American Casualty Company Of Reading, Pennsylvania	\$28,505,767	\$0	\$28,505,767	\$28,505,767	\$0	100.00%
Anesthesiologists Professional Assurance Company	\$14,095,755	\$12,537,414	\$26,633,169	\$14,095,755	\$12,537,414	100.00%
Columbia Casualty Company	\$140,046,808	\$752,400	\$140,799,208	\$140,799,208	\$0	100.54%
Continental Casualty Company	\$207,878,525	\$200,438,276	\$408,316,801	\$85,520,827	\$322,795,974	41.14%
Darwin Select Insurance Company	\$90,409,545	\$346,845	\$90,756,390	\$83,421,693	\$7,334,697	92.27%
Doctors Company, an Interinsurance Exchange	\$462,945,386	\$58,078,644	\$521,024,030	\$27,713,009	\$493,311,021	5.99%
Evanston Insurance Company	\$122,643,099	\$9,130,203	\$131,773,302	\$34,266,572	\$97,506,730	27.94%
First Professionals Insurance Company	\$155,571,200	\$17,205,297	\$172,776,497	\$62,389,422	\$110,387,075	40.10%
Florida Doctors Insurance Company	\$21,410,698	\$119,878	\$21,530,576	\$2,849,137	\$18,681,439	13.31%
Healthcare Underwriters Group of FL	\$9,467,472	\$0	\$9,467,472	\$494,944	\$8,972,528	5.23%
Landmark American Insurance Company	\$55,985,725	\$0	\$55,985,725	\$50,374,303	\$5,611,422	89.98%
MAG Mutual Insurance Company	\$271,665,063	\$1,332,397	\$272,997,460	\$69,464,271	\$203,533,189	25.57%
Medical Protective Company	\$386,497,615	\$410,851	\$386,908,466	\$193,630,028	\$193,278,438	50.10%
National Union Fire Insurance Company Of Pittsburgh	\$69,109,868	\$8,866,934	\$77,976,802	\$55,126,840	\$22,849,962	79.77%
Oms National Insurance Company, Risk Retention Group	\$60,363,016	\$11,466,236	\$71,829,252	\$3,846,453	\$67,982,799	6.37%
Ophthalmic Mutual Insurance Company (A R. R.G.)	\$43,186,267	\$0	\$43,186,267	\$5,712,051	\$37,474,216	13.23%
Physicians Insurance Company	\$9,176,659	\$0	\$9,176,659	\$5,518,506	\$3,658,153	60.14%
Physicians Preferred Insurance Company	\$15,979,014	\$0	\$15,979,014	\$54,300	\$15,924,714	0.34%
Physicians Professional Liability Risk Retention Group	\$8,235,177	\$0	\$8,235,177	\$884,233	\$7,350,944	10.74%
Podiatry Insurance Company Of America	\$78,967,930	\$713,242	\$79,681,172	-\$837,762	\$80,518,934	-1.06%
Proassurance Casualty Company	\$114,211,262	\$5,216,881	\$119,428,143	\$5,532,362	\$113,895,781	4.84%

Based on the data above, several features of the operations of the sample companies are evident. Initially, for most companies, a substantial portion of all business is ceded to other entities. This may be an indication of a healthy market, as it implies an availability of reinsurance and working relationships with other insurance entities to distribute risk. This may be especially important in the medical malpractice insurance marketplace due to the large differences in loss ratios, defense cost claims, and regulations based on the different states as illustrated in the state comparison section of this report. A better portrayal of the amount of ceded business is illustrated in the table below which combines both occurrence and claims-made insurance:

Company Name	Total Ceded %
Columbia Casualty Company	100.5%
American Casualty Company Of Reading, Pennsylvania	100.0%
Anesthesiologists Professional Assurance Company	100.0%
National Union Fire Insurance Company Of Pittsburgh	94.2%
Darwin Select Insurance Company	92.3%
Landmark American Insurance Company	90.0%
Physicians Insurance Company	60.0%
Medical Protective Company	49.7%
Continental Casualty Company	41.2%
First Professionals Insurance Company	40.0%
Evanston Insurance Company	27.9%
MAG Mutual Insurance Company	25.1%
Florida Doctors Insurance Company	13.3%
Ophthalmic Mutual Insurance Company, (A R.R.G.)	13.2%
Physicians Professional Liability Risk Retention Group	10.7%
Doctors Company, an Interinsurance Exchange	8.9%
Oms National Insurance Company, Risk Retention Group	6.4%
Admiral Insurance Company	6.3%
Healthcare Underwriters Group of FL	5.2%
Proassurance Casualty Company	4.7%
Physicians Preferred Insurance Company	0.4%
Podiatry Insurance Company of American	-1.1%

Columbia Casualty Company, American Casualty Company of Reading, and Anesthesiologists Pro Assurance Company ceded all of their medical malpractice business to another company – although this could be to an affiliate company within the same management group.

Another aspect of the market to note from the preceding two charts is that more companies write claims-made than occurrence insurance. Occurrence insurance is still necessary for doctors moving from one provider to another as this creates a need for a “tail” of coverage. The new provider would only want to be responsible for claims filed after employment with the new provider, and not want to be responsible for health care rendered prior to the new employment. However, it does appear that the majority of the leading medical malpractice insurance writers in Florida are moving away from occurrence type insurance toward claims-made type coverage for their direct writings:

Company	Occurrence	Claims Made
Darwin Select Insurance Company	0.0%	100.0%
Landmark American Insurance Company	0.0%	100.0%
Physicians Professional Liability Risk Retention Group	0.0%	100.0%
Evanston Insurance Company	0.0%	100.0%
Continental Casualty Company	0.1%	99.9%
Columbia Casualty Company	0.3%	99.7%
Admiral Insurance Company	0.5%	99.5%
Podiatry Insurance Company Of America	0.5%	99.5%
Physicians Insurance Company	1.6%	98.4%
Ophthalmic Mutual Insurance Company (AR.R.G.)	1.8%	98.2%
Anesthesiologists Professional Assurance Company	2.2%	97.8%
Healthcare Underwriters Group of FL	2.4%	97.6%
Oms National Insurance Company, Risk Retention Group	3.5%	96.5%
Doctors Company, an Interinsurance Exchange	4.5%	95.5%
First Professionals Insurance Company	4.6%	95.4%
Florida Doctors Insurance Company	4.7%	95.3%
Pro Assurance Casualty Company	5.2%	94.8%
MAG Mutual Insurance Company	6.5%	93.5%
Physicians Preferred Insurance Company	7.0%	93.0%
National Union Fire Insurance Company Of Pittsburgh	35.8%	64.2%
Medical Protective Company	43.0%	57.0%
American Casualty Company Of Reading, Pennsylvania	83.3%	16.7%

Nineteen (19) of the 22 leading writers in Florida write more than 90% of their direct medical malpractice insurance on a claims-made basis. In fact, eight companies write exclusively claims-made medical malpractice insurance. Only National Union Fire Insurance Company of Pittsburg, Medical Protective Company, and American Casualty Company of Reading Pennsylvania write a majority of their medical malpractice insurance on an occurrence basis.

Solvency

To assess the solvency of the medical malpractice companies, this report uses three ratios: 1) the net liability to surplus ratio; and 2) the net written premium to surplus ratio; and 3) gross written premium to surplus ratio. Although these ratios do not address liquidity issues, they do indirectly measure the company's ability to pay its claims in the short-run.

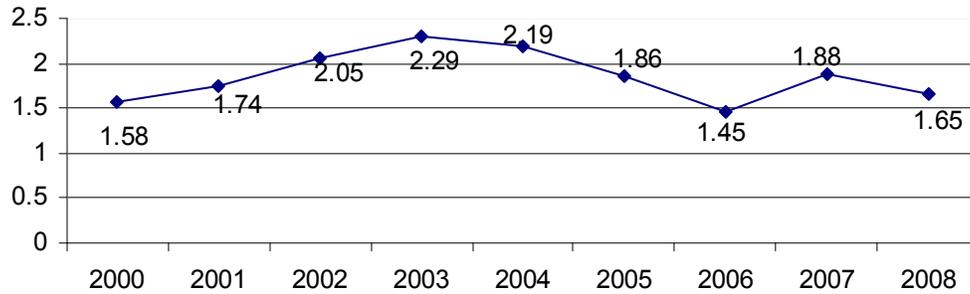
The first measure is the net liability to surplus ratio. "Net liability" is defined as the amount of losses plus loss adjustment expense for a given year. The data for the 22 sample companies are as follows:

Net Liability to Surplus Ratio 2008

Company	Net Liability to Surplus Ratio
Admiral Insurance Company	1.12
American Casualty Company Of Reading, Pennsylvania	0.00
Anesthesiologists Professional Assurance Company	1.77
Columbia Casualty Company	0.00
Continental Casualty Company	2.56
Darwin Select Insurance Company	0.28
Doctors Company, an Interinsurance Exchange	1.10
Evanston Insurance Company	3.73
First Professionals Insurance Company	1.37
Florida Doctors Insurance Company	1.01
Healthcare Underwriters Group of FL	1.05
Landmark American Insurance Company	0.47
MAG Mutual Insurance Company	1.79
Medical Protective Company	1.65
National Union Fire Insurance Company Of Pittsburgh	1.13
Oms National Insurance Company, Risk Retention Group	1.68
Ophthalmic Mutual Insurance Company (A R.R.G.)	0.67
Physicians Insurance Company	0.95
Physicians Preferred Insurance Company	2.00
Physicians Professional Liability Risk Retention Group	1.30
Podiatry Insurance Company Of America	1.78
Proassurance Casualty Company	2.28
Grand Total	1.65

Ranges for these ratios are not mandated by statute, although these results do not present a concern from a solvency standpoint. A graph of the weighted data for the top 80% of the market over the past eight years is shown below:

Net Liability to Surplus Ratio



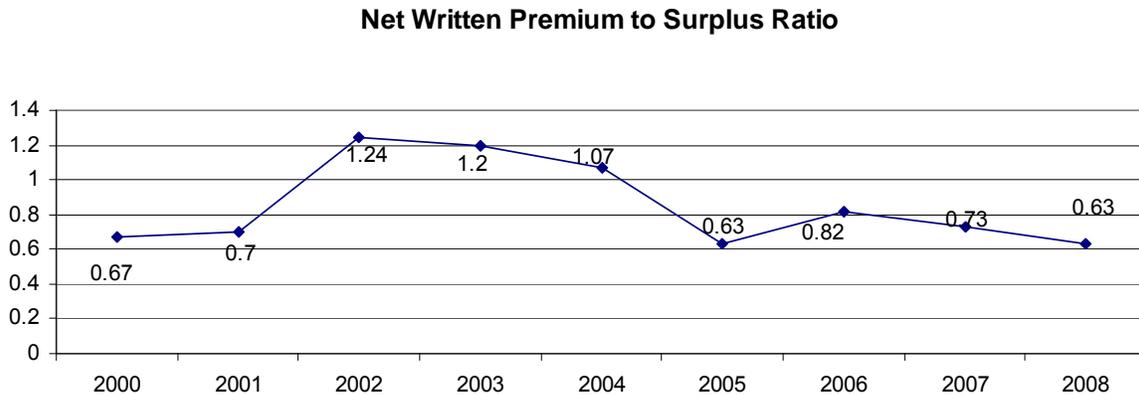
The net liability to surplus ratio was decreasing steadily between 2004 and 2006 for the top Florida medical malpractice writers, this reversed and increased in 2007 and then decreased in 2008. However, it is important to remember the composition of the top 80% of the medical malpractice insurance market in Florida has also changed dramatically (five new companies added in 2008) such that direct year to year comparison is of limited value.

The second important solvency ratio examined is the net written premium to surplus ratio. Unlike the previous ratio, limits for this ratio are mandated by Section 624.4095, Florida Statutes. The ratio itself is not a straightforward calculation --- there are premium adjustments depending on the type of insurance per Section 624.4095(4), Florida Statutes. According to this section of the statute, property insurance premium should be multiplied by 0.90, while casualty insurance should be multiplied by 1.25. Medical malpractice is considered a “casualty” category, and would be subject to the 1.25 multiplier. Yet of the top 22 companies writing med-mal in Florida, very few are monoline writers. Thus each company could have a different multiplier depending on their mix of business. By statute, the adjusted ratio cannot exceed 4:1. The table for the net written premium to surplus for the 22 sample companies is shown below:

Company	Net Written Premium to Surplus Ratio
Physicians Preferred Insurance Company	1.63
Evanston Insurance Company	1.62
Florida Doctors Insurance Company	1.55
Podiatry Insurance Company Of America	1.08
Oms National Insurance Company, Risk Retention Group	0.84
Continental Casualty Company	0.78
Doctors Company, an Interinsurance Exchange	0.64
MAG Mutual Insurance Company	0.63
Anesthesiologists Professional Assurance Company	0.60
Healthcare Underwriters Group of FL	0.56
National Union Fire Insurance Company Of Pittsburgh	0.56
Medical Protective Company	0.54
Physicians Professional Liability Risk Retention Group	0.53
First Professionals Insurance Company	0.53
Physicians Insurance Company	0.52
Ophthalmic Mutual Insurance Company (AR.R.G.)	0.41
Admiral Insurance Company	0.41
Proassurance Casualty Company	0.40
Landmark American Insurance Company	0.28
Darwin Select Insurance Company	0.28
American Casualty Company Of Reading, Pennsylvania	0.00
Columbia Casualty Company	0.00

Consistent with the past reports, these numbers have not been adjusted by the premium modifiers specified in Section 624.4095(4), Florida Statutes. However, even if it is assuming these companies wrote 100% casualty insurance and had the maximum modifier of 1.25, none would come close to exceeding the 4:1 statutory ratio.

The chart below provides a view of the trend of the average net written premium to surplus ratio for the majority of the Florida market over time:



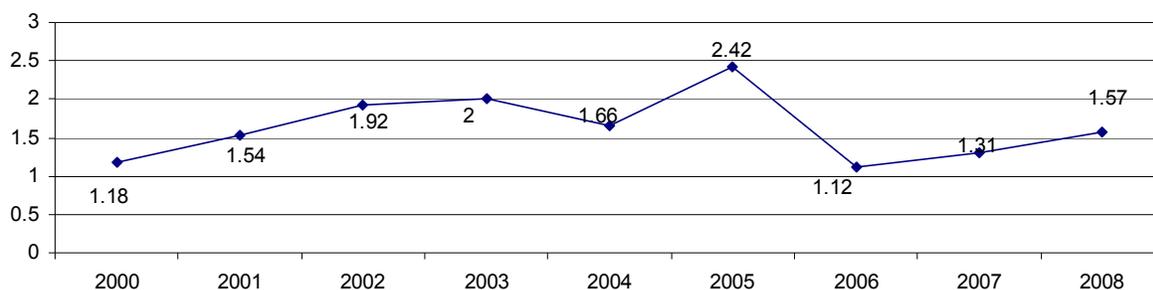
As the chart above shows, after a sharp increase in 2002, the net written premium to surplus ratio drifted downward in 2003, continued downward in 2004, and especially 2005, and has remained relatively constant in 2006, 2007 and 2008. The ratio of 0.63 is comfortably in the acceptable range for solvency purposes, indicating a relatively large capital and surplus position to support the business written.

The third ratio is the gross written premium to surplus ratio. Gross written premium is defined as total direct written premium and assumed reinsurance premium. Section 624.4095 mandates that these ratios be within 10:1 for admitted carriers while retaining the same insurance multipliers from the previous ratio. Gross premium is the direct written premium plus the assumed premium. The data for the 22 companies are below:

Company	Gross Written Premium to Surplus Ratio
American Casualty Company Of Reading, Pennsylvania	4.82
Landmark American Insurance Company	4.14
Darwin Select Insurance Company	3.83
Columbia Casualty Company	2.70
Evanston Insurance Company	2.17
National Union Fire Insurance Company Of Pittsburgh	2.08
Florida Doctors Insurance Company	1.79
Physicians Preferred Insurance Company	1.64
Physicians Insurance Company	1.31
Anesthesiologists Professional Assurance Company	1.25
Medical Protective Company	1.08
Podiatry Insurance Company Of America	1.07
Continental Casualty Company	1.03
Oms National Insurance Company, Risk Retention Group	0.89
MAG Mutual Insurance Company	0.84
First Professionals Insurance Company	0.82
Doctors Company, an Interinsurance Exchange	0.69
Physicians Professional Liability Risk Retention Group	0.60
Healthcare Underwriters Group of FL	0.59
Ophthalmic Mutual Insurance Company (A R.R.G.)	0.49
Admiral Insurance Company	0.45
Proassurance Casualty Company	0.43

For consistency, the data above have not been adjusted by the requisite premium multipliers. Although Section 624.4095, Florida Statutes, only pertains to admitted carriers, not surplus lines carriers, even the surplus lines carriers are within the statutory ratios. The chart below tracks the trend of this ratio over time for the top 80% of med-mal writers in Florida:

Gross Written Premium to Surplus Ratio



The weighted total ratio for the 22 sample companies is 1.57, a marginal increase from 2007, but historically low relative to the other data collected since 2000. This weighted ratio is driven largely by those companies noted above that cede a substantial portion of their business. As such, the gross premium to surplus ratio for them is high, and not truly reflective of the capital actually at risk. Overall, with the decrease observed in 2006, these ratios are well within the ranged of prudent solvency management, and do not indicate an industry solvency concern.

Profitability

Just like the issue of “solvency,” profitability for the industry is not easily defined, especially when the data are aggregated nationally, and cannot be segregated into a state-by-state comparison. The analysis can only look at the financial performance of the 22 companies knowing that some of their profits/losses may come from other states, or other lines of business.

One common measurement is the Loss & LAE (loss adjustment expense) ratio to earned premium. Below are the Loss and LAE ratio for the 22 companies:

Loss & LAE Ratios 2008

Company	Loss & LAE to Earned Premium Ratio
Admiral Insurance Company	62.4%
American Casualty Company Of Reading, Pennsylvania	N/A
Anesthesiologists Professional Assurance Company	66.7%
Columbia Casualty Company	N/A
Continental Casualty Company	87.0%
Darwin Select Insurance Company	47.7%
Doctors Company, An Interinsurance Exchange	47.8%
Evanston Insurance Company	58.1%
First Professionals Insurance Company, Inc	57.6%
Florida Doctors Insurance Company	51.6%
Healthcare Underwriters Group of FL	63.5%
Landmark American Insurance Company	57.6%
MAG Mutual Insurance Company	53.2%
Medical Protective Company	74.0%
National Union Fire Insurance Company Of Pittsburgh	78.1%
Oms National Insurance Company, Risk Retention Group	54.0%
Ophthalmic Mutual Insurance Company (A R.R.G.)	19.7%
Physicians Insurance Company	26.9%
Physicians Preferred Insurance Company	74.0%
Physicians Professional Liability Risk Retention Group, Inc.	30.0%
Podiatry Insurance Company Of America	76.2%
Proassurance Casualty Company	53.5%

* *Columbia and, American Casualty reported 0 earned premium. Therefore this ratio could not be calculated.*

As the tables show, there is substantial variation among the companies, though they together show the increased underwriting discipline evidenced in the market nationally in recent years.

Another common measure of overall profitability is net income, and to make the number more meaningful, net income as a percentage of surplus. This ratio often is considered a surrogate variable for return on equity, a common measure of profitability in other industries. The return on surplus numbers from 2008 for the 22 sample companies:

Return on Surplus 2008

Company	Return on Surplus
Admiral Insurance Company	9.89%
American Casualty Company Of Reading, Pennsylvania	8.75%
Anesthesiologists Professional Assurance Company	11.37%
Columbia Casualty Company	3.22%
Continental Casualty Company	5.88%
Darwin Select Insurance Company	6.70%
Doctors Company, an Interinsurance Exchange	9.25%
Evanston Insurance Company	10.27%
First Professionals Insurance Company	9.42%
Florida Doctors Insurance Company	22.47%
Healthcare Underwriters Group of FL	4.75%
Landmark American Insurance Company	7.38%
MAG Mutual Insurance Company	14.93%
Medical Protective Company	11.17%
National Union Fire Insurance Company Of Pittsburgh	11.58%
Oms National Insurance Company, Risk Retention Group	13.21%
Ophthalmic Mutual Insurance Company (A R. R. G.)	17.75%
Physicians Insurance Company	3.92%
Physicians Preferred Insurance Company	4.87%
Physicians Professional Liability Risk Retention Group	17.01%
Podiatry Insurance Company Of America	10.05%
Proassurance Casualty Company	15.97%
Grand Total	9.5%

As the data above show, 2008 was a profitable year for the top 22 companies in the Florida market; in fact for the fourth year in a row. It is extremely important, however, to put these return statistics in context when attempting to draw inference about the Florida medical malpractice insurance market. The return on surplus number above is based on the insurer's total book of business (all lines) across the entire country. Statutory reporting does not allow for any finer granularity of this statistic. That should not be interpreted to mean that the sample companies above earned that reported rate of return on their Florida malpractice insurance during 2008.

As the table above shows, this yields an average return on surplus of 9.5% for 2008. Following a reported overall return on surplus of 13% in 2005, 20% in 2006 and 11.0% in 2007; the rate trends infers continued profitability. It is important to note however, that over the last six years, the data following show that the return on surplus has been highly volatile; positive in 2002, 2004-2008, but providing negative returns in 2001 and 2003. It does appear, however that the trend causing significant industry concerns of the early 2000's has largely evaporated.

Year	2001	2002	2003	2004	2005	2006	2007	2008
Return on Surplus	-7%	19%	-12%	10%	13%	20%	11%	9.5%

Finally, the analysis compares other commonly used financial ratios obtained from the 2007 income statements. These ratios include the combined ratio, as well as the operating ratio on a pre-tax and post-tax basis:

Financial Ratios 2008 Income Statement

Company	Combined Ratio	Pre-Tax Operating Ratio	Post Tax Operating Ratio
Admiral Insurance Company	77.2%	63.7%	56.7%
American Casualty Company Of Reading, Pennsylvania	N/A	N/A	N/A
Anesthesiologists Professional Assurance Company	174.2%	155.5%	151.0%
Columbia Casualty Company	N/A	N/A	N/A
Continental Casualty Company	94.3%	68.9%	68.7%
Darwin Select Insurance Company	92.1%	75.5%	60.2%
Doctors Company, an Interinsurance Exchange	112.5%	119.3%	108.7%
Evanston Insurance Company	69.4%	62.4%	57.0%
First Professionals Insurance Company	156.2%	146.0%	138.9%
Florida Doctors Insurance Company	89.4%	84.8%	77.5%
Healthcare Underwriters Group of FL	150.9%	132.9%	124.6%
Landmark American Insurance Company	68.4%	51.0%	40.7%
MAG Mutual Insurance Company	132.3%	122.9%	114.2%
Medical Protective Company	100.9%	82.2%	72.2%
National Union Fire Insurance Company Of Pittsburgh	83.2%	62.9%	62.3%
Oms National Insurance Company, Risk Retention Group	86.0%	80.7%	71.4%
Ophthalmic Mutual Insurance Company (A R. R. G.)	49.9%	29.9%	13.9%
Physicians Insurance Company	97.7%	91.7%	86.7%
Physicians Preferred Insurance Company	86.7%	79.3%	79.3%
Physicians Professional Liability Risk Retention Group	79.3%	62.3%	47.6%
Podiatry Insurance Company Of America	90.2%	86.0%	83.5%
Proassurance Casualty Company	74.4%	49.6%	36.6%

** Columbia and American Casualty all reported 0 earned premium. Therefore this ratio could not be calculated.*

A more detailed presentation of the income statement elements is included in Appendix B.

Reserve Development

Another area that is important to examine, especially in medical malpractice insurance, is the reserve development experience. Since overall company solvency pertains more to the reserve development of the overall book of business, the development amounts shown below are for all lines of business. The reserve development data collected in the annual statutory financial statements are for both one-year development and two-year development. The two-year measurement is potentially a better measurement tool because it can smooth anomalous yearly data. The reserve development for the 22 sample companies is listed below:

Adverse / (Favorable) Reserve Development
(in thousands)

Company	One-Year Development	Two-Year Development
Admiral Insurance Company	-\$20,893	-\$57,280
American Casualty Company Of Reading PA	\$0	\$0
Anesthesiologists Professional Assurance Company	-\$11	-\$1,979
Columbia Casualty Company	\$0	\$0
Continental Casualty Company	-\$105,345	\$239,872
Darwin Select Insurance Company	-\$1,717	-\$977
Doctors Company, an Interinsurnace Exchange	-\$77,552	-\$127,327
Evanston Insurance Company	-\$59,621	-\$187,291
First Professionals Insurance Company	-\$12,860	-\$31,470
Florida Doctors Insurance Company	-\$504	-\$489
Healthcare Underwriters Group of FL	-\$1,756	-\$2,287
Landmark American Insurance Company	-\$3,336	-\$6,162
MAG Mutual Insurance Company	-\$99,421	-\$150,848
Medical Protective Company	-\$38,574	-\$33,406
National Union Fire Insurance Company Of Pittsburgh	-\$23,932	-\$1,974
Oms National Insurance Company, Risk Retention Group	-\$15,911	-\$17,268
Ophthalmic Mutual Insurance Company (A R. R. G.)	-\$16,440	-\$24,025
Physicians Insurance Company	-\$2,923	-\$4,105
Physicians Preferred Insurance Company	\$106	-\$35
Physicians Professional Liability Risk Retention Group	-\$4,948	-\$5,186
Podiatry Insurance Company Of America	\$234	\$2,112
Proassurance Casualty Company	-\$49,053	-\$30,580

As can clearly be seen, 2008 showed favorable reserve development, following a similar finding in the previous three reports. In fact, when analyzing the two-year development for the 22 companies, 18 companies reduced their overall reserves and 19 companies reduced their medical malpractice reserves, the latter perhaps based on an overestimation of expected medical malpractice losses. The overall favorable reserve development experience, if continued, could ease rate pressures in the Florida medical malpractice market.

Medical Malpractice Rate Filings in 2008

2008 continued the trend of downward movement in physicians and surgeons malpractice rates. On the average, rates for the admitted market companies (the only companies required to file their rates) decreased slightly over 7%.

The calendar year 2008 featured 31 rate filings, down from 62 in 2007.. Many of these rate filings were for specialized types of medical malpractice insurance including dentists, podiatrists, optometrists, chiropractors and other distinct field. The primary market for medical malpractice insurance is for physicians and surgeons, for which 12 rate filings were approved. The physicians and surgeons rate changes approved for various companies are shown on the following page.

In reviewing the chart, the data shows that the approved rate changes varied widely, from a small increase to double digit rate decreases. The rate changes averaged about 1/2% more decrease than the companies' rate indications (their estimates of the needed rate change).

There are other aspects of the impact of insurance on physicians that are not shown in the chart. First, although the figure involves some estimation given the limited data available, it appears that 61% of the market (by premium) did not make rate changes during calendar year 2008. So, the impact of the rate changes experienced by the average physician is somewhat diluted for the calendar year (as shown in the 'Average Rate Change for Doctors in Florida' row).

It is instructive to look beyond just a single calendar year. There have, however, been a substantial number of rate filings so far in 2009. The table below shows the latest effective rate change for admitted carriers writing physicians and surgeons medical malpractice. Note that a substantial portion of the market has made very recent rate filings, from December 2008 through the first half of 2009.

Physicians and Surgeons Carriers and Last Rate Change Made by Each

Rank	Company Name	Rate Change Effective Date	Cumulative Market Share	Policy Count	Most Recent Rate Change
1	First Professionals Insurance Company	12/1/2008	35%	6,709	-12.0%
2	Mag Mutual Insurance Company	6/1/2009	55%	1,363	-10.0%
3	Doctors Company An Interinsurance Exchange (The)	1/1/2009	67%	2,622	-5.5%
4	Proassurance Casualty Company	4/1/2009	78%	1,547	-11.0%
5	Medical Protective Company (The)	4/1/2009	81%	858	-12.0%
6	Physicians Preferred Insurance Company	6/1/2009	85%	1,303	-8.3%
7	Anesthesiologists Professional Assurance Company	12/1/2008	89%	462	-12.0%
8	Healthcare Underwriters Group of Florida	7/1/2009	91%	548	-15.5%
9	Florida Doctors Insurance Company	12/1/2008	93%	521	-5.0%
10	Physicians Insurance Company	12/1/2008	96%	1,130	-14.1%
11	Florida Medical Malpractice JUA	7/1/2009	97%	419	-7.3%

12	National Fire Insurance Company of Hartford	2/1/2008	99%	102	0.0%
13	Health Care Indemnity Inc. (Related)	1/1/2008	99%	0	0.0%
14	Health Care Indemnity Inc. (Contracted Physicians)	1/1/2008	100%	1	-27.9%
15	Proassurance Indemnity Company Inc.	5/1/2008	100%	10	-11.2%
16	Valiant Insurance Company	5/29/2009	100%	22	0.0%
17	Cincinnati Indemnity Company	12/1/2008	100%	0	0.0%
18	Cincinnati Insurance Company	12/1/2008	100%	0	0.0%
19	American Casualty Company of Reading Pennsylvania	10/1/2005	100%	0	1.8%
20	First Commercial Insurance Company	6/24/2009	100%	0	0.0%
21	Continental Casualty Company	10/1/2005	100%	0	1.8%
Totals:					
Item Counts				17,617	
Premium Weighted Average Rate Change					-10.3%
Policy Count Weighted Average Rate Change					-10.4%

When the latest approved rates are taken together, as in the table above, overall physician and surgeons medical malpractice rates have fallen by over 10%

Also, it must be noted that a portion of the physicians insured in Florida (loosely estimated, given the data available, at around 20%) are insured by so-called 'non-admitted' or 'surplus lines' carriers, or are insured by risk retention groups, neither of which are required to file rates in Florida. Rather, those insurers may simply use whatever rates they choose without filing them with the Office. Further, physicians operating within a large hospital or chain of hospitals often effectively receive coverage through the hospital's insurance program or policy. Lastly, physicians do have the option of posting collateral with the Department of Business and Professional Regulation in lieu of purchasing insurance. So, there are portions of the impact on the average physician that could not be quantified.

Another aspect of the malpractice market is that there are a number of other classes besides the physicians. There is a relatively small (as measured by insurance premium) volume of nurse, podiatrists, etc. professionals that also purchase malpractice insurance. And, there is a significant amount of coverage sold to hospitals. This coverage often involves very large deductibles or so-called self-insured retentions, so the actual volume of claims experienced by the hospitals are likely far higher the portion of the claims covered by their insurance. That is likely to be especially true for large hospitals.

Lastly, insurance companies made several changes that did not actually change their existing rates. For the most part, these involved adding rates for new classes or adding new deductible, etc. options. Details are shown below.

Non-Rate Change Physicians' Rate Filings Approved in 2008

Company Name	Impact of Filing	Approval Date
Insurance Services Office (ISO)	Separation of physician rates into medical doctor and doctor of osteopathy classes.	6/20/2008
Insurance Services Office (ISO)	Conversion of basic limits from \$100K to \$500K and related rules.	8/7/2008
Physicians Preferred Ins. Co.	Introduction of pricing for option of covering partnership/firm doctor belongs to in addition to doctor.	10/9/2008

Although the average rate approval for the primary market was for a substantial decrease, the same was not necessarily true for the secondary medical malpractice markets. The weighted average rate approval for dentists was +4.61%, the average for professional nurses was -12%, while the average rate approval for other healthcare professionals including podiatrists, optometrists, therapists, chiropractors and other specialties was +3.65%. Exhibits showing the rate filings for the primary and secondary medical malpractice markets is included in Appendix C.

New Companies Entering the Florida Medical Malpractice Market

Aside from the analysis of the 80% market share sample companies, another indication of the health and perceived profitability of the Florida medical malpractice insurance market would be the number of new entrants into the market. During 2008, seven "new" companies entered the Florida medical malpractice insurance market. "New" companies can either be a start-up company, a company operating in another state expanding to Florida, or an established company already writing in Florida that expanded its lines of business to include medical malpractice insurance.

During 2008, the following companies entered the medical malpractice insurance market in Florida:

Company	Type of Entity	Domiciliary State
Doctors and Surgeons National Risk Retention Group, Inc.	Risk Retention Group	KY
First Commercial Insurance Company	Property and Casualty Insurer	FL
Lancet Indemnity Risk Retention Group Inc.	Risk Retention Group	NV
Nationwide Property and Casualty Insurance Company	Property and Casualty Insurer	OH
Scrubs Mutual Assurance Company, a Risk Retention Group	Risk Retention Group	NV
Southwest Florida Physicians Risk Purchasing Group	Risk Purchasing Group	FL
XL Reinsurance America Incorporated	Property and Casualty Insurer	NY

During the same time, Florida had only one company that had their medical malpractice insurance authority either withdrawn or suspended.²

Note that three of the new entrants are risk retention groups. This is a trend observed nationally as well as in Florida.

Analysis of the Closed Claim Database

The Office of Insurance Regulation (Office) collects closed claim data reported by the insurers and self insured entities. For the purposes of the report, all claims closed during the period January 1, 2008 to December 31, 2008 were analyzed. The database contains other relevant dates including the occurrence date and the report date, when the insured made a claim. Although this section covers claims resolved in 2008, it is most probable that the occurrence date and/or report date of a specific claim are from a previous year.

This is part of the nature of the medical malpractice insurance industry; there can be a considerable amount of time between when an accident occurs and when final payment is made. For the claims closed in 2008, the average difference between occurrence and when the claim was filed was 471 days, and the difference between when a claim was filed and when the claim was closed was 896 days.

This reported data is of limited use for evaluating the profitability, solvency, or the adequacy of rates of a specific company. The data do not include “open” claims or the entire universe of outstanding claims. As well, trend in either the amount of time to close a claim or in the amount of claim payments cannot be systematically evaluated.

To satisfy the statutory requirements of Section 627.912(6)(b)&(c), Florida Statutes, this portion of the report is divided into two sections: 1.) The statewide data; and, 2.) The data for the 22 companies that represent 80% of the Florida market. For every claim, insurers are asked to fill out 72 different fields of data --- some of these fields are required fields (i.e. claim number) while some are not (i.e. institution code). This report focuses on roughly 25 fields and is not intended to represent the entirety of information reported to the Office.

² Allied Property and Casualty Insurance Company had their med-mal authority withdrawn as on 10/1/1998, Nationwide Mutual Insurance Company acquired Allied Group Incorporated. Nationwide Mutual now owns the stock of Allied Property and Casualty.

Medical Malpractice Insurance Claims in Florida

In 2008, the Florida medical malpractice insurance companies reported 3,336 closed claims in Florida. Of these 3336 claims closed in 2008, 1730 claims were filed by females and 1606 claims were filed by males.

Injury Location

One of the data elements reported is the injury location, which has been divided into 10 different categories. The injury location for claims closed in 2008 is distributed as follows:

Location	Number of Claims
Hospital Inpatient Facility	1,584
Physician's Office	693
Emergency Room	436
Other Outpatient Facility	185
Hospital Outpatient Facility	126
Other Location	93
Prison	83
Other Hospital/Institution	54
Patient's Home	54
Nursing Home	28
Total:	3,336

The data show that the largest number of claims came from hospital inpatient facilities, which together with physician's office and emergency room compromise over eighty percent of all claims closed in 2008.

Severity

The reporting data also contains a field to populate a "severity" field which ranks the types of injuries/medical problems into nine different categories ranging from "1" being the most minor physical ailments, to "9" indicating death of the insured. A brief summary of these categories are:

- 1 – Emotional Only: fright, no physical damage
- 2 – Temporary: slight lacerations
- 3 – Temporary: minor infections, missed fracture, fall in hospital
- 4 – Temporary: major burns, drug reaction
- 5 – Permanent: minor – loss of finger, damage to organs
- 6 – Permanent: significant – deafness, loss of limb, loss of eye
- 7 – Permanent: grave – paraplegia, blindness, loss of limbs
- 8 – Permanent: grave – quadriplegia, brain damage
- 9 – Permanent: death

The following chart tabulates the frequencies for the severity of claims resolved in Florida in 2008:

Severity	Number of Claims
1	216
2	200
3	533
4	295
5	429
6	280
7	217
8	120
9	1,046

Total: 3,336

Category “9,” meaning death, is the leading category for medical malpractice claims settled, and accounted for over 30% of all of the claims closed in 2008.

Geographic Distribution

Among the other data required to be filed are data that show the insured’s residence including county, address and zip code. Not surprisingly, the largest percentage of closed claims arises from areas that have the highest populations. The 10 counties with the most closed medical malpractice claims in 2008 were:

	County	Number of Claims
1	Dade	477
2	Broward	425
3	Palm Beach	302
4	Hillsborough	268
5	Pinellas	245
6	Orange	190
7	Duval	138
8	Lee	103
9	Polk	71
10	Brevard	71

There was at least one closed claim in 54 of Florida’s 67 counties during 2008. Unlike the previous two years, the category for out-of-state residents was not in the top, ranking 31 with 24 closed claims during 2008.

Insurance Companies with the Most Closed Claims

In 2008, 171 entities reported closed medical malpractice claims. Of those reporting, 69 closed either one or two claims. Conversely, 49 reported ten or more claims. They are:

Rank	Name	Number of Claims
1	FIRST PROFESSIONALS INSURANCE COMPANY, INC	554
2	HEALTH CARE INDEMNITY, INC.	375
3	LEXINGTON INSURANCE COMPANY	319
4	PROASSURANCE CASUALTY COMPANY	265
5	MAG MUTUAL INSURANCE COMPANY	198
6	CONTINENTAL CASUALTY COMPANY	134
7	DOCTORS' COMPANY, AN INTERINSURANCE EXCHANGE (THE)	112
8	MEDICAL PROTECTIVE COMPANY (THE)	76
9	PODIATRY INSURANCE COMPANY OF AMERICA	59
10	FLORIDA MEDICAL MALPRACTICE JUA	58
11	EVEREST INDEMNITY INSURANCE COMPANY	57
12	Health Management Associates*, Hospital	45
13	Baptist Health South Florida, Hospital	39
14	FORTRESS INSURANCE COMPANY	36
15	ANESTHESIOLOGISTS PROFESSIONAL ASSURANCE COMPANY	33
16	North Broward Hospital District Self Insurance Trust, Hospital	32
17	COLUMBIA CASUALTY COMPANY	31
18	AMERICAN PHYSICIANS ASSURANCE CORPORATION	28
19	Lee Memorial Health System, Hospital	23
19	PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY, Hospital	23
21	PHYSICIANS PREFERRED INSURANCE COMPANY	22
22	FLORIDA HEALTHCARE PROVIDERS INSURANCE EXCHANGE	21
22	TRUCK INSURANCE EXCHANGE	21
24	Florida Hospital, Hospital	20
24	HEALTHCARE UNDERWRITERS GROUP OF FLORIDA	20
24	SOUTH PINELLAS MEDICAL TRUST	20
27	ACE AMERICAN INSURANCE COMPANY	19
27	Orlando Regional Healthcare, Hospital	19
29	MOUNT SINAI MEDICAL CENTER, Hospital	18
29	University of South Florida Health Sciences Center, Medical Practitioner	18
31	Holy Cross Hospital, Inc., Hospital	17
31	HUDSON SPECIALTY INSURANCE COMPANY	17
31	PALMETTO GENERAL HOSPITAL, Hospital	17
31	South Broward Hospital District, Hospital	17
35	Lexington Insurance, UCH Cells A and B, Hospital	15
35	NATIONAL FIRE INSURANCE COMPANY OF HARTFORD	15
37	CITADEL INSURANCE, RISK RETENTION GROUP	14
37	NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA	14
39	PARKWAY REGIONAL MEDICAL CENTER, Hospital	13

39	TIG INSURANCE COMPANY	13
41	ADMIRAL INSURANCE COMPANY	12
41	AMERICAN INSURANCE COMPANY (THE)	12
41	CINCINNATI INSURANCE COMPANY	12
44	APPLIED MEDICO-LEGAL SOLUTIONS RISK RETENTION GROUP, INC.	11
44	OMSNIC, Medical Practitioner	11
46	DELRAY COMMUNITY HOSPITAL, Hospital	10
46	PHYSICIANS INSURANCE COMPANY	10
46	PREFERRED PROFESSIONAL INSURANCE COMPANY	10
46	SAMARITAN RISK RETENTION GROUP, INC.	10

The companies in bold type are among the 22 companies comprising 80% of the direct written premium in Florida in 2008. As the data show, although these companies are in the top 22 of direct written premium calculations, they are not all necessarily the ones with the most closed claims in 2008. This could be in part due to the long-tailed nature of the business. It should be noted however, that 14 of the 49 entities with the most closed claims in 2008 are in the sample of 22 companies with the most premium volume.

Financial Data:

Perhaps the most important information contained in the report is the financial data related to insurance company claims. The amount paid by the insured is reported in three broad categories: 1) The indemnity amount paid to the plaintiff; 2) The amount of loss adjustment expenses; and 3) economic and non-economic losses. The data for all claims reported closed in 2008 were as follows:

Category of Payment	Amount
Indemnity Paid	\$519,091,049
LAE Paid to Defense Counsel	\$137,413,305
All other LAE Paid	\$43,685,772
Non-Economic Loss	\$267,834,838
Economic Loss - Incurred	\$97,704,386
Economic Loss - Anticipated	\$283,566,221

The total of the indemnity and LAE categories is \$700,190,126, which represents the total amount paid by insurance companies, self-insurance companies, and surplus lines companies for claims settled in 2008. It is important to remember that in many instances, approximately 45% of the time, the claims closed showed indemnity payments of \$0 to the plaintiff. However, even in these instances, it is likely the insured still incurred loss adjustment expense, and sometimes other expenses.

The other area of the financial data segregates the amount that the company paid for economic versus non-economic damages to plaintiffs. The data reported in the 2008 closed claims shows \$283,566,221 in non-economic loss and combined incurred and anticipated economic loss of \$365,539,224..

There are some caveats to consider when reading this data. First, while conceptually the economic and non-economic damage total above should equal the total amount paid to the plaintiff presented previously, clearly the sums are different. One possible reason for the discrepancy pertains to the forward looking estimates included in the economic damages above. Differences in methodologies for equating current dollar losses to future losses for reporting purposes can easily skew the results away from the conceptual equality of the two totals.

Apart from the time-value of money, and estimating future losses (and rate of inflation) there is some ambiguity in the estimate of the numbers themselves. Although claims can be closed for a variety of different reasons like a court ruling, or an outcome from an arbitration hearing, the majority of claims are settled out of court. Often these settlements stipulate a flat payment amount to the plaintiff, and do not distinguish what portion of the payment amount by the insurer is for economic versus non-economic damages. Therefore, companies are left to estimate these numbers to fill out the report. A few companies reported data with no estimates, leaving these fields blank. Assuming the numbers are accurate within the noted limitations, the amount paid in economic losses (\$365 million) is more than the amount of non-economic loss paid (\$267 million).

Closed Claims for the 22 Largest Florida Writers

Throughout this report, the legislative mandate has focused on the top 22 leading writers of medical malpractice in the state of Florida in 2008. This section provides an analysis of the timing sequence involved in reporting and closing a claim, as well as the paid amounts of closed claims to plaintiffs by these companies. Because not all the sample companies distinguished between economic versus non-economic claims, this data is not included. Legal settlements often state a specified amount, and do not apportion the final settlement amount based on economic versus non-economic damages.

The Timing of the Claim

As noted earlier, there are two main time sequences important to the resolution of a claim: 1) The amount of time between the incident occurrence and the reporting of the claim to the insurance company; and 2) The amount of time between reporting the claim, and the final disposition of the claim. For these two elements, the 22 leading writers of medical malpractice insurance in Florida reported the following average times:

Company	Total days	Report to Disposition	Occurrence to Report
Admiral Insurance Company	1,108	658	450
Anesthesiologists Professional Assurance Company	1,392	1,120	271
Columbia Casualty Company	1,530	1,144	386
Continental Casualty Company	1,254	675	579
Darwin Select Insurance Company	663	276	386
Doctors Company, An Interinsurance Exchange	1,315	710	605
Evanston Insurance Company	1,433	898	535
First Professionals Insurance Company	1,524	1,012	512
Florida Doctors Insurance Company	890	328	563

Healthcare Underwriters Group of FL	1,028	541	486
Landmark American Insurance Company	603	245	358
MAG Mutual Insurance Company	1,372	805	566
Medical Protective Company	1,995	1,334	661
National Union Fire Insurance Company Of Pittsburg	1,828	1,317	511
Oms National Insurance Company, Risk Retention Group	1,118	803	316
Ophthalmic Mutual Insurance Company, (A R.R.G.)	1,685	1,112	573
Physicians Insurance Company	1,124	642	482
Physicians Preferred Insurance Company	995	412	583
Physicians Professional Liability Risk Retention Group, Inc.	962	602	360
Podiatry Insurance Company Of America	1,257	663	594
Proassurance Casualty Company	1,810	1,320	490

This table reinforces the “long-tail” aspect of medical malpractice insurance as it may take up to five years between the occurrence of an accident and actual payment. For all claims closed in 2008, the total number of days between occurrence and final disposition averaged 1367 days (3.74 years) with a range from immediate disposition to a maximum of 5,532 days (15.1 years).

The Plaintiff Settlement

Simply because a claim is “closed” does not mean that the plaintiff received payment. Whether due to an outcome of the courts, arbitration, or a plaintiff discontinuing pursuit of a claim, some claims are closed without any payment settlement. The data does show differences among the companies in terms of the percentage of closed claims that were settled, or resulted in the payment to the plaintiff:

Company	Claims with Indemnity Payments	Total Claims	Percentage with Indemnity Payments
Admiral Insurance Company	7	12	58.33%
Anesthesiologists Professional Assurance Company	13	33	39.39%
Columbia Casualty Company	14	31	45.16%
Continental Casualty Company	77	134	57.46%
Darwin Select Insurance Company	2	4	50.00%
Doctors Company, An Interinsurance Exchange	45	112	40.18%
Evanston Insurance Company	6	7	85.71%
First Professionals Insurance Company	242	554	43.68%
Florida Doctors Insurance Company	3	9	33.33%
Healthcare Underwriters Group of FL	8	20	40.00%
Landmark American Insurance Company	3	3	100.00%
MAG Mutual Insurance Company	80	198	40.40%
Medical Protective Company	39	76	51.32%
National Union Fire Insurance Company Of Pittsburg	9	14	64.29%
Oms National Insurance Company, Risk Retention Group	3	8	37.50%
Ophthalmic Mutual Insurance Company, (A R.R.G.)	4	8	50.00%

Physicians Insurance Company	8	10	80.00%
Physicians Preferred Insurance Company	17	22	77.27%
Physicians Professional Liability Risk Retention Group, Inc.	8	8	100.00%
Podiatry Insurance Company Of America	26	59	44.07%
Proassurance Casualty Company	167	265	63.02%

Payment Amounts

Companies are also required to report payment amounts. As noted previously, not all companies provided a segregation of payments between economic and non-economic loss, therefore, no summary of that distinction can be provided here. The claims reported closed by the sample companies in 2008 resulted in the following claim payments:

Company	Indemnity Payment	LAE	Other
Admiral Insurance Company	\$500,046	\$155,430	\$24,050
Anesthesiologists Professional Assurance Company	\$4,795,000	\$1,006,276	\$626,948
Columbia Casualty Company	\$3,656,525	\$2,106,381	\$364,640
Continental Casualty Company	\$18,255,813	\$3,307,911	\$889,439
Darwin Select Insurance Company	\$162,385	\$32,189	\$2,400
Doctors Company, An Interinsurance Exchange	\$13,222,249	\$4,498,311	\$308,896
Evanston Insurance Company	\$1,264,500	\$173,204	\$0
First Professionals Insurance Company	\$55,693,459	\$16,844,385	\$10,325,391
Florida Doctors Insurance Company	\$543,500	\$97,859	\$1,238
Healthcare Underwriters Group of FL	\$1,342,000	\$501,358	\$178,613
Landmark American Insurance Company	\$184,051	\$4,135	\$0
MAG Mutual Insurance Company	\$27,161,647	\$6,389,303	\$3,466,587
Medical Protective Company	\$5,734,000	\$2,589,177	\$1,310,110
National Union Fire Insurance Company Of Pittsburg	\$3,835,833	\$550,718	\$0
Oms National Insurance Company, Risk Retention Group	\$257,000	\$159,288	\$49,908
Ophthalmic Mutual Insurance Company, (A R.R.G.)	\$1,015,000	\$0	\$0
Physicians Insurance Company	\$976,000	\$430,588	\$158,367
Physicians Preferred Insurance Company	\$2,810,000	\$332,006	\$0
Physicians Professional Liability Risk Retention Group, Inc.	\$625,000	\$593,233	\$0
Podiatry Insurance Company Of America	\$4,719,500	\$1,614,331	\$351,183
Proassurance Casualty Company	\$56,988,425	\$16,677,145	\$9,678,893

Summary

Senate Bill 2-D, enacted in 2003, requires the Office to publish an annual report of the state of the medical malpractice insurance market in Florida. The legislation, codified in Section 627.912(6)(b)&(c), Florida Statutes, requires the Office to draw upon three data resources:

- 1) The NAIC annual financial statement filings;
- 2) The closed claims database maintained by the Office; and

3) An analysis of rate filings filed with the Office during the previous year.

This report satisfies the requirements codified in Section 627.912(6)(b)&(c), Florida Statutes.

Appendix A
Medical Malpractice Insurance Data by State
2008

2008 Rank	State	Direct Premium Written	Direct Premium Earned	Incurred Losses	D.C.C. Incurred
1	New York	\$1,666,737,074	\$1,694,115,272	\$1,158,635,309	\$417,255,143
2	California	\$888,040,046	\$884,227,579	\$161,434,907	\$149,329,314
3	Pennsylvania	\$741,133,188	\$722,277,284	\$318,088,847	\$153,759,802
4	Illinois	\$653,353,849	\$654,303,268	\$307,017,463	\$146,801,846
5	Florida	\$592,024,645	\$619,405,677	\$138,712,070	\$99,252,287
6	New Jersey	\$537,264,048	\$559,577,811	\$224,821,755	\$79,723,042
7	Ohio	\$421,158,208	\$446,695,950	\$82,990,895	\$74,968,922
8	Texas	\$357,449,222	\$371,719,136	\$52,363,559	\$42,163,931
9	Georgia	\$326,415,053	\$324,287,013	\$87,396,340	\$57,226,994
10	Massachusetts	\$311,579,046	\$309,252,275	\$133,080,018	\$72,535,353
11	Maryland	\$302,983,472	\$303,968,950	\$118,824,911	\$52,871,802
12	Tennessee	\$302,346,674	\$302,822,870	\$101,298,926	\$80,332,286
13	Arizona	\$283,728,619	\$294,560,870	\$67,323,496	\$30,224,250
14	North Carolina	\$276,453,439	\$280,110,109	\$23,297,630	\$44,727,504
15	Virginia	\$262,390,173	\$271,003,738	\$76,803,948	\$33,910,365
16	Michigan	\$233,265,326	\$243,484,233	\$68,867,748	\$47,895,820
18	Washington	\$214,213,936	\$218,642,349	\$85,846,422	\$36,050,406
17	Connecticut	\$216,091,020	\$214,572,518	\$77,780,518	\$27,349,478
19	Missouri	\$205,467,899	\$209,265,581	\$40,947,199	\$32,842,918
20	Colorado	\$195,263,101	\$193,326,113	\$58,529,242	\$25,357,740
21	Kentucky	\$162,972,992	\$165,277,586	\$62,931,676	\$37,341,815
22	Alabama	\$151,273,822	\$152,664,467	\$39,506,611	\$17,529,181
23	Indiana	\$128,359,854	\$129,728,622	\$52,905,949	\$23,379,801
24	Oklahoma	\$128,142,348	\$127,471,539	\$61,237,680	\$27,114,606
25	Oregon	\$111,412,530	\$114,746,975	\$15,394,604	\$18,367,542
26	Wisconsin	\$108,953,412	\$114,066,025	(\$756,738)	\$23,413,971
27	Nevada	\$97,716,034	\$102,497,175	\$23,110,565	\$28,009,465
28	Minnesota	\$96,491,910	\$97,624,023	\$47,429,620	\$14,314,671
29	Louisiana	\$94,483,242	\$96,069,058	(\$11,730,382)	\$15,927,995
30	Kansas	\$85,231,240	\$86,991,979	\$5,436,739	\$9,539,102
33	Iowa	\$77,590,708	\$81,948,599	\$35,929,460	\$8,618,789
31	Arizona	\$80,392,716	\$81,565,193	\$12,986,263	\$13,653,885
32	West Virginia	\$78,702,976	\$80,251,659	\$25,595,683	\$11,606,781
34	Utah	\$73,639,784	\$72,340,919	\$30,162,990	\$25,828,173
35	Puerto Rico	\$62,556,761	\$62,733,243	(\$5,121,064)	\$14,898,361
36	Maine	\$55,072,776	\$55,470,380	\$25,048,328	\$6,278,202
37	New Mexico	\$51,656,040	\$52,506,718	\$23,029,135	\$11,940,342
39	Mississippi	\$50,503,943	\$52,473,028	(\$4,405,836)	\$3,090,301
38	South Carolina	\$51,592,528	\$51,096,171	\$39,512,823	\$14,459,456
40	Rhode Island	\$44,903,396	\$45,247,255	\$27,390,644	\$8,050,439
41	Montana	\$43,330,019	\$43,617,104	\$6,162,344	\$8,177,631
44	Delaware	\$40,674,568	\$42,215,454	\$26,783,397	\$6,968,017
43	Idaho	\$41,008,821	\$41,983,641	(\$6,328,263)	\$8,784,064
42	New Hampshire	\$42,149,138	\$41,955,613	\$26,907,204	\$8,908,506
45	District of Columbia	\$39,950,777	\$37,659,525	\$6,440,435	\$4,992,852
47	Nebraska	\$35,935,098	\$36,648,414	\$12,331,895	\$8,093,532
46	Hawaii	\$36,075,436	\$36,251,098	\$4,964,404	\$3,618,475
49	Vermont	\$26,551,025	\$27,061,815	\$24,069,227	\$2,459,025

2008 Rank	State	Direct Premium Written	Direct Premium Earned	Incurred Losses	D.C.C. Incurred
48	Wyoming	\$26,571,574	\$25,956,353	\$13,199,595	\$1,078,549
50	Alaska	\$23,970,567	\$23,724,195	\$459,730	\$1,862,067
51	South Dakota	\$22,222,633	\$22,302,156	\$2,292,261	\$3,853,654
52	North Dakota	\$14,468,129	\$14,712,167	\$6,033,472	\$1,956,675
53	Other Territories	\$1,038,837	\$759,981	\$12,658,966	(\$4,682,704)
54	Guam	\$720,111	\$675,406	(\$95,879)	(\$189,613)
55	CN	\$606,357	\$547,859	(\$430,283)	\$577,209
56	Virgin Islands	\$65,210	\$51,490	(\$100,211)	\$45,546
57	Northern Marian Islands	\$0	\$0	\$0	\$0
58	American Samoa	\$0	\$0	\$0	\$0
	Grand Total	\$11,174,345,335	\$11,336,511,469	\$4,025,004,233	\$2,094,445,540

Appendix B
Medical Malpractice Loss + DCC (Profitability) by State
2008

2008 Rank	State	DCC+Loss Ratio
1	South Carolina	105.6%
2	Vermont	98.0%
3	New York	93.0%
4	New Hampshire	85.4%
5	Delaware	80.0%
6	Rhode Island	78.3%
7	Utah	77.4%
8	Illinois	69.4%
9	Oklahoma	69.3%
10	New Mexico	66.6%
11	Massachusetts	66.5%
12	Pennsylvania	65.3%
13	Minnesota	63.2%
14	Kentucky	60.7%
15	Tennessee	60.0%
16	Indiana	58.8%
17	Maryland	56.5%
18	Maine	56.5%
19	Washington	55.8%
20	Nebraska	55.7%
21	Wyoming	55.0%
22	New Jersey	54.4%
23	Iowa	54.4%
24	North Dakota	54.3%
25	Nevada	49.9%
26	Connecticut	49.0%
27	Michigan	48.0%
28	West Virginia	46.4%
29	Georgia	44.6%
30	Colorado	43.4%
31	Virginia	40.9%
32	Florida	38.4%
33	Alabama	37.4%
34	Ohio	35.4%
35	Missouri	35.3%
36	California	35.1%
37	Arizona	33.1%
38	Montana	32.9%
39	Arkansas	32.7%
40	District of Columbia	30.4%
41	Oregon	29.4%
42	South Dakota	27.6%
43	CN	26.8%
44	Texas	25.4%
45	North Carolina	24.3%
46	Hawaii	23.7%
47	Wisconsin	19.9%
48	Kansas	17.2%

2008 Rank	State	DCC+Loss Ratio
49	Puerto Rico	15.6%
50	Alaska	9.8%
51	Idaho	5.8%
52	Louisiana	4.4%
53	Mississippi	-2.5%
54	Guam	-42.3%
55	Virgin Islands	-106.2%
	Grand Total	54.0%

Appendix C

**Medical Malpractice Rate Filings in 2008 Including those in the
Secondary Markets**

Rate Impact on Primary - Physician -
Market Segment

Rate Impact on Primary - Physician - Market Segment

Company Name	Policy Count	Premium Reported	Rate Change Indicated	Rate Change Proposed	Rate Change Approved	Approval Date
Pronational Ins. Co.	1078	50,812,000	-13.40%	-13.50%	-13.50%	2/19/2008
Doctors Company	2622	46,351,000	-6.50%	-5.50%	-5.50%	11/25/2008
Physicians Preferred Ins. Co.	1138	13,635,000	-4.20%	-6.20%	-6.20%	7/7/2008
Physicians Preferred Ins. Co.	1033	10,874,000	4.00%	3.20%	3.20%	1/14/2008
FL Doctors Ins. Co.	521	9,793,000	-8.00%	-5.00%	-5.00%	11/21/2008
Physicians Ins. Co.	1130	9,671,000	-12.10%	-14.10%	-14.10%	11/21/2008
FL Med Mal JUA	431	8,000,000	-12.00%	-12.00%	-12.00%	5/2/2008
National Fire Ins. Co. of Hartford	102	4,700,000	0.00%	0.00%	0.00%	1/10/2008
Healthcare Indemnity Inc. (Related)	1	3,696,000	0.00%	0.00%	0.00%	4/23/2008
Healthcare Indemnity Inc. (Contracted Physicians)	1	1,445,000	-27.90%	-27.90%	-27.90%	8/21/2008
Medical Assurance Co. Inc. (The)	10	600,000	-11.20%	-11.20%	-11.20%	4/4/2008
Ins. Services Office (ISO)	0	0	-33.00%	-20.00%	-20.00%	8/1/2008
Average Rate Change for Doctors Insured by Above Companies			-6.85%	-7.01%	-7.01%	
Market Share(%) of Admitted Ins. Cos. Not Making Rate Changes						
			61%			
Average Rate Change for Doctors in FL (Insured by Admitted Cos.)			-2.67%	-2.74%	-2.74%	

Non-Rate Change Physicians' Rate Filings Approved in 2008

Company Name	Impact of Filing	Approval Date
Insurance Services Office (ISO)	Separation of physician rates into medical doctor and doctor of osteopathy classes.	6/20/2008
Insurance Services Office (ISO)	Conversion of basic limits from \$100K to \$500K and related rules.	8/7/2008
Physicians Preferred Ins. Co.	Introduction of pricing for option of covering partnership/firm doctor belongs to in addition to doctor.	10/9/2008

Rate Impact on Secondary/ Minor Market Segment-Dentists

Company Name	Policy Count	Rate Change Indicated	Rate Change Approved	Approval Date
Cincinnati Indemnity Co.	38	15.00%	7.50%	3/21/2008
Cincinnati Ins. Co.	38	15.00%	7.50%	3/21/2008
Cincinnati Ins. Co.	357	10.50%	7.10%	3/21/2008
Medical Protective Co.	387	15.30%	5.00%	4/17/2008
Florida Med Mal JUA	63	-12.00%	-12.00%	5/16/2008
Ins. Services Office (ISO)	0	-33.00%	-20.00%	8/1/2008
Doctors Co. (An Interinsurance Exch.)	21	-6.50%	-5.50%	11/25/2008

Average Approved Rate Change 4.61%

Rate Impact on Secondary/ Minor Market Segment-Nurses

Company Name	Policy Count	Rate Change Indicated	Rate Change Approved	Approval Date
Florida Med Mal JUA	28	-7.90%	-12.00%	5/16/2008
Ins. Services Office (ISO)	0	-33.00%	-20.00%	8/1/2008

Average Approved Rate Change -12%

Rate Impact on Secondary/ Minor Market Segment-Hospitals/Facilities

Company Name	Policy Count	Rate Change Indicated	Rate Change Approved	Approval Date	Program
Florida Med Mal JUA	2	0.00%	0.00%	5/16/2008	Hospitals and Other Facilities
First Professionals Ins. Co.	51	-9.50%	-9.50%	7/7/2008	Miscellaneous Medical Facilities

Average Approved Rate Change -9.14%

Rate Impact on Secondary/ Minor Market Segment-Other Healthcare Professionals

Company Name	Policy Count	Rate Change Indicated	Rate Change Approved	Approval Date	Program
Florida Med Mal JUA	159	-7.90%	-12.00%	5/16/2008	All Types
Ins. Services Office (ISO)	0	-33.00%	-20.00%	8/1/2008	All Types
PACO Assurance Co. Inc.	1007	8.20%	5.00%	10/16/2008	Chiropractors
Doctors Co. (An Interinsurance Exch)	1	-6.50%	-5.50%	11/25/2008	All Types
Podiatry Ins. Co. of America (A Mutual Co.)	839	6.30%	5.00%	12/5/2008	Podiatrists

Average Approved Rate Change 3.65%

