



Medical Malpractice Insurance in Minnesota - 2015

Pursuant to Minnesota Session Laws of 2006, chapter 255, section 76, the Minnesota Department of Commerce (Commerce) provides this required report on the status of medical malpractice insurance in Minnesota in 2015 (“Report”). Generally, the state’s medical malpractice market has not significantly changed since the last review. (This report is based on data as of December 31, 2015).¹

Summary

- Medical malpractice insurance in Minnesota is a relatively small line of insurance, representing less than one percent of total property and casualty premiums in Minnesota. For 2015, there were \$78 million in annual medical malpractice premiums compared to the total Minnesota property and casualty insurance marketplace of \$11.0 billion.
- The largest medical malpractice insurer in Minnesota is a policyholder-owned company, MMIC Insurance (MMIC). Headquartered in Minneapolis, MMIC writes 54% of the medical malpractice premium in Minnesota.
- Minnesota’s malpractice rates continue to be among the lowest in the nation.

History

During the past 40 years, medical malpractice insurance has experienced significant changes in Minnesota. During the early 1970s, several insurance companies exited the market both nationally and in Minnesota due to loss ratio deterioration and unstable future cost forecasts. As a partial solution to these issues, claims-made coverage was introduced. This helped improve the accuracy of the pricing process and ensured that most of the remaining major insurance companies continued to write medical malpractice coverage for several more years. During the 1990s, insurance rates did not change significantly, although the results for insurers became increasingly unprofitable in part due to trends in litigation that were not favorable to insurers. Following this time period, in 2001, The St. Paul Companies, the nation’s leading medical malpractice insurer, exited the market.

Since the late 1990s and early 2000s, a gradual recovery in the medical malpractice marketplace has been observed with reasonably stable rates. Marketplace concerns and uncertainty remain and could trigger another significant disruption in the future.

¹ The scope of this Report is limited to Minnesota’s standard marketplace for medical malpractice insurance. It is not uncommon for those who need coverage to use non-standard insurance options for providing medical malpractice coverage in Minnesota.

Competition in the Minnesota Marketplace

For calendar year 2015, \$78 million in medical malpractice premiums were written in Minnesota by 82 different insurance companies. Only 14 of these companies wrote more than \$1 million, while six companies wrote more than \$2 million in premiums. Other than MMIC, no other companies wrote more than \$3 million in premium. 78% of the market was written by the top ten insurers.

MMIC is, by far, the largest insurer in this market, with 54% of the total premiums. MMIC is policyholder-owned and returns unneeded profits as dividends to its policyholders.

Table I (below) identifies the premiums and market shares for the top ten companies as well as the remaining companies combined for the Minnesota medical malpractice insurance marketplace. MMIC stands out, having more than 10 times the premiums of the second largest carrier.

Table I - Minnesota Malpractice Insurance – Premiums and Market Share for 2015

NAIC Company Code	Company Name	Minnesota 2015 Premiums \$(000)	Minnesota Market Share
16942	MMIC INS INC	42,543	54%
10903	AMERICAN EXCESS INS EXCH RRG	2,670	3%
20443	CONTINENTAL CAS CO	2,257	3%
20427	AMERICAN CAS CO OF READING PA	2,214	3%
38954	PROASSURANCE CAS CO	2,211	3%
15865	NCMIC INS CO	2,168	3%
22667	ACE AMER INS CO	1,955	2%
33111	MHA INS CO	1,892	2%
11843	MEDICAL PROTECTIVE CO	1,626	2%
19437	LEXINGTON INS CO	1,532	2%
	All Other Insurance Companies	17,232	22%
	Grand Total:	78,300	100%

The Minnesota market structure is not atypical. For example, the Wisconsin malpractice market is fairly similar to Minnesota (see Table II on the next page). Although the Wisconsin market is somewhat more diversified, most of the premiums are written by a few dominant companies.

Table II - Wisconsin Malpractice Insurance – Premiums and Market Share for 2015

		Wisconsin	Minnesota
NAIC		2015	
Company		Premiums	Market
Code	Company Name	\$(000)	Share
38954	PROASSURANCE CAS CO	20,113	26%
20443	CONTINENTAL CAS CO	12,887	16%
16942	MMIC INS INC	9,302	12%
11843	MEDICAL PROTECTIVE CO	8,505	11%
33111	MHA INS CO	4,031	5%
36234	PREFERRED PROFESSIONAL INS CO	3,569	5%
15865	NCMIC INS CO	2,071	3%
20427	AMERICAN CAS CO OF READING PA	1,992	3%
33405	WISCONSIN HLTH CARE LIAB INS	1,698	2%
14460	PODIATRY INS CO OF AMER	946	1%
	All Other Insurance Companies	13,444	17%
	Grand Total:	78,558	100%

Another measure of the Minnesota marketplace is the comparison of the number of medical malpractice rate/form filings in the last few years for medical malpractice coverage. There were 63 medical malpractice filings in 2012, 58 in 2013, 56 in 2014 and 63 in 2015. This measure indicates that the market is relatively stable, with the exit of few existing carriers and the entry of few new carriers for this complex line of business.

Minnesota Rates

Nationally, most states report flat rates or small decreases during the past three years. The *Medical Liability Monitor* (the *Monitor*) conducts an annual survey of the major writers of liability insurance for physicians (representing 65% to 75% of the national market). The survey asks for rates for the following three specialties: internal medicine, general surgery and obstetrics/gynecology. According to the *Monitor's* 2015 survey, rates increased very slightly from 2014 to 2015. The magnitude of this increase is very small (0.3%). Prior surveys showed small decreases (a 1.5% decrease the prior year and a 1.9% decrease the year before that). The *Monitor's* survey also observed that 71% of the rates did not change from the last study. Also, there were more rate increases (17%) than decreases (12%) for the first time since 2006.

In recent history, the Upper Midwest has had the lowest medical malpractice rates in the country. In particular, Minnesota, North Dakota and South Dakota have been included in the

Monitor's list of the five states with the lowest rates for each of the three categories tracked. Table III illustrates the differences in rates among the states according to the Monitor.²

Table III - Rates for Various Specialties in Selected States

	Internal Medicine	General Surgery	Ob/GYN
Minnesota	\$4,906	\$14,717	\$22,484
Wisconsin	\$6,923	\$22,813	\$34,667
Arizona	\$13,409	\$40,745	\$51,978
Washington	\$11,936	\$59,368	\$64,600
Colorado	\$12,565	\$60,561	\$54,520
Georgia	\$13,096	\$40,025	\$59,938

What makes the experience identified in the *Monitor's* survey for Minnesota and the other Upper Midwest states better than the national experience?

1. The Upper Midwest has relatively high health quality.

According to the federal Agency for Healthcare Research and Quality, Minnesota ranked fifth best in the nation in overall health care. Two border states, Wisconsin and Iowa, were also in the top six, while the other border states in the Upper Midwest, North Dakota and South Dakota, were ranked within the top twelve states.

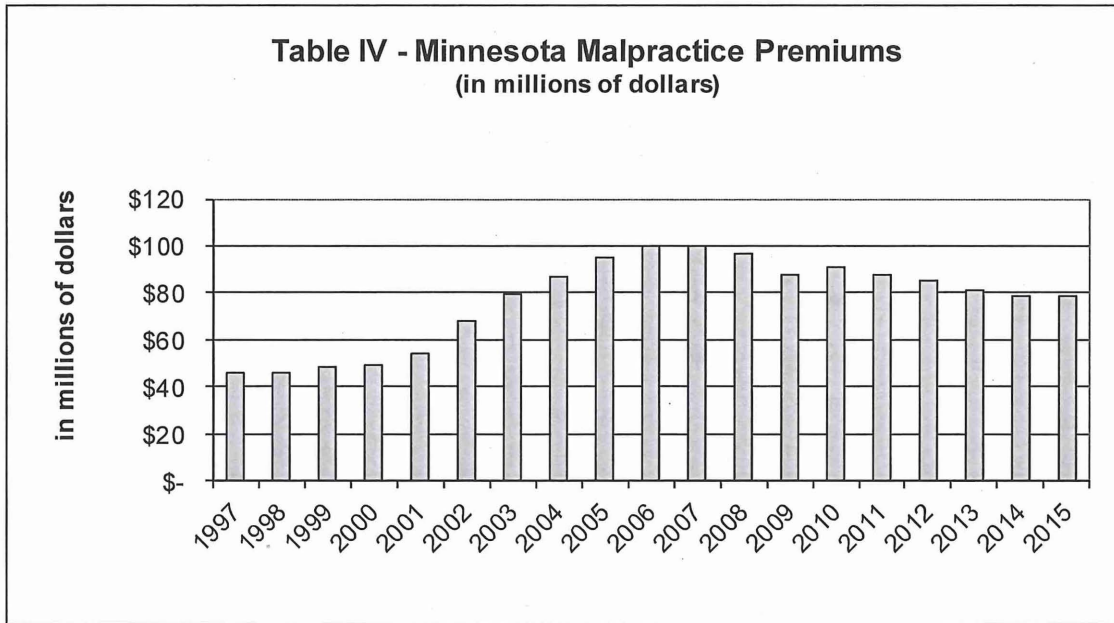
2. The legal climate is relatively favorable when compared to other states.

Medical malpractice coverage protects policyholders from lawsuits. The U.S. Chamber of Commerce periodically publishes results of a survey on the tort liability system as perceived by U.S. business. In the most recent publication done during 2015, Minnesota was ranked thirteenth best in overall rankings of legal climates by state. The remaining Upper Midwest states were ranked as follows (with one being best): fourth for Iowa, ninth for South Dakota, fifteenth for North Dakota and twentieth for Wisconsin.

3. MMIC, the major insurer in Minnesota, stresses patient safety and practices that minimize malpractice claim costs.

As shown in Table IV (next page), premiums have slightly decreased in Minnesota since 2007. Prior to that period, substantial increases were observed. This is consistent with the national picture.

² The states listed were selected as they have one relatively large urban area.



Uncertainty of Future Costs

Except for one year, Minnesota’s medical malpractice market has been profitable for insurance companies during each of the past five years and profitable for all of the five years combined. The Combined Ratio (see Table V below) reveals that in four of the past five years, premiums were more than sufficient to cover losses and all expenses. Additional funds were also made from investment income. According to MMIC, the company returned \$2.0 million in dividends to its policyholders in 2015.

Table V - Medical Malpractice Insurance Premiums and Losses in Minnesota

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
		Direct		Loss	Best's		Investment		
Calendar	Number of	Written	Premium	Ratio	LAE (Loss	Best's	Combined	Gain and	Operating
Year	Insurers	Premium	Growth	Excluding	Adjustment	Underwriting	Ratio	Other	Ratio
				LAE	Expense)	Expense	(4)+(5)+(6)	Income	(7)-(8)
2010	66	\$91,354	4%	73%	25%	22%	120%	16%	104%
2011	70	87,855	-4%	42%	26%	23%	91%	18%	73%
2012	76	84,934	-3%	32%	25%	23%	80%	16%	64%
2013	74	81,528	-4%	38%	25%	23%	86%	16%	70%
2014	79	79,035	-3%	42%	28%	24%	94%	27%	67%

Data source: NAIC Annual Statements filed annually by Insurance Companies & Best's Aggregates & Averages

In most instances, this level of profitability indicates a healthy marketplace. However, there is enough uncertainty in medical malpractice to ensure cautious actions from the insurance community. The most significant challenge with this line of insurance is that it is very difficult to predict how the litigation environment may evolve over the long term. In order to accurately estimate future costs of coverage for any line of business, the following considerations need to be taken into account.

1. An insurer needs to know whether or not it has made a profit.

For a liability insurance line like medical malpractice, this analysis can be quite complex. Specifically, claims reported during the policy period may take several years to ultimately settle. In addition, juries and trial courts can be inconsistent and unpredictable in determining negligence and the seriousness of an injury. If rates turn out to be inadequate, it can pose serious consequences to the viability of these specialty writers.

2. An insurer must accurately predict how the future will differ from the present.

Inflation trends and steady changes in the number of claims can be predicted relatively accurately, if changes are at the same rate as in the past. Any sudden, abrupt changes are often difficult to predict and changes in the legal climate (for example, an expansion of the theory of negligence) cannot be forecasted and could potentially threaten the financial solvency of an insurer.

3. An insurer's outcome will be affected by investment income.

For medical malpractice liability and other longer-tailed lines of insurance, a significant delay between the time premiums are collected and claims are paid allows insurers to invest these funds. These investment gains help reduce what would otherwise be charged for insurance. According to Best's Aggregates and Averages, annual investment returns for medical malpractice has varied from a low of 7% to a high of 27% over the past 10 years.

Financial implications related to changes in legal liability are driven by the liability system in a particular jurisdiction. In simplistic terms, one would expect a liability system that is more favorable to the plaintiff to have more expensive liability insurance costs than one that is less favorable to the plaintiff.

Medical malpractice is very sensitive to litigation impacts. In medical malpractice insurance, the administrative costs associated with adjusting and settling claims averaged 28% of premiums during 2014. For private passenger auto liability, the property-casualty insurance line with the most premium volume, claims administrative expenses averaged 14% in 2014. This level of litigation will ensure that medical malpractice insurance will continue to be written by only a small segment of the industry which is willing to invest the time and resources to specialize in this difficult line.

Expansion of Non-Standard Options

Although this Report only focuses on the traditional standard marketplace, other options for financing medical malpractice coverage in Minnesota include:

- The Minnesota Medical Malpractice Joint Underwriting Association (MJUA). The Minnesota Medical Malpractice JUA was created by the 1976 Minnesota State Legislature under Minnesota Statutes chapter 62F to provide medical malpractice insurance to any licensed health care provider unable to obtain this insurance through ordinary methods and who practices or provides professional services within Minnesota. Effective January 1, 2008, the Minnesota Medical Malpractice JUA was merged into the Minnesota Joint Underwriting Association (MJUA) which provides coverage to persons or entities unable to obtain insurance through ordinary methods if the insurance is required by statute, ordinance or otherwise required by law, or is necessary to earn a livelihood or conduct a business and serves a public purpose (Minnesota Statutes chapter 62I). The Minnesota Legislature specifically authorized the MJUA to provide insurance coverage to day care providers, foster parents, foster homes, developmental achievement centers, group homes, sheltered workshops for mentally, emotionally, or physically handicapped persons and citizen participation groups. The MJUA wrote \$0.5 million in medical malpractice coverage for nursing homes from July 1, 2015, through June 30, 2016.
- Large groups are often self-insured, join a Risk Retention Group or have their own captive insurer. Data on their loss experience, costs and expenses is not available to Commerce.³ As healthcare systems continue to consolidate, this self-insured option becomes more commonplace.
- Malpractice coverage is available through the surplus lines marketplace that provides specialized coverage for unique or high risks that licensed insurers do not cover.

Conclusion

Minnesota's medical malpractice marketplace has recovered from the turbulent environment of the late 1990s and early 2000s as rates have stabilized and the product has become more widely available. Although complaints are occasionally made about prices, the rates in Minnesota are close to the lowest in the country. Nonetheless, this insurance line is inherently volatile and can be dramatically affected by changes in the litigation environment, health care costs and investment income.

³ Facilities do have to report "adverse health events" to the Commissioner of the Minnesota Department of Health.