Introduction

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

A “claim for medical malpractice” means a claim arising out of the rendering of, or the failure to render, medical care services. An “action of medical malpractice” is a tort or breach of contract claim for damages due to the death, injury, or monetary loss to any person arising out of any medical, dental, or surgical diagnosis, treatment, or care by any provider of healthcare.

In any action for the recovery of damages based upon medical malpractice, a claimant has the burden of proving the alleged actions of the healthcare provider represented a breach of, or failure to meet, the prevailing standard of care for that type of healthcare provider. The prevailing professional standard of care for a given healthcare provider is the level of care, skill and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar healthcare providers.

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1 2003 University of Central Florida Governor’s Select Task Force on Healthcare Professional Liability Insurance
The medical malpractice insurance market has gone through three crisis periods or “hard” markets during the past thirty years. The first medical malpractice crisis occurred in the mid-to-late 1970s. The second medical malpractice crisis occurred in the mid-1980s. The most recent medical malpractice crisis began in early 2001. This hard insurance market was driven by a number of factors:

- Rising loss trends;
- Higher and more volatile jury awards;
- Adverse reserve development on prior accident/report year reserves;
- Reduced carrier capacities;
- Rising cost and availability of reinsurance;
- Varying success of tort reform packages in multiple states (e.g., constitutionality, ability to pass reforms); and
- Declining investment returns.

As this report will show, West Virginia’s medical malpractice insurance results have displayed continuous improvement compared to that of the years subsequent to the recent “hard” market period. Rate level changes which have been approved over the last few years, the passage of H.B. 601 and H.B. 2122 creating the policyholder owned West Virginia Mutual Insurance Company have all contributed to the change in the Medical Malpractice Liability results in West Virginia. In 2010, we experienced a continued overall general stabilization in rate (i.e. little to no change) from the major admitted writers in West Virginia.

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2 July/August 2004 Contingencies Magazine (www.contingencies.org), The Medical Malpractice Market: From National Dominance to Regional Focus, Kevin Bingham.
This year’s report covers the following medical malpractice insurance areas:

- **Section I:** An overview of the Industry’s by-line insurance results in 2010 together with a comparison of Industry results and West Virginia results for the Medical Malpractice Insurance line.

- **Section II:** A review of §33-20B-8 closed claim data and the West Virginia Board of Medicine paid claim data covering 1994–2010.

- **Section III:** A fulfillment of the legislative requirements examining market positions, rating plans and rules, and a comparison of filed information to rate filings and financial statement information. This section includes a commentary concerning Joint Underwriting Associations pursuant to §33-20B-7. A review of rate filings and investment returns is also provided, as well as a sample comparison of currently approved physician’s and surgeon’s rates in West Virginia.

- **Section IV:** A review of Medical Liability Fund data, Board of Medicine licensure data, and other claim data gathered from Company financial statements.

- **Section V:** Summary observations

The overall goal of this report is to provide the reader with insight into the current Medical Malpractice Insurance market in the State of West Virginia.
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2010 Physicians/Hospitals/Other Facilities/Professionals-Totals  
Medical Liability Fund suits filed by year and County  
2010 to 2000 Paid and Reserved Physicians Claims by Year  
Historical top 10 Companies for the Medical Malpractice line Admitted Basis  
Historical top 10 Companies for the Medical Malpractice line Business Written Basis  
Approved Rate Change History of Admitted Carriers for Medical Malpractice  
2010 West Virginia Population by County
Section I

Overview
I. Overview of Countrywide P&C Insurance Industry Results for 2010

Experience for the combined all lines property and casualty insurance industry improved slightly again during 2010, maintaining overall profitability. However, the results continue to be somewhat influenced by the general recession and further remain above the particularly favorable levels which were realized around 2006 and 2007.

The combined all lines property and casualty insurance industry operating ratio for 2010 was 94.4%. This net operating ratio reflects the results after paying/reserving for all claims and claim expenses; paying underwriting expenses and dividends; paying and collecting on reinsurance agreements; and accounting for investment gains/losses.
The 2010 net operating experience of the P&C Industry as compared to some of its key element lines were as follows:

Several points can be noted from the industry results for 2010:

- The highly adverse impact of the national financial crisis upon the Financial and Mortgage Guaranty lines, having begun in 2008, is shown to have continued during this time.
- Reinsurance industry results, which often influence future outcomes for other lines of business, again remained favorable (64.3%) as its net operating ratio had been 234.3% in 2005.
- Results for Medical Malpractice continue to be very encouraging.
I-A. Medical Malpractice Insurance Results for the Industry

Medical Malpractice, which was the poorest performing line of insurance shortly after the millennium, has continued to show improvement since the adverse level which occurred in 2001, and is now performing well below the total combined industry results. The graph below displays industry net operating ratios occurring since 1997:

![Graph showing industry medical malpractice net operating ratios from 1997 to 2010](image-url)

*Source: A.M. Best*
The next chart displays the combined ratio contribution by component excluding investment income:

![Combined Ratio Contribution Chart](chart.png)

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Net Income ($M)</th>
<th>Surplus ($M)</th>
<th>Return on Surplus</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$523</td>
<td>$7,102</td>
<td>7.4%</td>
</tr>
<tr>
<td>2001</td>
<td>($263)</td>
<td>$6,678</td>
<td>-3.9%</td>
</tr>
<tr>
<td>2002</td>
<td>($782)</td>
<td>$5,786</td>
<td>-13.5%</td>
</tr>
<tr>
<td>2003</td>
<td>($544)</td>
<td>$6,150</td>
<td>-8.8%</td>
</tr>
<tr>
<td>2004</td>
<td>$77</td>
<td>$6,638</td>
<td>1.2%</td>
</tr>
<tr>
<td>2005</td>
<td>$1,615</td>
<td>$7,195</td>
<td>9.1%</td>
</tr>
<tr>
<td>2006</td>
<td>$1,658</td>
<td>$7,958</td>
<td>20.3%</td>
</tr>
<tr>
<td>2007</td>
<td>$1,220</td>
<td>$9,443</td>
<td>17.0%</td>
</tr>
<tr>
<td>2008</td>
<td>$1,708</td>
<td>$10,274</td>
<td>4.80%</td>
</tr>
<tr>
<td>2009</td>
<td>$1,934</td>
<td>$11,879</td>
<td>11.9%</td>
</tr>
<tr>
<td>2010</td>
<td></td>
<td>$12,290</td>
<td>16.9%</td>
</tr>
</tbody>
</table>

Source: A. M. Best

Over the past eleven years, the 117 medical malpractice organizations above have amassed a fairly substantial policyholder surplus. Note that whereas earlier reports had indicated an overall loss of net income in hundreds of millions of dollars, the 2010 results demonstrate the just opposite with a 16.9% return. Note also that the diminishing return on surplus beginning in 2007, and stemming from the U.S. financial market crisis, did not continue into 2009 and 2010.
I-B. Medical Malpractice: Industry vs. West Virginia Comparison

The following exhibit provides a comparison of Medical Malpractice results for the Industry along with results for West Virginia specifically over the past twelve years. In reviewing this exhibit, a few key areas of difference (other than the premium totals) are noted. A continued decline in total West Virginia premiums since 2004; greater volatility in direct West Virginia loss ratios and loss adjustment expenses (due to our relatively small market size), and a quicker return to overall profitability than that which was experienced on a countrywide basis.

<table>
<thead>
<tr>
<th>Year</th>
<th>Direct Written Premium</th>
<th>Direct Earned Premium</th>
<th>Direct Loss Ratio</th>
<th>Loss Adjustment Expense</th>
<th>Underwriting Expense</th>
<th>Direct Combined Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>$6,027,964</td>
<td>$6,013,442</td>
<td>74.60%</td>
<td>32.10%</td>
<td>20.10%</td>
<td>126.80%</td>
</tr>
<tr>
<td>2000</td>
<td>$6,376,040</td>
<td>$6,329,556</td>
<td>81.00%</td>
<td>32.10%</td>
<td>19.20%</td>
<td>132.30%</td>
</tr>
<tr>
<td>2001</td>
<td>$7,457,325</td>
<td>$6,928,413</td>
<td>99.60%</td>
<td>34.30%</td>
<td>18.50%</td>
<td>152.40%</td>
</tr>
<tr>
<td>2002</td>
<td>$9,308,354</td>
<td>$8,796,700</td>
<td>92.10%</td>
<td>31.70%</td>
<td>17.40%</td>
<td>141.20%</td>
</tr>
<tr>
<td>2003</td>
<td>$10,755,416</td>
<td>$10,268,287</td>
<td>81.60%</td>
<td>31.00%</td>
<td>15.20%</td>
<td>127.80%</td>
</tr>
<tr>
<td>2004</td>
<td>$10,665,495</td>
<td>$10,330,639</td>
<td>64.50%</td>
<td>27.40%</td>
<td>14.20%</td>
<td>106.10%</td>
</tr>
<tr>
<td>2005</td>
<td>$10,988,548</td>
<td>$10,795,144</td>
<td>51.20%</td>
<td>27.80%</td>
<td>15.40%</td>
<td>94.40%</td>
</tr>
<tr>
<td>2006</td>
<td>$11,458,078</td>
<td>$11,361,475</td>
<td>43.90%</td>
<td>26.90%</td>
<td>15.80%</td>
<td>86.60%</td>
</tr>
<tr>
<td>2007</td>
<td>$10,653,232</td>
<td>$10,766,483</td>
<td>40.70%</td>
<td>23.40%</td>
<td>17.40%</td>
<td>81.50%</td>
</tr>
<tr>
<td>2008</td>
<td>$10,307,742</td>
<td>$10,495,895</td>
<td>34.20%</td>
<td>23.20%</td>
<td>17.90%</td>
<td>75.30%</td>
</tr>
<tr>
<td>2009</td>
<td>$9,458,646</td>
<td>$9,548,279</td>
<td>33.40%</td>
<td>23.50%</td>
<td>19.40%</td>
<td>76.30%</td>
</tr>
<tr>
<td>2010</td>
<td>$8,864,495</td>
<td>$8,862,968</td>
<td>29.10%</td>
<td>22.60%</td>
<td>23.90%</td>
<td>75.60%</td>
</tr>
<tr>
<td>Total</td>
<td>$112,321,335</td>
<td>$110,497,281</td>
<td>57.84%</td>
<td>27.51%</td>
<td>17.57%</td>
<td>102.92%</td>
</tr>
</tbody>
</table>
### WEST VIRGINIA (NAIC Annual Statement Data)

<table>
<thead>
<tr>
<th>Year</th>
<th>Direct Written Premium</th>
<th>Direct Earned Premium</th>
<th>Direct Loss Ratio</th>
<th>Direct Loss Adjustment Expense</th>
<th>Underwriting Expense</th>
<th>Direct Combined Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>$44,387</td>
<td>$42,565</td>
<td>93.82%</td>
<td>69.48%</td>
<td>15.23%</td>
<td>178.53%</td>
</tr>
<tr>
<td>2000</td>
<td>$67,635</td>
<td>$57,081</td>
<td>76.51%</td>
<td>59.91%</td>
<td>13.54%</td>
<td>149.96%</td>
</tr>
<tr>
<td>2001</td>
<td>$67,248</td>
<td>$67,451</td>
<td>89.68%</td>
<td>51.23%</td>
<td>13.61%</td>
<td>154.51%</td>
</tr>
<tr>
<td>2002</td>
<td>$71,909</td>
<td>$86,550</td>
<td>97.76%</td>
<td>22.56%</td>
<td>9.41%</td>
<td>129.73%</td>
</tr>
<tr>
<td>2003</td>
<td>$50,312</td>
<td>$52,792</td>
<td>70.17%</td>
<td>18.27%</td>
<td>9.01%</td>
<td>97.44%</td>
</tr>
<tr>
<td>2004</td>
<td>$113,237</td>
<td>$94,994</td>
<td>38.23%</td>
<td>20.99%</td>
<td>8.00%</td>
<td>67.22%</td>
</tr>
<tr>
<td>2005</td>
<td>$83,680</td>
<td>$79,774</td>
<td>26.59%</td>
<td>1.25%</td>
<td>14.21%</td>
<td>42.05%</td>
</tr>
<tr>
<td>2006</td>
<td>$78,739</td>
<td>$77,969</td>
<td>15.72%</td>
<td>11.86%</td>
<td>14.00%</td>
<td>41.58%</td>
</tr>
<tr>
<td>2007</td>
<td>$60,323</td>
<td>$60,264</td>
<td>59.39%</td>
<td>50.76%</td>
<td>14.32%</td>
<td>124.47%</td>
</tr>
<tr>
<td>2008</td>
<td>$53,272</td>
<td>$54,743</td>
<td>-8.35%</td>
<td>39.42%</td>
<td>11.88%</td>
<td>42.96%</td>
</tr>
<tr>
<td>2009</td>
<td>$51,721</td>
<td>$52,199</td>
<td>36.55%</td>
<td>16.67%</td>
<td>11.13%</td>
<td>64.35%</td>
</tr>
<tr>
<td>2010</td>
<td>$47,827</td>
<td>$51,315</td>
<td>22.52%</td>
<td>23.14%</td>
<td>11.47%</td>
<td>57.13%</td>
</tr>
<tr>
<td>Total</td>
<td><strong>$790,290</strong></td>
<td><strong>$726,382</strong></td>
<td><strong>54.71%</strong></td>
<td><strong>31.72%</strong></td>
<td><strong>12.80%</strong></td>
<td><strong>99.23%</strong></td>
</tr>
</tbody>
</table>

As indicated in earlier reports, note that the 2007 West Virginia results appear to be somewhat of an anomaly, and upon detailed review were shown to be largely driven by the exit of just two companies from our market during that year. Specifically, **Health Care Indemnity Incorporated** (a hospital policy writer, included in the 2006 report with 5.26% market share) did not renew their single hospital policy for 2007 and posted a Direct Defense Cost Containment and Expense Incurred figure of $19.3M for the year. Note that this amount ($19.3M) is 4.7 times larger than their entire earned premium for that same exposure ($4.1M) in 2006, and that the same heavily influenced the LAE ratio noted above as it was more than half of all incurred LAE ($30.6M). Secondly, **NCRIC, Inc.** (the 9th largest admitted writer in West Virginia by market share in 2006, and 4th largest in 2004) fully exited the West Virginia market during 2007, posting negative earned premium figures for 2007, and a direct incurred DCCE figure ($1.7M) that were more than 50% of their last positive earned premium ($3.3M) amounts for 2006. Were it not for the two companies mentioned above leaving our market during 2007, the State-wide results would have been significantly different.
Visually, a comparison of Industry results with West Virginia results for Medical Malpractice in the decade from the proceeding table can be seen in the three graphs which follow:
A review of the Direct Operating Ratio (which further reflects Dividends Paid and Investment Gain/Loss) produces the results which follow:

<table>
<thead>
<tr>
<th>Year</th>
<th>Direct Combined Ratio</th>
<th>Dividend</th>
<th>Combined Ratio (after Dividend)</th>
<th>Investment Gain</th>
<th>Direct Operating Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>132.30%</td>
<td>3.70%</td>
<td>136.00%</td>
<td>7.40%</td>
<td>128.60%</td>
</tr>
<tr>
<td>2001</td>
<td>152.40%</td>
<td>2.70%</td>
<td>155.10%</td>
<td>-3.90%</td>
<td>159.00%</td>
</tr>
<tr>
<td>2002</td>
<td>141.20%</td>
<td>1.60%</td>
<td>142.80%</td>
<td>-13.50%</td>
<td>156.30%</td>
</tr>
<tr>
<td>2003</td>
<td>127.80%</td>
<td>0.40%</td>
<td>128.20%</td>
<td>-8.80%</td>
<td>137.00%</td>
</tr>
<tr>
<td>2004</td>
<td>106.10%</td>
<td>0.50%</td>
<td>106.60%</td>
<td>1.20%</td>
<td>105.40%</td>
</tr>
<tr>
<td>2005</td>
<td>94.40%</td>
<td>0.60%</td>
<td>95.00%</td>
<td>9.10%</td>
<td>85.90%</td>
</tr>
<tr>
<td>2006</td>
<td>86.60%</td>
<td>0.70%</td>
<td>87.30%</td>
<td>20.30%</td>
<td>67.00%</td>
</tr>
<tr>
<td>2007</td>
<td>81.50%</td>
<td>2.30%</td>
<td>83.80%</td>
<td>17.00%</td>
<td>66.80%</td>
</tr>
<tr>
<td>2008</td>
<td>75.30%</td>
<td>2.30%</td>
<td>77.60%</td>
<td>4.80%</td>
<td>72.80%</td>
</tr>
<tr>
<td>2009</td>
<td>76.30%</td>
<td>2.50%</td>
<td>78.80%</td>
<td>11.90%</td>
<td>66.90%</td>
</tr>
<tr>
<td>2010</td>
<td>75.60%</td>
<td>3.10%</td>
<td>78.70%</td>
<td>16.90%</td>
<td>61.80%</td>
</tr>
</tbody>
</table>

Total 101.58% 1.72% 103.30% 6.21% 97.09%
<table>
<thead>
<tr>
<th>Year</th>
<th>Direct Combined Ratio</th>
<th>Combined Ratio (after Dividend)</th>
<th>Investment Gain</th>
<th>Direct Operating Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>149.96%</td>
<td>0.06%</td>
<td>150.01%</td>
<td>7.40%</td>
</tr>
<tr>
<td>2001</td>
<td>154.51%</td>
<td>0.05%</td>
<td>154.57%</td>
<td>-3.90%</td>
</tr>
<tr>
<td>2002</td>
<td>129.73%</td>
<td>0.05%</td>
<td>129.78%</td>
<td>-13.50%</td>
</tr>
<tr>
<td>2003</td>
<td>97.44%</td>
<td>0.05%</td>
<td>97.49%</td>
<td>-8.80%</td>
</tr>
<tr>
<td>2004</td>
<td>67.22%</td>
<td>0.02%</td>
<td>67.24%</td>
<td>1.20%</td>
</tr>
<tr>
<td>2005</td>
<td>42.05%</td>
<td>0.04%</td>
<td>42.08%</td>
<td>9.10%</td>
</tr>
<tr>
<td>2006</td>
<td>41.58%</td>
<td>0.06%</td>
<td>41.64%</td>
<td>20.30%</td>
</tr>
<tr>
<td>2007</td>
<td>124.47%</td>
<td>0.11%</td>
<td>124.58%</td>
<td>17.00%</td>
</tr>
<tr>
<td>2008</td>
<td>42.96%</td>
<td>0.19%</td>
<td>43.15%</td>
<td>4.80%</td>
</tr>
<tr>
<td>2009</td>
<td>64.35%</td>
<td>0.15%</td>
<td>64.50%</td>
<td>11.90%</td>
</tr>
<tr>
<td>2010</td>
<td>57.13%</td>
<td>0.24%</td>
<td>57.37%</td>
<td>16.90%</td>
</tr>
<tr>
<td>Total</td>
<td>87.71%</td>
<td>0.08%</td>
<td>87.79%</td>
<td>5.07%</td>
</tr>
</tbody>
</table>

- The figures above demonstrate that after accounting for dividends and investment gain, medical malpractice produced an **operating profit** in West Virginia from 2004 to 2006 and again in 2008 through 2010, and that it remains profitable and notably more profitable overall than that of the countrywide average over the period shown above.
I-C. Key Drivers of West Virginia Medical Malpractice Insurance Results

Negative Factors
- Recently volatile Loss Ratio
- Highly volatile Loss Adjustment Expenses

Positive Factors
- General overall decline in Loss Ratio since 2002
- Relatively stable Underwriting Expense
- Generally favorable Investment income (offset)

Overall, the graph above visually demonstrates a marked and continued improvement over the experience of earlier years for the West Virginia Medical Malpractice market.
I-D. Loss and Defense Costs Incurred vs. Premiums Earned

The charts below compare losses and defense costs for the Industry (countrywide basis) against the comparable figures for West Virginia alone. They clearly show that results for loss and defense cost in West Virginia had far exceeded premiums until the turnaround reported for 2003, and afterward have remained favorable overall, yet somewhat volatile. *Note that each graph is on a per thousand basis.*
I-E. A Cautionary Note

Recent loss ratio experience in West Virginia for Medical Malpractice clearly remains as an improvement over that experienced as recently as 2002. However, as the graph below (comparing West Virginia Loss Ratios with those countrywide) suggests, West Virginia Medical Malpractice loss ratios have not been stable historically. This is likely the result of the limited volume of business written in our State, and the potential for significant variance will likely increase if overall premium volumes continue their decline. Accordingly, rate changes (or stabilization provided by a lack thereof) will likely play an increasingly crucial role for future results.
Section II

A Review of Paid / Closed Claim Data
II. Analysis of Paid Claim Information

**Cautionary note:** The Board of Medicine information is **not insurance data**; rather it is information provided to the **West Virginia Board of Medicine** about Medical Malpractice claims after their disposition, and as such, it has not been audited for accuracy. **“Disposition”** in this case means claims which have been dismissed, settled, or adjudicated. These data represent **indemnity payments only,** thus, loss adjustment expense amounts are necessarily **excluded.** While not strictly matching insurance data, this information is useful in attempting to identifying trends. It should also be noted that the data does not include hospitals or doctors working within corporate structures. Even with eighteen years of data, the number of claims and loss dollars are still small enough to limit the credibility of the information. Additionally note that this information does include **BRIM** claim payments.

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

The exhibit below displays paid claim count information for 1993 – 2010.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Dismissals Total</th>
<th>% of Total</th>
<th>Number of Judgments Non Zero Total</th>
<th>% of Total</th>
<th>Number of Settlements Non Zero Total</th>
<th>% of Total</th>
<th>All Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>79 28%</td>
<td>8 18 6%</td>
<td>186 187 66%</td>
<td>284</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td>74 23%</td>
<td>10 36 11%</td>
<td>203 208 65%</td>
<td>318</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1995</td>
<td>103 31%</td>
<td>14 38 11%</td>
<td>187 190 57%</td>
<td>331</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>81 27%</td>
<td>5 20 7%</td>
<td>191 194 66%</td>
<td>295</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>114 27%</td>
<td>9 28 7%</td>
<td>286 286 67%</td>
<td>428</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>53 22%</td>
<td>9 27 11%</td>
<td>153 156 66%</td>
<td>236</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>99 30%</td>
<td>15 28 8%</td>
<td>203 206 62%</td>
<td>333</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>104 30%</td>
<td>7 37 11%</td>
<td>199 203 59%</td>
<td>344</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>112 30%</td>
<td>9 37 10%</td>
<td>225 226 60%</td>
<td>375</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>122 39%</td>
<td>7 25 8%</td>
<td>164 165 53%</td>
<td>312</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>108 42%</td>
<td>4 23 9%</td>
<td>125 127 49%</td>
<td>258</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>87 39%</td>
<td>6 24 11%</td>
<td>113 113 50%</td>
<td>224</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>77 44%</td>
<td>5 15 9%</td>
<td>81 82 47%</td>
<td>174</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>72 35%</td>
<td>3 12 6%</td>
<td>120 120 59%</td>
<td>204</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>40 24%</td>
<td>1 15 9%</td>
<td>104 109 66%</td>
<td>164</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>73 37%</td>
<td>8 14 7%</td>
<td>105 108 55%</td>
<td>195</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>71 41%</td>
<td>5 14 8%</td>
<td>86 89 51%</td>
<td>174</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>23 12%</td>
<td>1 7 4%</td>
<td>158 158 84%</td>
<td>188</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>1,492 31%</td>
<td>126 418 9%</td>
<td>2,889 2,927 61%</td>
<td>4,837</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- West Virginia now averages 269 malpractice claims per year (*down from 273 in 2009, and *from a high of 327 in 2001*). Over the past eighteen years, **31% of malpractice claims have been dismissed** (*32 in 2009*). In 2001, H.B. 601 was passed. One of its key elements was §55-7B-6, requiring that a “*certificate of merit*” be obtained prior to the filing of a medical professional liability action against a health care provider. Specifically, “*the certificate of merit shall be executed under oath by a health care provider qualified as an expert under the West Virginia rules of evidence and shall state with particularity: (1) the expert’s familiarity with the applicable standard of care in issue; (2) the expert’s qualifications; (3) the expert’s*
opinion as to how the breach of the applicable standard of care resulted in injury or death”. (Emphasis Added) We believe that this new screening process explains in part the increase in the percentage of dismissals seen beginning in 2002.

- In general, the number of claims filed has dropped significantly since the passage of the 2001 legislation. Specifically, the 2010 claim count was about 50% of the 2001 total.

- On average, only about 9% of malpractice claims go to court. Of the claims that do go to court, roughly 70% receive a judgment of $0. In other words, only about 30% of the claims that are adjudicated actually receive a judgment with payment.

- On average, 61% of malpractice claims are settled without court involvement.

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

This is consistent with previous reports which have noted a decline in Medical Malpractice claims countrywide.
II-B. Historical Judgments

Capping large awards at $1,000,000 (as a smoothing procedure) leads to the following:

<table>
<thead>
<tr>
<th>Year</th>
<th>#</th>
<th>Amount</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>6</td>
<td>$785,547</td>
<td>$130,925</td>
</tr>
<tr>
<td>1994</td>
<td>10</td>
<td>$3,946,419</td>
<td>$394,642</td>
</tr>
<tr>
<td>1995</td>
<td>14</td>
<td>$4,055,745</td>
<td>$289,696</td>
</tr>
<tr>
<td>1996</td>
<td>5</td>
<td>$2,585,837</td>
<td>$517,167</td>
</tr>
<tr>
<td>1997</td>
<td>9</td>
<td>$3,951,907</td>
<td>$439,101</td>
</tr>
<tr>
<td>1998</td>
<td>9</td>
<td>$5,409,154</td>
<td>$601,017</td>
</tr>
<tr>
<td>1999</td>
<td>15</td>
<td>$6,566,669</td>
<td>$437,778</td>
</tr>
<tr>
<td>2000</td>
<td>7</td>
<td>$4,767,554</td>
<td>$681,079</td>
</tr>
<tr>
<td>2001</td>
<td>9</td>
<td>$3,179,290</td>
<td>$353,254</td>
</tr>
<tr>
<td>2002</td>
<td>7</td>
<td>$2,855,223</td>
<td>$407,889</td>
</tr>
<tr>
<td>2003</td>
<td>4</td>
<td>$1,355,000</td>
<td>$338,750</td>
</tr>
<tr>
<td>2004</td>
<td>6</td>
<td>$3,456,244</td>
<td>$576,041</td>
</tr>
<tr>
<td>2005</td>
<td>5</td>
<td>$3,524,909</td>
<td>$704,982</td>
</tr>
<tr>
<td>2006</td>
<td>3</td>
<td>$1,830,989</td>
<td>$610,330</td>
</tr>
<tr>
<td>2007</td>
<td>1</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>2008</td>
<td>8</td>
<td>$4,325,596</td>
<td>$540,700</td>
</tr>
<tr>
<td>2009</td>
<td>5</td>
<td>$1,475,000</td>
<td>$295,000</td>
</tr>
<tr>
<td>2010</td>
<td>7</td>
<td>$250,000</td>
<td>$35,714</td>
</tr>
</tbody>
</table>

**West Virginia Board of Medicine**

Judgments with payments capped at $1,000,000

18 Years  130 $55,321,083 $425,546.79

- This table shows that even after limiting large awards to reduce volatility, there is *no clear pattern* of either an increasing number of judgments or a consistent increase in total paid judgments. Rather, the *small number of judgments restricts credible inferences*.

- A *general* historical decline in the number of judgments with payment over the period reviewed above can be observed.

- A *general* historical increase in the average annual amount of judgments with payment over the period reviewed above can also be observed.

Graphical linear representations of the above tabled data:
It should be noted that the number of judgments in each year is very small and that actual paid amounts can vary significantly from year to year. For example, the Average Annual Amount of Judgments with Payment graphic above appears to indicate a significant increase in this average for 2007. Yet, note in the tabled data that the number of non-zero judgments for 2007 was only 1.

The next exhibit displays Paid Judgments by size of payment.

<table>
<thead>
<tr>
<th>West Virginia Board of Medicine</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Size of Paid Judgments</strong></td>
</tr>
<tr>
<td>Loss=$0</td>
</tr>
<tr>
<td>$0&lt;loss&lt;=$100K</td>
</tr>
<tr>
<td>$100K&lt;loss&lt;=$250K</td>
</tr>
<tr>
<td>$250K&lt;loss&lt;=$500K</td>
</tr>
<tr>
<td>$500K&lt;loss&lt;=$1M</td>
</tr>
<tr>
<td>$1M&lt;loss</td>
</tr>
<tr>
<td>Total Judgments</td>
</tr>
<tr>
<td>Total Non-Zero*</td>
</tr>
<tr>
<td><strong>Interval</strong></td>
</tr>
<tr>
<td>Loss=$0</td>
</tr>
<tr>
<td>$0&lt;loss&lt;=$100K</td>
</tr>
<tr>
<td>$100K&lt;loss&lt;=$250K</td>
</tr>
<tr>
<td>$250K&lt;loss&lt;=$500K</td>
</tr>
<tr>
<td>$500K&lt;loss&lt;=$1M</td>
</tr>
<tr>
<td>$1M&lt;loss</td>
</tr>
<tr>
<td>Total Judgments</td>
</tr>
<tr>
<td>Total Non-Zero*</td>
</tr>
<tr>
<td><strong>Interval</strong></td>
</tr>
<tr>
<td>Loss=$0</td>
</tr>
<tr>
<td>$0&lt;loss&lt;=$100K</td>
</tr>
<tr>
<td>$100K&lt;loss&lt;=$250K</td>
</tr>
<tr>
<td>$250K&lt;loss&lt;=$500K</td>
</tr>
<tr>
<td>$500K&lt;loss&lt;=$1M</td>
</tr>
<tr>
<td>$1M&lt;loss</td>
</tr>
<tr>
<td>Total Judgments</td>
</tr>
<tr>
<td>Total Non-Zero*</td>
</tr>
</tbody>
</table>

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

- Over the last 17 years, there have been a total of 23 judgments in excess of $1,000,000; or an average of 1.35 per year.
II-C. Historical Settlements

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

### Size of Paid Settlements

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss=$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>$0&lt;loss&lt;=$50K</td>
<td>$1,704,102</td>
<td>$1,811,405</td>
<td>$1,718,264</td>
<td>$1,756,801</td>
<td>$1,152,744</td>
</tr>
<tr>
<td>$50K&lt;loss&lt;=$100K</td>
<td>$3,199,200</td>
<td>$3,624,584</td>
<td>$2,400,933</td>
<td>$1,612,092</td>
<td></td>
</tr>
<tr>
<td>$100K&lt;loss&lt;=$250K</td>
<td>$6,665,678</td>
<td>$8,410,952</td>
<td>$6,786,025</td>
<td>$5,987,500</td>
<td>$4,700,000</td>
</tr>
<tr>
<td>$250K&lt;loss&lt;=$500K</td>
<td>$11,980,951</td>
<td>$10,015,000</td>
<td>$11,947,319</td>
<td>$14,664,111</td>
<td>$7,188,000</td>
</tr>
<tr>
<td>$500K&lt;loss&lt;=$1M</td>
<td>$11,694,010</td>
<td>$11,940,000</td>
<td>$11,947,319</td>
<td>$13,660,000</td>
<td></td>
</tr>
<tr>
<td>$1M&lt;loss</td>
<td>$9,175,000</td>
<td>$11,940,000</td>
<td>$8,560,000</td>
<td>$9,425,000</td>
<td>$5,468,431</td>
</tr>
</tbody>
</table>

**Total Settlements**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>213</td>
<td>193</td>
<td>197</td>
<td>292</td>
<td>159</td>
</tr>
</tbody>
</table>

**Total Non-Zero***

<table>
<thead>
<tr>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>208</td>
<td>206</td>
<td>226</td>
<td>289</td>
<td>156</td>
</tr>
</tbody>
</table>

### 1999-2008

<table>
<thead>
<tr>
<th>Interval</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss=$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>$0&lt;loss&lt;=$50K</td>
<td>$1,488,737</td>
<td>$1,633,255</td>
<td>$1,806,781</td>
<td>$1,229,665</td>
<td>$625,434</td>
</tr>
<tr>
<td>$50K&lt;loss&lt;=$100K</td>
<td>$2,278,500</td>
<td>$2,892,600</td>
<td>$2,934,401</td>
<td>$1,214,000</td>
<td>$1,252,000</td>
</tr>
<tr>
<td>$100K&lt;loss&lt;=$250K</td>
<td>$5,936,000</td>
<td>$8,124,710</td>
<td>$8,350,814</td>
<td>$8,500,031</td>
<td>$6,725,418</td>
</tr>
<tr>
<td>$250K&lt;loss&lt;=$500K</td>
<td>$13,884,542</td>
<td>$12,753,796</td>
<td>$10,671,417</td>
<td>$10,065,000</td>
<td>$11,363,125</td>
</tr>
<tr>
<td>$500K&lt;loss&lt;=$1M</td>
<td>$9,615,000</td>
<td>$16,152,535</td>
<td>$21,817,833</td>
<td>$13,255,516</td>
<td>$13,878,750</td>
</tr>
<tr>
<td>$1M&lt;loss</td>
<td>$10,995,605</td>
<td>$12,673,015</td>
<td>$1,250,000</td>
<td>$6,133,125</td>
<td>$14,438,368</td>
</tr>
</tbody>
</table>

**Total Settlements**

<table>
<thead>
<tr>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>209</td>
<td>207</td>
<td>227</td>
<td>166</td>
<td>129</td>
</tr>
</tbody>
</table>

**Total Non-Zero***

<table>
<thead>
<tr>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>206</td>
<td>203</td>
<td>226</td>
<td>165</td>
<td>127</td>
</tr>
</tbody>
</table>

### 2009-2010

<table>
<thead>
<tr>
<th>Interval</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss=$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>$0&lt;loss&lt;=$50K</td>
<td>$861,532</td>
<td>$803,164</td>
</tr>
<tr>
<td>$50K&lt;loss&lt;=$100K</td>
<td>$1,362,500</td>
<td>$660,000</td>
</tr>
<tr>
<td>$100K&lt;loss&lt;=$250K</td>
<td>$4,016,403</td>
<td>$3,198,750</td>
</tr>
<tr>
<td>$250K&lt;loss&lt;=$500K</td>
<td>$9,529,200</td>
<td>$5,752,500</td>
</tr>
<tr>
<td>$500K&lt;loss&lt;=$1M</td>
<td>$5,550,000</td>
<td>$5,731,250</td>
</tr>
<tr>
<td>$1M&lt;loss</td>
<td>$11,500,000</td>
<td>$3,250,000</td>
</tr>
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</table>

**Total Settlements**

<table>
<thead>
<tr>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>113</td>
<td>110</td>
</tr>
</tbody>
</table>

**Total Non-Zero***

<table>
<thead>
<tr>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>113</td>
<td>110</td>
</tr>
</tbody>
</table>

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

- Settlements comprise the most common resolution for claim payments. Over the last 17 years, 53 settlements have exceeded $1,000,000, or about 3.12 per year on average.

- For this entire period, the average settlement over $1M is $1,886,948. The average for 2006 and all prior years was slightly more than $2,000,000.
As was done for judgments, we will cap claims at $1,000,000 and look for trends:

<table>
<thead>
<tr>
<th>Year</th>
<th>#</th>
<th>Amount</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>180</td>
<td>$29,789,721</td>
<td>$165,498</td>
</tr>
<tr>
<td>1994</td>
<td>208</td>
<td>$40,243,941</td>
<td>$198,246</td>
</tr>
<tr>
<td>1995</td>
<td>190</td>
<td>$37,069,607</td>
<td>$198,233</td>
</tr>
<tr>
<td>1996</td>
<td>194</td>
<td>$34,654,192</td>
<td>$181,436</td>
</tr>
<tr>
<td>1997</td>
<td>289</td>
<td>$36,874,345</td>
<td>$128,931</td>
</tr>
<tr>
<td>1998</td>
<td>156</td>
<td>$31,312,836</td>
<td>$204,659</td>
</tr>
<tr>
<td>1999</td>
<td>206</td>
<td>$36,202,779</td>
<td>$178,339</td>
</tr>
<tr>
<td>2000</td>
<td>203</td>
<td>$47,231,896</td>
<td>$237,346</td>
</tr>
<tr>
<td>2001</td>
<td>226</td>
<td>$46,581,246</td>
<td>$207,028</td>
</tr>
<tr>
<td>2002</td>
<td>165</td>
<td>$34,264,212</td>
<td>$208,928</td>
</tr>
<tr>
<td>2003</td>
<td>127</td>
<td>$39,844,727</td>
<td>$318,758</td>
</tr>
<tr>
<td>2004</td>
<td>113</td>
<td>$26,319,435</td>
<td>$232,915</td>
</tr>
<tr>
<td>2005</td>
<td>52</td>
<td>$18,145,664</td>
<td>$224,021</td>
</tr>
<tr>
<td>2006</td>
<td>120</td>
<td>$22,410,381</td>
<td>$186,753</td>
</tr>
<tr>
<td>2007</td>
<td>104</td>
<td>$28,148,162</td>
<td>$284,325</td>
</tr>
<tr>
<td>2008</td>
<td>105</td>
<td>$22,815,026</td>
<td>$217,286</td>
</tr>
<tr>
<td>2009</td>
<td>86</td>
<td>$17,322,096</td>
<td>$201,420</td>
</tr>
<tr>
<td>2010</td>
<td>158</td>
<td>$20,493,572</td>
<td>$129,706</td>
</tr>
</tbody>
</table>

18 Years 2,882 $569,723,838 $197,683

- From the above data, which limits claims to $1,000,000, a general escalation in the average settlement paid can be observed. For example, for the years of 1993-2001 combined the average paid settlement was $183,564. For 2001-2010 combined, the average paid settlement was $223,071.

- As with judgments, the small number of settlements restricts the credibility of the data. The actual number of settlements occurring since 2001 indicates a general decline in the frequency of paid settlements.
Again, graphical linear representations of the Settlement data:
II-D. Closed Claim (20B-8) Data

In accordance with §33-20B-8, enhanced closed/paid medical malpractice information has been collected from insurers. This information includes the physician’s primary specialty, the ‘cause of loss’, amount paid on defense costs for each filed claim and the split of the indemnity payment between economic and non-economic damages. In review of this data, and examining only physician and surgeon claims, the following general financial overview can be found on an accident year basis.

<table>
<thead>
<tr>
<th>Date of Injury</th>
<th>Claims</th>
<th>Indemnity Pd</th>
<th>Economic Damages</th>
<th>Non-Economic Damages</th>
<th>Punitive Damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>pre-1996</td>
<td>16</td>
<td>$748,500.00</td>
<td>$80,100.00</td>
<td>$223,500.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 1996</td>
<td>11</td>
<td>$2,105,821.92</td>
<td>$47,000.00</td>
<td>$678,000.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 1997</td>
<td>18</td>
<td>$1,013,000.00</td>
<td>$0.00</td>
<td>$478,000.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 1998</td>
<td>19</td>
<td>$799,284.76</td>
<td>$0.00</td>
<td>$40,000.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 1999</td>
<td>38</td>
<td>$6,954,928.75</td>
<td>$518,767.00</td>
<td>$562,823.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2000</td>
<td>47</td>
<td>$3,319,259.92</td>
<td>$893,777.00</td>
<td>$1,763,723.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2001</td>
<td>47</td>
<td>$5,309,500.00</td>
<td>$10,938,093.23</td>
<td>$3,586,906.77</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2002</td>
<td>64</td>
<td>$9,470,799.78</td>
<td>$2,930,587.89</td>
<td>$1,164,795.59</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2003</td>
<td>114</td>
<td>$17,999,973.66</td>
<td>$10,714,690.93</td>
<td>$5,412,827.96</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2004</td>
<td>126</td>
<td>$8,068,543.27</td>
<td>$4,802,839.67</td>
<td>$3,646,903.60</td>
<td>$42,179.99</td>
</tr>
<tr>
<td>CY 2005</td>
<td>150</td>
<td>$8,049,985.55</td>
<td>$4,167,566.13</td>
<td>$3,789,419.43</td>
<td>$139,500.00</td>
</tr>
<tr>
<td>CY 2006</td>
<td>127</td>
<td>$11,213,427.64</td>
<td>$4,966,117.79</td>
<td>$4,677,309.85</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2007</td>
<td>143</td>
<td>$9,451,826.95</td>
<td>$4,808,901.23</td>
<td>$4,462,925.72</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2008</td>
<td>98</td>
<td>$3,738,972.87</td>
<td>$2,130,430.11</td>
<td>$1,545,542.74</td>
<td>$0.00</td>
</tr>
<tr>
<td>CY 2009</td>
<td>170</td>
<td>$3,876,019.89</td>
<td>$1,048,922.23</td>
<td>$2,776,298.63</td>
<td>$410.51</td>
</tr>
<tr>
<td>CY 2010</td>
<td>5</td>
<td>$3,000.00</td>
<td>$0.00</td>
<td>$3,000.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Injury</th>
<th>Non-LAE Total</th>
<th>Non-LAE Avg</th>
<th>LAE Pd</th>
<th>Total Claim Payments</th>
<th>Total Avg</th>
<th>Zero Paids</th>
</tr>
</thead>
<tbody>
<tr>
<td>pre-1996</td>
<td>$1,052,100.00</td>
<td>$75,150.00</td>
<td>$1,364,379.30</td>
<td>$2,346,467.93</td>
<td>$167,604.85</td>
<td>2</td>
</tr>
<tr>
<td>CY 1996</td>
<td>$2,830,821.92</td>
<td>$257,347.45</td>
<td>$1,014,780.74</td>
<td>$3,845,602.66</td>
<td>$349,600.24</td>
<td>0</td>
</tr>
<tr>
<td>CY 1997</td>
<td>$1,491,000.00</td>
<td>$82,833.33</td>
<td>$1,561,978.32</td>
<td>$3,052,978.32</td>
<td>$169,609.91</td>
<td>0</td>
</tr>
<tr>
<td>CY 1998</td>
<td>$839,284.76</td>
<td>$44,172.88</td>
<td>$2,210,061.83</td>
<td>$3,049,346.59</td>
<td>$160,491.93</td>
<td>0</td>
</tr>
<tr>
<td>CY 1999</td>
<td>$8,036,518.75</td>
<td>$217,203.21</td>
<td>$5,097,173.16</td>
<td>$13,133,691.91</td>
<td>$354,964.65</td>
<td>1</td>
</tr>
<tr>
<td>CY 2000</td>
<td>$5,976,759.92</td>
<td>$135,835.45</td>
<td>$3,533,705.71</td>
<td>$9,510,465.63</td>
<td>$216,146.95</td>
<td>3</td>
</tr>
<tr>
<td>CY 2001</td>
<td>$19,834,500.00</td>
<td>$450,784.09</td>
<td>$4,198,060.83</td>
<td>$24,032,560.83</td>
<td>$546,194.56</td>
<td>3</td>
</tr>
<tr>
<td>CY 2002</td>
<td>$13,566,183.26</td>
<td>$238,003.22</td>
<td>$4,489,146.67</td>
<td>$18,055,329.93</td>
<td>$316,760.17</td>
<td>7</td>
</tr>
<tr>
<td>CY 2003</td>
<td>$34,127,492.55</td>
<td>$318,948.53</td>
<td>$7,500,662.40</td>
<td>$41,628,154.95</td>
<td>$389,048.18</td>
<td>3</td>
</tr>
<tr>
<td>CY 2004</td>
<td>$16,560,466.53</td>
<td>$165,604.67</td>
<td>$4,622,014.38</td>
<td>$21,182,480.91</td>
<td>$211,824.81</td>
<td>26</td>
</tr>
<tr>
<td>CY 2005</td>
<td>$17,146,711.11</td>
<td>$140,544.85</td>
<td>$5,328,881.66</td>
<td>$22,475,352.77</td>
<td>$184,224.80</td>
<td>28</td>
</tr>
<tr>
<td>CY 2006</td>
<td>$20,886,855.28</td>
<td>$206,800.55</td>
<td>$5,033,191.25</td>
<td>$25,920,046.53</td>
<td>$256,634.12</td>
<td>26</td>
</tr>
<tr>
<td>CY 2007</td>
<td>$18,272,653.90</td>
<td>$161,410.81</td>
<td>$3,812,104.90</td>
<td>$22,535,758.80</td>
<td>$194,273.78</td>
<td>27</td>
</tr>
<tr>
<td>CY 2008</td>
<td>$7,414,945.70</td>
<td>$100,201.97</td>
<td>$1,089,157.46</td>
<td>$8,504,103.16</td>
<td>$114,920.31</td>
<td>28</td>
</tr>
<tr>
<td>CY 2009</td>
<td>$7,701,651.26</td>
<td>$54,236.98</td>
<td>$299,680.21</td>
<td>$8,001,331.47</td>
<td>$56,347.40</td>
<td>28</td>
</tr>
<tr>
<td>CY 2010</td>
<td>$6,000.00</td>
<td>$3,000.00</td>
<td>$0.00</td>
<td>$6,000.00</td>
<td>$3,000.00</td>
<td>3</td>
</tr>
</tbody>
</table>
Accordingly, from this dataset the accident year claim incidence is as follows:

![Med Mal Claims Frequency](image1)

Note from the table and the preceding paragraph, that this incidence frequency does not exclude zero paid claims and again is comprised of closed claims only. Further, these claims are distributed on an accident year basis and not on a policy year basis.

Removing the zero paid claims results in the following distribution:

![Med Mal Paid Claims Frequency](image2)
Utilizing the data from the table on page 30, we will now review the breakdown of payments between indemnity, economic damages, non-economic damages, punitive damages, and loss adjustment expenses over time, again on an accident year basis.
Then from the entire dataset, you can determine how each of the damage types and loss adjustment expenses are related.

As you may determine, actual punitive damages are shown to constitute a very small portion of total damages, but non-economic damages are shown to be somewhat substantial.
Now we will look at the averages.

The 1996-2003 average Non-LAE payment is about $218K, and the 2003-2010 average Non-LAE payment is about $144K. Similarly, the 1996-2003 average total payment is about $313K and the 2003-2010 average total payment is about $176K. Being that these data are on an accident year basis, and that medical malpractice is a relatively long tail line of insurance, it may be likely that the experience of later years will be subject to further adverse development. However, both of these measures indicate a general improvement in the line over time in West Virginia.
Similar to the Board of Medicine (BOM) data, we can also consider claim outcomes for those claims for which an outcome was listed.

<table>
<thead>
<tr>
<th>Closed yr</th>
<th>Judgment</th>
<th>Settlement</th>
<th>Dismissal</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2001</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2002</td>
<td>0</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>2003</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2004</td>
<td>1</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>2005</td>
<td>1</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>2006</td>
<td>8</td>
<td>46</td>
<td>54</td>
</tr>
<tr>
<td>2007</td>
<td>14</td>
<td>69</td>
<td>50</td>
</tr>
<tr>
<td>2008</td>
<td>11</td>
<td>90</td>
<td>64</td>
</tr>
<tr>
<td>2009</td>
<td>8</td>
<td>62</td>
<td>64</td>
</tr>
<tr>
<td>2010</td>
<td>8</td>
<td>133</td>
<td>36</td>
</tr>
<tr>
<td>2011*</td>
<td>5</td>
<td>74</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td><strong>59</strong></td>
<td><strong>486</strong></td>
<td><strong>304</strong></td>
</tr>
</tbody>
</table>

*Through October

Again we find that most claims are settled (57% vs. BOM 61% since 1993), dismissals constitute 36% (vs. BOM 31% since 1993) and that very few claims receive a judgment 7% (vs. BOM 9% since 1993.) These findings appear to be fairly consistent. It is also interesting to note that since the Certificate of Merit began being required in accordance with §55-7B-6, a total of 33 claims have been dismissed due to a lack of Certificate of Merit.
Being that the specialty class code of the physician or surgeon was included in the claims database, we can also test the long standing rating assumption that physician rates should be lower than surgeon rates solely due to risk. As per the demonstrated differences in rates from rating examples of Exhibit VII, we can segregate physician class claims from surgeon class claims to in order to provide a general litmus test as to whether or not, on average, physicians represent a lesser exposure than do surgeons.

Accordingly for physician classes and similar:

<table>
<thead>
<tr>
<th>Claims</th>
<th>Class Code</th>
<th>Physician Class</th>
<th>Total Claim Payments</th>
<th>Zero Pds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>80254</td>
<td>Allergy-Immunology</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>13</td>
<td>80255</td>
<td>Cardiovascular Dis/No Surg</td>
<td>$1,117,647.10</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>80256</td>
<td>Dermatology-No Surgery</td>
<td>$145,500.08</td>
<td>0</td>
</tr>
<tr>
<td>6</td>
<td>80238</td>
<td>Endocrinology-No Surgery</td>
<td>$1,584,486.63</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>80241</td>
<td>Gastroenterology/No Surgery</td>
<td>$852,144.34</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>80420</td>
<td>General Practitioners-No Surgery</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>84420</td>
<td>General Practitioners-No Surgery (D.O.)</td>
<td>$1,503.64</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>80231</td>
<td>General Preventative Medicine</td>
<td>$2,063,659.20</td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>80245</td>
<td>Hematology-No Surgery</td>
<td>$1,063,247.47</td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>80246</td>
<td>Infectious Diseases-No Surgery</td>
<td>$4,041.00</td>
<td>2</td>
</tr>
<tr>
<td>90</td>
<td>80257</td>
<td>Internal Medicine/No Surgery</td>
<td>$8,802,132.17</td>
<td>19</td>
</tr>
<tr>
<td>1</td>
<td>80259</td>
<td>Neoplastic Diseases-No Surgery</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>80260</td>
<td>Nephrology</td>
<td>$1,669,403.59</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>80262</td>
<td>Nuclear Medicine</td>
<td>$71,276.47</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>80233</td>
<td>Occupational Medicine</td>
<td>$63,000.00</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>80114</td>
<td>Ophthamology/Major Surgery</td>
<td>$143,031.61</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>80289</td>
<td>Ophthamology-Minor Surgery</td>
<td>$2,288.00</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
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<td>Otology-No Surgery</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>49</td>
<td>80265</td>
<td>Otorhinolaryngology/No Surgery</td>
<td>$8,825,789.50</td>
<td>4</td>
</tr>
<tr>
<td>8</td>
<td>80266</td>
<td>Pathology</td>
<td>$2,263,066.03</td>
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</tr>
<tr>
<td>22</td>
<td>80267</td>
<td>Pediatrics-No Surgery</td>
<td>$6,961,029.06</td>
<td>6</td>
</tr>
<tr>
<td>2</td>
<td>80235</td>
<td>Physical Medicine &amp; Rehabilitation</td>
<td>$18,002.02</td>
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</tr>
<tr>
<td>70</td>
<td>80268</td>
<td>Physician (NOC)-No Surgery</td>
<td>$6,806,437.41</td>
<td>5</td>
</tr>
<tr>
<td>1</td>
<td>80938</td>
<td>Physiotherapists</td>
<td>$49,086.23</td>
<td>0</td>
</tr>
<tr>
<td>14</td>
<td>80249</td>
<td>Psychiatry</td>
<td>$4,112,131.68</td>
<td>4</td>
</tr>
<tr>
<td>1</td>
<td>80236</td>
<td>Public Health</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>16</td>
<td>80269</td>
<td>Pulmonary Diseases-No Surgery</td>
<td>$4,580,201.59</td>
<td>3</td>
</tr>
<tr>
<td>37</td>
<td>80253</td>
<td>Radiology-Diagnostic-No Surgery</td>
<td>$4,677,837.40</td>
<td>6</td>
</tr>
<tr>
<td>2</td>
<td>80252</td>
<td>Rheumatology-No Surgery</td>
<td>$343,249.00</td>
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</tr>
<tr>
<td>375</td>
<td></td>
<td></td>
<td><strong>$56,220,191.22</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claims per class code</th>
<th>12.93</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average cost per claim</td>
<td><strong>$149,920.51</strong></td>
</tr>
</tbody>
</table>
Secondly, for surgeon classes and surgery operations:

<table>
<thead>
<tr>
<th>Claims</th>
<th>Class Code</th>
<th>Surgeon Class</th>
<th>Total Claim Payments</th>
<th>Zero Pds</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>80166</td>
<td>Abdominal Surgery</td>
<td>$1,986,784.13</td>
<td>0</td>
</tr>
<tr>
<td>20</td>
<td>80151</td>
<td>Anesthesiology</td>
<td>$7,079,043.76</td>
<td>1</td>
</tr>
<tr>
<td>14</td>
<td>80141</td>
<td>Cardiac Surgery</td>
<td>$2,356,546.18</td>
<td>2</td>
</tr>
<tr>
<td>22</td>
<td>80281</td>
<td>Cardiovascular Disease-Minor Surgery</td>
<td>$8,062,846.36</td>
<td>3</td>
</tr>
<tr>
<td>9</td>
<td>80150</td>
<td>Cardiovascular Surgery</td>
<td>$2,697,767.83</td>
<td>2</td>
</tr>
<tr>
<td>9</td>
<td>80115</td>
<td>Colon &amp; Rectal Surgery</td>
<td>$1,691,128.14</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>80282</td>
<td>Dermatology-Minor Surgery</td>
<td>$570,562.87</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>80157</td>
<td>Emergency Med/Incl Surgery</td>
<td>$113,203.51</td>
<td>1</td>
</tr>
<tr>
<td>54</td>
<td>80102</td>
<td>Emergency Medicine-No Surgery</td>
<td>$11,997,580.68</td>
<td>12</td>
</tr>
<tr>
<td>1</td>
<td>84102</td>
<td>Emergency Medicine-No Surgery (D.O.)</td>
<td>$191,106.00</td>
<td>0</td>
</tr>
<tr>
<td>17</td>
<td>80274</td>
<td>Gastroenterology/Minor Surgery</td>
<td>$1,221,903.87</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td>80104</td>
<td>Gastroenterology-Major Surgery</td>
<td>$1,366,937.61</td>
<td>0</td>
</tr>
<tr>
<td>15</td>
<td>80117</td>
<td>General Practice-Major Surgery</td>
<td>$6,178,673.97</td>
<td>2</td>
</tr>
<tr>
<td>40</td>
<td>80421</td>
<td>General Practitioners/Minor Surg</td>
<td>$8,088,173.32</td>
<td>7</td>
</tr>
<tr>
<td>86</td>
<td>80143</td>
<td>General Surgery</td>
<td>$19,187,643.89</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>80276</td>
<td>Geriatrics-Minor Surgery</td>
<td>$250,132.76</td>
<td>0</td>
</tr>
<tr>
<td>11</td>
<td>80167</td>
<td>Gynecology/Major Surgery</td>
<td>$1,416,524.73</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>80277</td>
<td>Gynecology/Minor Surgery</td>
<td>$1,205,975.31</td>
<td>0</td>
</tr>
<tr>
<td>8</td>
<td>80284</td>
<td>Internal Medicine/Minor Surgery</td>
<td>$1,820,265.22</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>80108</td>
<td>Nephrology/Major Surgery</td>
<td>$129,329.52</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>80287</td>
<td>Nephrology-Minor Surgery</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>25</td>
<td>80152</td>
<td>Neurology/Incl Child-Major Surgery</td>
<td>$7,050,475.65</td>
<td>3</td>
</tr>
<tr>
<td>76</td>
<td>80153</td>
<td>OBGYN-Major Surgery</td>
<td>$28,037,838.85</td>
<td>10</td>
</tr>
<tr>
<td>5</td>
<td>80168</td>
<td>Obstetrics-Major Surgery</td>
<td>$2,066,564.75</td>
<td>0</td>
</tr>
<tr>
<td>78</td>
<td>80154</td>
<td>Orthopedic Surgery/Incl Spine</td>
<td>$18,226,465.09</td>
<td>11</td>
</tr>
<tr>
<td>7</td>
<td>80291</td>
<td>Otorhinolaryngology/Minor Surgery</td>
<td>$571,353.76</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>80159</td>
<td>Otorhinolaryngology-Major Surgery</td>
<td>$2,656,967.78</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>80293</td>
<td>Pediatrics-Minor Surgery</td>
<td>$1,704,423.51</td>
<td>0</td>
</tr>
<tr>
<td>101</td>
<td>80294</td>
<td>Physician (NOC)-Minor Surgery</td>
<td>$3,956,549.25</td>
<td>18</td>
</tr>
<tr>
<td>1</td>
<td>80443</td>
<td>Physician/No Major Surgery/Incl Colon</td>
<td>$0.00</td>
<td>1</td>
</tr>
<tr>
<td>27</td>
<td>80156</td>
<td>Plastic Surgery</td>
<td>$1,468,984.81</td>
<td>8</td>
</tr>
<tr>
<td>25</td>
<td>80280</td>
<td>Radiology-Diagnostic-Minor Surgery</td>
<td>$3,705,426.61</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>80144</td>
<td>Thoracic Surgery</td>
<td>$459,781.28</td>
<td>2</td>
</tr>
<tr>
<td>1</td>
<td>80171</td>
<td>Traumatic Surgery</td>
<td>$46,205.00</td>
<td>0</td>
</tr>
<tr>
<td>43</td>
<td>80145</td>
<td>Urological Surgery</td>
<td>$8,114,360.92</td>
<td>4</td>
</tr>
<tr>
<td>8</td>
<td>80146</td>
<td>Vascular Surgery</td>
<td>$2,287,471.88</td>
<td>2</td>
</tr>
</tbody>
</table>

752

$157,965,000.81

<table>
<thead>
<tr>
<th>Claims per class code</th>
<th>20.89</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average cost per claim</td>
<td>$210,059.84</td>
</tr>
</tbody>
</table>

Accordingly, it can be shown that the rating differences between physician class exposures and surgeon class exposures is meritorious.
II-E Paid Data Collection

As a further source of information, examining financial statement information provided by insurance companies provides some insight as to the total number of active paid and reserved claims by year. However, these counts do not tie the claims which are either paid or reserved in the reporting year to the year in which the claim initially occurred. For example, a claim payment by an insurer during 2006 may have been for a claim that was filed during 2006 or it may have just as easily been for a claim that was filed in any year prior to 2006.

In looking at the paid and open claim information provided by insurers since 2000 who write Malpractice insurance in West Virginia for Physicians and Surgeons, the following aggregated data is found.

<table>
<thead>
<tr>
<th>Year</th>
<th># of Paid Claims</th>
<th># of Unpaid Claims</th>
<th>Total Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>127</td>
<td>2,297</td>
<td>2,424</td>
</tr>
<tr>
<td>2001</td>
<td>244</td>
<td>848</td>
<td>1,092</td>
</tr>
<tr>
<td>2002</td>
<td>177</td>
<td>758</td>
<td>935</td>
</tr>
<tr>
<td>2003</td>
<td>142</td>
<td>611</td>
<td>753</td>
</tr>
<tr>
<td>2004</td>
<td>194</td>
<td>578</td>
<td>772</td>
</tr>
<tr>
<td>2005</td>
<td>229</td>
<td>455</td>
<td>684</td>
</tr>
<tr>
<td>2006</td>
<td>157</td>
<td>375</td>
<td>532</td>
</tr>
<tr>
<td>2007</td>
<td>128</td>
<td>350</td>
<td>478</td>
</tr>
<tr>
<td>2008</td>
<td>133</td>
<td>416</td>
<td>549</td>
</tr>
<tr>
<td>2009</td>
<td>184</td>
<td>434</td>
<td>618</td>
</tr>
<tr>
<td>2010</td>
<td>159</td>
<td>473</td>
<td>632</td>
</tr>
</tbody>
</table>

Again, graphical linear representations make the data a little easier to interpret:

The claims paid data shows little in the way of any historical pattern.
Looking at only the reserved (unpaid) claims by year since 2000 does appear to show a general decline with the year 2000 appearing to be somewhat of an anomaly. Eliminating that outlier and rescaling does demonstrate a favorable trend in the number of open claims by year for the Physicians and Surgeons line in West Virginia.
Section III

Review of 5% Market Share Companies
III. Review of major West Virginia Medical Malpractice Writers

This section of the report reviews the medical malpractice rates and rules of those insurers with 5% or greater market share. Based on admitted Company written premiums for 2010, the West Virginia medical malpractice market currently looks like this:
In the table below, only 2 insurers are shown to have met the statutory 5% reporting requirement threshold for 2010; *West Virginia Mutual Insurance Company* and *Medicus Insurance Company.*

<table>
<thead>
<tr>
<th>Total Medical Malpractice</th>
<th>2010 West Virginia Licensed Companies</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(NAIC Database)</td>
<td>Direct Premiums Written</td>
<td>Market Share</td>
</tr>
<tr>
<td>West Virginia Mut Ins Co</td>
<td>35,496,599</td>
<td>74.22%</td>
</tr>
<tr>
<td>Medicus Ins Co</td>
<td>5,399,506</td>
<td>11.29%</td>
</tr>
<tr>
<td>ProAssurance Ind Co Inc</td>
<td>1,388,430</td>
<td>2.90%</td>
</tr>
<tr>
<td>American Cas Co Of Reading PA</td>
<td>989,143</td>
<td>2.07%</td>
</tr>
<tr>
<td>Continental Cas Co</td>
<td>845,654</td>
<td>1.77%</td>
</tr>
<tr>
<td>Doctors Co An Interins Exch</td>
<td>697,902</td>
<td>1.46%</td>
</tr>
<tr>
<td>National Union Fire Ins Co Of Pitts</td>
<td>557,061</td>
<td>1.16%</td>
</tr>
<tr>
<td>Podiatry Ins Co Of Amer</td>
<td>524,745</td>
<td>1.10%</td>
</tr>
<tr>
<td>Medical Protective Co</td>
<td>521,056</td>
<td>1.09%</td>
</tr>
<tr>
<td>Other (41) Companies</td>
<td>1,407,291</td>
<td>2.94%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$47,827,387</strong></td>
<td>100.00%</td>
</tr>
</tbody>
</table>

However, by looking at the entire market, which includes the Excess & Surplus writers (i.e. non-admitted insurers including Risk Retention Groups [RRG’s]), the following information is found:

<table>
<thead>
<tr>
<th>Total Medical Malpractice</th>
<th>2010 West Virginia Business Written</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(NAIC Database)</td>
<td>Direct Premiums Written</td>
<td>Market Share</td>
</tr>
<tr>
<td>West Virginia Mut Ins Co</td>
<td>35,496,599</td>
<td>43.01%</td>
</tr>
<tr>
<td>Lexington Ins Co</td>
<td>7,328,968</td>
<td>8.88%</td>
</tr>
<tr>
<td>Mountaineer Freedom RRG Inc</td>
<td>5,920,649</td>
<td>7.17%</td>
</tr>
<tr>
<td>Medicus Ins Co</td>
<td>5,399,506</td>
<td>6.54%</td>
</tr>
<tr>
<td>Community Hospital RRG</td>
<td>4,417,875</td>
<td>5.35%</td>
</tr>
<tr>
<td>Darwin Select Ins Co</td>
<td>2,221,105</td>
<td>2.69%</td>
</tr>
<tr>
<td>ProAssurance Ind Co Inc</td>
<td>1,388,430</td>
<td>1.68%</td>
</tr>
<tr>
<td>Health Care Ind Liab Recip Ins</td>
<td>1,215,102</td>
<td>1.47%</td>
</tr>
<tr>
<td>Steadfast Ins Co</td>
<td>1,149,782</td>
<td>1.39%</td>
</tr>
<tr>
<td>Homeland Ins Co of NY</td>
<td>1,123,783</td>
<td>1.36%</td>
</tr>
<tr>
<td>Nautilus Ins Co</td>
<td>1,039,744</td>
<td>1.26%</td>
</tr>
<tr>
<td>Evanston Ins Co</td>
<td>1,004,660</td>
<td>1.22%</td>
</tr>
<tr>
<td>Other (94) Companies</td>
<td>14,823,497</td>
<td>17.96%</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>$82,529,700</strong></td>
<td>100.00%</td>
</tr>
</tbody>
</table>

*Direct Loss Ratio does not include LAE or other expenses*
As you can determine, the Excess & Surplus lines writers (italicized) have a significant amount of penetration into our Malpractice market. However, considering historical premium volumes it can be found that this penetration has actually generally declined over recent years:

On a business written basis (which includes E&S Companies and RRG’s), the 11-year average market share for the top 10 writers (by premium volume) captures about 87% of the entire market. Taking this same metric for the most recent three years only captures just 82% of the entire market.
Below is a breakdown, by sub-line, for some of the key Malpractice writers in West Virginia including those writing on an Excess and Surplus basis:

<table>
<thead>
<tr>
<th>Company</th>
<th>Subline</th>
<th>2010 Written Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>West Virginia Mutual Ins. Co.</strong></td>
<td>Physicians &amp; Surgeons</td>
<td>$35,496,599</td>
</tr>
<tr>
<td></td>
<td>Hospitals</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$35,496,599</td>
</tr>
<tr>
<td><strong>Lexington Ins. Co.</strong></td>
<td>Physicians &amp; Surgeons</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>Hospitals</td>
<td>$6,952,665</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$376,303</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$7,328,968</td>
</tr>
<tr>
<td><strong>Mountaineer Freedom, RRG</strong></td>
<td>Physicians &amp; Surgeons</td>
<td>$474,328</td>
</tr>
<tr>
<td></td>
<td>Hospitals</td>
<td>$5,446,321</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$5,920,649</td>
</tr>
<tr>
<td><strong>Medicus Ins. Co.</strong></td>
<td>Physicians &amp; Surgeons</td>
<td>$5,399,506</td>
</tr>
<tr>
<td></td>
<td>Hospitals</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$5,399,506</td>
</tr>
<tr>
<td><strong>Community Hospital RRG</strong></td>
<td>Physicians &amp; Surgeons</td>
<td>$0</td>
</tr>
<tr>
<td></td>
<td>Hospitals</td>
<td>$4,417,875</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$4,417,875</td>
</tr>
<tr>
<td><strong>Darwin Select Ins Co</strong></td>
<td>Physicians &amp; Surgeons</td>
<td>$86,550</td>
</tr>
<tr>
<td></td>
<td>Hospitals</td>
<td>$1,890,186</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>$244,369</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$2,221,105</td>
</tr>
</tbody>
</table>
III-A. Enabling Legislation

The reporting of experience for insurance carriers with 5% or more of the West Virginia Medical Malpractice direct written premium is required by:

- West Virginia Regulation §114CSR22
- West Virginia Regulation §114CSR23
- West Virginia Code §33-20B-6

The regulations and referenced statutes set forth the form in which certain information needs to be reported to the Commissioner. This section of the report is provided to assist the Commissioner in fulfilling obligations under the above regulations and code section and enhance our knowledgebase.

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

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

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

**West Virginia Mutual Insurance Company (WVMIC)**

Since its inception in July 1, 2004, WVMIC has dominated the Physicians & Surgeons market in West Virginia. During the height of the most recent Medical Malpractice “hard market” in West Virginia, a very large number of West Virginia Physicians and Surgeons that were unable to procure coverage via the admitted market were ultimately insured by the State of West Virginia itself utilizing our Board of Risk and Insurance Management (BRIM—generally the insurer of State owned property and liability exposures).

As a long term solution to the availability of coverage for Physicians and Surgeons in West Virginia, §33-20F established WVMIC and all policies previously insured in the BRIM II program novated to the new Company upon inception. WVMIC has since added new business and has worked with the Offices of the West Virginia Insurance Commissioner to accommodate difficult situations while maintaining underwriting standards. The rate history of WVMIC since inception follows:

<table>
<thead>
<tr>
<th>2010 Market Share</th>
<th>Company</th>
<th>Effective date</th>
<th>%Requested</th>
<th>% Granted</th>
<th>WV #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>74.22%</td>
<td>West Virginia Mutual Ins Co</td>
<td>1/1/2011</td>
<td>0%</td>
<td>0%</td>
<td>100006008</td>
</tr>
<tr>
<td></td>
<td>*fka W.V. Physicians Mutual Ins. Co.</td>
<td>1/1/2010</td>
<td>0%</td>
<td>0%</td>
<td>90918009</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1/1/2009</td>
<td>0%</td>
<td>0%</td>
<td>80903007</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3/1/2008</td>
<td>-0.01%</td>
<td>-0.01%</td>
<td>80129001</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1/1/2008</td>
<td>0%</td>
<td>0%</td>
<td>70918006</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1/1/2007</td>
<td>-15.00%</td>
<td>-15.00%</td>
<td>60915016</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1/1/2006</td>
<td>-5.00%</td>
<td>-5.00%</td>
<td>50826007</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1/1/2005</td>
<td>10.20%</td>
<td>10.20%</td>
<td>41006013</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7/1/2004</td>
<td>initial filing</td>
<td>initial filing</td>
<td>40331017</td>
</tr>
</tbody>
</table>
The company’s results continue to be favorable and subsequent changes made to their rating plan establish their current rates below those that were utilized upon inception, as per the graph above. 

**WVMIC** writes only Physicians and Surgeons coverage and historically had only written within West Virginia. However, having fully repaid their original surplus note ($26.1M start-up loan) back to the State of West Virginia before the end of 2008, they have begun to explore opportunities for expansion into neighboring states, and accordingly reported $53,302 in written premium from the State of Ohio during 2010.

**Medicus Insurance Company**

Domiciled in Texas and initially incorporated in 2006, *Medicus* provides medical malpractice insurance to physicians, surgeons and related medical service providers. They received their initial Certificate of Authority to write casualty insurance in West Virginia in December 2007 and had gained approval of their first Physicians and Surgeons rate, rule and form filing here by March 2008. They are currently licensed, admitted, and writing in 24 states including West Virginia. Notably, they became 2nd in overall admitted West Virginia market share by the end of 2009 with 9.17% of the market, and held 11.29% of the market as of 2010. The rate history of *Medicus* follows, and likewise includes a graph of their current rates relative to inception:

<table>
<thead>
<tr>
<th>2010 Market Share</th>
<th>Company</th>
<th>Effective date</th>
<th>%Requested</th>
<th>% Granted</th>
<th>WV #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.29%</td>
<td><em>Medicus Insurance Company</em></td>
<td>pending</td>
<td>0%</td>
<td>pending</td>
<td>100010073</td>
</tr>
<tr>
<td>9/24/2010</td>
<td></td>
<td>0%</td>
<td>0%</td>
<td>100004152</td>
<td></td>
</tr>
<tr>
<td>10/1/2009</td>
<td></td>
<td>-1.20%</td>
<td>-1.20%</td>
<td>90630015</td>
<td></td>
</tr>
<tr>
<td>3/20/2008</td>
<td></td>
<td>initial filing</td>
<td>initial filing</td>
<td>80212014</td>
<td></td>
</tr>
</tbody>
</table>

![Medicus Ins Co. Rate History]
Lexington Insurance Company

*Lexington* is a *surplus lines* writer (an *AIG* subsidiary) writing coverage primarily for hospitals and other healthcare facilities. They wrote $7,328,968 in West Virginia in the Medical Malpractice line during 2010, representing 8.88% of the market share in the *total* market (combined admitted and non-admitted.) This represents an increase in written premium in West Virginia for *Lexington* over 2009 where their written premiums had been in decline over the past five years ($10,819,121, $9,422,341, $7,951,210, $6,354,708, & $3,377,970 respectively.) In the year 2000, Lexington entered the West Virginia market on a surplus lines basis and reported $58,000 in written premium for the year. This increased to over $7M by the 2002-2003 time period reaching the high levels noted above. As a surplus lines writer *Lexington* did not provide 5% market share information for this report and no rate history information is available for this company.

Mountaineer Freedom RRG, Inc.

*Mountaineer Freedom* is a West Virginia domiciled risk retention group which was newly incorporated during 2006. This RRG was formed in order to provide professional and general liability coverage to Wheeling Hospital and its affiliated staff (which was previously self-insured.) As *Mountaineer Freedom* is not an admitted insurer, they did not provide information for this report.

Community Hospital RRG

*Community Hospital RRG,* also known as *CHART,* is a Vermont domiciled insurer newly formed in 2002. As a reciprocal risk retention group, it is owned by its member insurers which include 8 hospitals in West Virginia. It also operates in Pennsylvania and New York. As a surplus lines insurer *CHART* did not provide 5% market share information and no rate history information is available for this company.
ProAssurance Indemnity Co., Inc.

ProAssurance Indemnity Co., Inc. (formerly Medical Assurance of West Virginia until 2005, and becoming Woodbrook Casualty Insurance Company until 2008) was the leading commercial writer of malpractice insurance for Physicians and Surgeons in West Virginia in the years 2000 and 2003, and was 2nd in West Virginia admitted market share from 2001-2002 and from 2004 to 2008.

ProAssurance’s in-force policy exposure in West Virginia has generally declined since its peak which occurred in 1998. Beginning with a high of 856, it had dropped to 417 by 2001, 133 by 2004, and stood at only 42 in their last rate filing. The rate history of ProAssurance since the year 2000 follows:

<table>
<thead>
<tr>
<th>2010 Market Share</th>
<th>Company</th>
<th>Eff date</th>
<th>% Req’d</th>
<th>% Granted</th>
<th>WV #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.90%</td>
<td>ProAssurance Indemnity Co., Inc. *fka Woodbrook Casualty Ins, Inc *fka Medical Assur. of WV</td>
<td>4/1/2011</td>
<td>-9.9%</td>
<td>-9.9%</td>
<td>100007562 (S)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2/23/2010</td>
<td>0.4%</td>
<td>0.4%</td>
<td>100000816 (S)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2008</td>
<td>0%</td>
<td>0%</td>
<td>81106028(S)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11/1/2008</td>
<td>-8.30%</td>
<td>-8.30%</td>
<td>80827030 (S)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11/1/2007</td>
<td>-10.70%</td>
<td>-10.70%</td>
<td>70810017 (S)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10/20/2006</td>
<td>-2.80%</td>
<td>-2.80%</td>
<td>60711005</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10/20/2005</td>
<td>-1.10%</td>
<td>-1.10%</td>
<td>50718024</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10/20/2004</td>
<td>18.50%</td>
<td>14.50%</td>
<td>40721020</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10/3/2003</td>
<td>17.30%</td>
<td>13.00%</td>
<td>30623002</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7/1/2002</td>
<td>23.00%</td>
<td>16.00%</td>
<td>161405</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9/14/2001</td>
<td>30.00%</td>
<td>18.00%</td>
<td>155255</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8/1/2000</td>
<td>35.00%</td>
<td>35.00%</td>
<td>50507</td>
</tr>
</tbody>
</table>

Improved experience has resulted in overall rate level decreases for ProAssurance generally since 2004. The net effect of the rate decrease filings roughly offset their two most recent rate level increase filings which became effective in 2003 and 2004, and resulting in their current pricing being roughly equivalent to the 2002-2003 levels. Notably, the declining policy count in combination with the declining rate level has caused ProAssurance to fall below the statutory participation level of 5% or more of the market share in accordance §33-20B-6, and accordingly ProAssurance did not participate in this year’s report.
A year 2000 baseline representation of *ProAssurance’s* current rate level follows:

![ProAssurance Indemnity Co., Inc. Rate History](image)

Finally, it is of important note that two new Physician & Surgeon writers recently made their initial West Virginia Rate, Rule, & Form filings and had the same approved for use in the State. Specifically, *Capson Physicians Insurance Company* received departmental approval of their new West Virginia program effective as of September 2011. *Capson* is currently licensed in 24 states, and is domiciled in Texas. Additionally, *MAG Mutual Insurance Company* received approval to write in West Virginia effective as of January 2011. *MAG Mutual* currently writes Malpractice Insurance in 11 States in the Southeast, and is domiciled in Georgia.
III-C. Rating Plans and Rating Rules

Physicians and Surgeons
Coverage is provided by each of the insurers on a claims-made (or less frequently, occurrence) basis. The coverage provided by all plans is relatively standard. Differences may occur in:

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

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

Hospitals
Each insurer provides coverage on a claims-made (or less frequently, occurrence) basis. Variations in the rating plans may occur in the:

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

Flexibility in pricing through the use of guide (a) rating (aka ‘refer to company’) allows underwriters the ability to customize the price and coverage to the risk. Such a feature is common when rating large, unique risks such as hospitals.
III-D. Reconciliation of Filed Information to Rate Filing Information

As Required by West Virginia Code §33-20B-3

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

   Exhibit I-Sheet 1a through 1c provides the premium and loss for each carrier.
   (Exhibits begin on page 75.)

   ✓ WVMIC figures (Sheets 1a through 1c) are noted to have undergone further development as the experience of the legacy program which they had inherited (BRIM II) becomes better known. This development appears to have been favorable to WVMIC and generally does not provide concerns.

   ✓ Medicus figures (Sheets 1a through 1c) while favorable, are still rather immature and due to the long tail nature of this line of business are anticipated to undergo further development. Notably, due to the small volume of business written at this time, these figures could easily become subject to volatility.

2. Reconcile the experience in the filed information to the most recent experience reported in the company’s financial statements.

   ✓ Exhibit VI provides the comparison of Annual Statement information with the filed 5% Report information for each company. The results are demonstrated to wholly reconcile for Medicus, while WVMIC included $53,302 of Ohio written premium within their West Virginia filed information exhibit. Apart from this minor discrepancy, their results likewise reconcile.
3. **Compare the assumptions underlying the filed information to the most recent rate filing assumptions or other information.**

   ✓ Exhibits II-V provide the key assumptions underlying the most recent rate filings to the filed 5% Report information, prior rate filings and abstracts, Annual Statement data, and other source documents. A notable increase in underwriting expense provisions are observed for *WVMIC* since inception in 2004, and due to the nature of the fixed expense loading procedure the filed information and the most recent rate filing do not match precisely. Further it is again noted that the specific methodology by which *WVMIC* has accounted for any offset of investment income within their rate filings remains unclear.

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

   ✓ It is clear that each company has attempted to provide accurate information in response to the 5% Report data call.

5. **Does the filed information support our conclusion on the rates as of 12/31/04?**

   ✓ Exhibit VII provides rate comparisons for a number of specialties utilizing the filed rates of several companies writing physicians and surgeon’s coverage in West Virginia as well as those filed by a Rating Organization. Note that in review of the by-company rate histories as provided in Section III-B above, that by premium volume **rates have generally remained stable in West Virginia after having generally declined during the most recent prior years.**
III-E: Analysis of Rate Filings

*West Virginia Mutual Insurance Company*

The company most recently filed for and received approval of a 0.0% change to their base rates to become effective on January 1, 2011. Similar “no change” filings were approved for January 1, 2010, 2009, & 2008. *WVMIC* has also increased the renewal discount in their rating manual. In January of 2007, the company filed for and received approval of an overall rate level decrease of -15%; this followed a similar overall decrease of -5% in 2006. As indicated in Section III-B, the Company’s current rates are about -10% below that of their initial rate filing which became effective on July 1, 2004. It is also relevant to note that *WVMIC* has a pending -5.00% overall rate level decrease filing under review by the Commissioner’s Office at the time of the writing of this report.

*Medicus Insurance Company*

The company most recently filed for and received approval of a 0.0% change to their base rates to become effective September 24, 2010. Prior to this filing a -1.2% overall filing became effective for *Medicus* in West Virginia on October 1, 2009. That filing was subsequent to their initial rate filing in the state which became effective on March 20, 2008. As also indicated in Section III-B, the Company’s current rates are about -1.2% below that of their initial rate filing. Of important note, *Medicus* has a pending 0% overall rate level filing under review by the Commissioner’s Office at the time of the writing of this report.

III-F: Investment Portfolio

*Exhibit III* presents a comparison of net investment gains and investment income provisions from rate filings. In earlier years, investment gains had generally declined but are now showing upward movement. It is again noted that *WVMIC* should clearly and specifically account for an investment income offset in its rate filings.
III-G: Overall Medical Malpractice Market (Annual Statement Line of Business 11)

Although sub-lines of medical malpractice (e.g. physicians, hospitals, etc.) are considered individually in the Appendix of this report, a detailed view of the entire medical malpractice line of business on an admitted company basis for 2010 provides the following: (Companies under $100.00 omitted)

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Premiums Written</th>
<th>Market Share</th>
<th>Premiums Earned</th>
<th>Losses Incurred</th>
<th>Loss Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Virginia Mut Ins Co</td>
<td>35,496,599</td>
<td>74.22%</td>
<td>39,487,249</td>
<td>9,421,239</td>
<td>23.86%</td>
</tr>
<tr>
<td>Medicus Ins Co</td>
<td>5,399,506</td>
<td>11.29%</td>
<td>4,935,161</td>
<td>3,255,842</td>
<td>65.97%</td>
</tr>
<tr>
<td>ProAssurance Ind Co Inc</td>
<td>1,388,430</td>
<td>2.90%</td>
<td>1,489,555</td>
<td>1,178,140</td>
<td>79.09%</td>
</tr>
<tr>
<td>American Cas Co Of Reading PA</td>
<td>989,143</td>
<td>2.07%</td>
<td>1,027,900</td>
<td>144,100</td>
<td>14.02%</td>
</tr>
<tr>
<td>Continental Cas Co</td>
<td>845,654</td>
<td>1.77%</td>
<td>816,252</td>
<td>381,390</td>
<td>46.72%</td>
</tr>
<tr>
<td>Doctors Co An Interins Exch</td>
<td>697,902</td>
<td>1.46%</td>
<td>647,666</td>
<td>-528,511</td>
<td>-81.60%</td>
</tr>
<tr>
<td>National Union Fire Ins Co Of Pitts</td>
<td>557,061</td>
<td>1.16%</td>
<td>542,659</td>
<td>665,905</td>
<td>122.71%</td>
</tr>
<tr>
<td>Podiatria Ins Co Of Amer</td>
<td>524,745</td>
<td>1.09%</td>
<td>519,860</td>
<td>219,000</td>
<td>60.85%</td>
</tr>
<tr>
<td>Medical Protective Co</td>
<td>521,056</td>
<td>0.86%</td>
<td>408,240</td>
<td>286,239</td>
<td>70.12%</td>
</tr>
<tr>
<td>NCMIC Ins Co</td>
<td>323,859</td>
<td>0.68%</td>
<td>328,514</td>
<td>120,903</td>
<td>36.80%</td>
</tr>
<tr>
<td>Darwin Natl Assur Co</td>
<td>139,516</td>
<td>0.29%</td>
<td>117,925</td>
<td>24,832</td>
<td>21.06%</td>
</tr>
<tr>
<td>Ace Amer Ins Co</td>
<td>111,988</td>
<td>0.23%</td>
<td>112,897</td>
<td>3,053</td>
<td>2.70%</td>
</tr>
<tr>
<td>American Alt Ins Corp</td>
<td>88,490</td>
<td>0.19%</td>
<td>90,993</td>
<td>-10,528</td>
<td>-11.57%</td>
</tr>
<tr>
<td>Chicago Ins Co</td>
<td>79,379</td>
<td>0.17%</td>
<td>177,883</td>
<td>9,971</td>
<td>51.14%</td>
</tr>
<tr>
<td>Liberty Ins Underwriters Inc</td>
<td>69,735</td>
<td>0.15%</td>
<td>23,555</td>
<td>-8,648</td>
<td>-36.71%</td>
</tr>
<tr>
<td>Zurich Amer Ins Co</td>
<td>44,323</td>
<td>0.09%</td>
<td>10,938</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Church Mut Ins Co</td>
<td>44,008</td>
<td>0.09%</td>
<td>45,318</td>
<td>-117</td>
<td>-0.26%</td>
</tr>
<tr>
<td>Campmed Cas &amp; Ind Co Inc MD</td>
<td>37,598</td>
<td>0.08%</td>
<td>37,599</td>
<td>-11,258</td>
<td>-29.94%</td>
</tr>
<tr>
<td>State Farm Fire &amp; Cas Co</td>
<td>20,087</td>
<td>0.04%</td>
<td>20,587</td>
<td>13,500</td>
<td>65.58%</td>
</tr>
<tr>
<td>PACO Assur Co Inc</td>
<td>15,974</td>
<td>0.03%</td>
<td>11,777</td>
<td>9,688</td>
<td>82.26%</td>
</tr>
<tr>
<td>Pharmacists Mut Ins Co</td>
<td>13,355</td>
<td>0.03%</td>
<td>13,734</td>
<td>4,970</td>
<td>36.19%</td>
</tr>
<tr>
<td>Fortress Ins Co</td>
<td>12,764</td>
<td>0.03%</td>
<td>11,119</td>
<td>18,176</td>
<td>163.47%</td>
</tr>
<tr>
<td>Granite State Ins Co</td>
<td>7,968</td>
<td>0.02%</td>
<td>7,073</td>
<td>-8,903</td>
<td>-125.87%</td>
</tr>
<tr>
<td>Nationwide Mut Ins Co</td>
<td>1,650</td>
<td>0.00%</td>
<td>2,279</td>
<td>-3,403</td>
<td>-149.32%</td>
</tr>
<tr>
<td>Nationwide Mut Fire Ins Co</td>
<td>200</td>
<td>0.00%</td>
<td>262</td>
<td>-105</td>
<td>-40.08%</td>
</tr>
<tr>
<td>St Paul Mercury Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>7,121</td>
<td>0%</td>
</tr>
<tr>
<td>Travelers Ind Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-2,236,207</td>
<td>0%</td>
</tr>
<tr>
<td>Standard Fire Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-1,945,528</td>
<td>0%</td>
</tr>
<tr>
<td>TIG Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-1,299</td>
<td>0%</td>
</tr>
<tr>
<td>Pacific Employers Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-2,014</td>
<td>0%</td>
</tr>
<tr>
<td>Ohio Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>1,652,489</td>
<td>0%</td>
</tr>
<tr>
<td>Firemans Fund Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>701,177</td>
<td>0%</td>
</tr>
<tr>
<td>Westport Ins Corp</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-3,517</td>
<td>0%</td>
</tr>
<tr>
<td>St Paul Fire &amp; Marine Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>67,729</td>
<td>0%</td>
</tr>
<tr>
<td>Travelers Cas &amp; Surety Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-187,674</td>
<td>0%</td>
</tr>
<tr>
<td>Ace Fire Underwriters Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-202</td>
<td>0%</td>
</tr>
<tr>
<td>ProAssurance Natl Capital Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-721,152</td>
<td>0%</td>
</tr>
<tr>
<td>Professionals Advocate Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-288,870</td>
<td>0%</td>
</tr>
<tr>
<td>American Ins Co</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>1,064</td>
<td>0%</td>
</tr>
<tr>
<td>Executive Risk Ind Inc</td>
<td>0</td>
<td>0%</td>
<td>6,348</td>
<td>-46,629</td>
<td>-734.55%</td>
</tr>
<tr>
<td>American Home Assur Co</td>
<td>0</td>
<td>0%</td>
<td>1,157</td>
<td>112</td>
<td>9.68%</td>
</tr>
<tr>
<td>National Fire Ins Co Of Hartford</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>-381,618</td>
<td>0%</td>
</tr>
<tr>
<td>Empire Fire &amp; Marine Ins Co</td>
<td>-14,600</td>
<td>-0.03%</td>
<td>60,946</td>
<td>5,358</td>
<td>8.79%</td>
</tr>
</tbody>
</table>

50 Companies in Report 47,827,387 100% 51,315,374 11,555,105 22.52%
Note that only a very small number of companies (50) are reporting any activity in West Virginia for 2010, and further that our domiciled mutual company (*West Virginia Mutual*) appears to have a material and significant concentration of the total market share. Looking back on these considerations historically, on an admitted basis as well as on a business written basis (*which includes the excess and surplus writers*), the following summary information can be found.

### Licensed Company Basis

<table>
<thead>
<tr>
<th>Active Co's</th>
<th>Loss Ratio</th>
<th>HHI</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>59</td>
<td>90.69%</td>
</tr>
<tr>
<td>1998</td>
<td>58</td>
<td>79.77%</td>
</tr>
<tr>
<td>1999</td>
<td>60</td>
<td>93.82%</td>
</tr>
<tr>
<td>2000</td>
<td>61</td>
<td>76.51%</td>
</tr>
<tr>
<td>2001</td>
<td>61</td>
<td>89.68%</td>
</tr>
<tr>
<td>2002</td>
<td>60</td>
<td>97.76%</td>
</tr>
<tr>
<td>2003</td>
<td>58</td>
<td>70.17%</td>
</tr>
<tr>
<td>2004</td>
<td>65</td>
<td>38.23%</td>
</tr>
<tr>
<td>2005</td>
<td>59</td>
<td>26.54%</td>
</tr>
<tr>
<td>2006</td>
<td>56</td>
<td>15.78%</td>
</tr>
<tr>
<td>2007</td>
<td>52</td>
<td>59.39%</td>
</tr>
<tr>
<td>2008</td>
<td>57</td>
<td>-8.35%</td>
</tr>
<tr>
<td>2009</td>
<td>55</td>
<td>36.55%</td>
</tr>
<tr>
<td>2010</td>
<td>50</td>
<td>22.52%</td>
</tr>
</tbody>
</table>

### Business Written Basis

<table>
<thead>
<tr>
<th>Active Co's</th>
<th>Loss Ratio</th>
<th>HHI</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>79</td>
<td>92.81%</td>
</tr>
<tr>
<td>1998</td>
<td>87</td>
<td>76.04%</td>
</tr>
<tr>
<td>1999</td>
<td>91</td>
<td>93.69%</td>
</tr>
<tr>
<td>2000</td>
<td>93</td>
<td>85.64%</td>
</tr>
<tr>
<td>2001</td>
<td>93</td>
<td>91.36%</td>
</tr>
<tr>
<td>2002</td>
<td>94</td>
<td>93.27%</td>
</tr>
<tr>
<td>2003</td>
<td>94</td>
<td>67.19%</td>
</tr>
<tr>
<td>2004</td>
<td>100</td>
<td>36.84%</td>
</tr>
<tr>
<td>2005</td>
<td>104</td>
<td>25.85%</td>
</tr>
<tr>
<td>2006</td>
<td>104</td>
<td>17.44%</td>
</tr>
<tr>
<td>2007</td>
<td>102</td>
<td>51.90%</td>
</tr>
<tr>
<td>2008</td>
<td>107</td>
<td>3.73%</td>
</tr>
<tr>
<td>2009</td>
<td>111</td>
<td>29.14%</td>
</tr>
<tr>
<td>2010</td>
<td>106</td>
<td>27.95%</td>
</tr>
</tbody>
</table>

Note that "HHI" represents the *Herfindahl-Hirschman Index*, a metric named for its originators. This is a commonly accepted measure of marketplace concentration. It is calculated by squaring the market share of each firm competing in a market and then summing the resulting numbers for all firms. For
example, in a market consisting of only four firms with market shares of 30%, 30%, 20% and 20%, the HHI would be found to be 2,600 or \((30^2 + 30^2 + 20^2 + 20^2)\). A market having only a single firm with a market share of 100% would be found to be 10,000 or \((100^2)\) in what is otherwise known as a monopoly.

The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases. Markets in which the HHI is between 1,000 and 1,800 points are considered to be moderately concentrated and those in which the HHI is in excess of 1,800 points are considered to be concentrated.

While the general medical malpractice market is demonstrated to be in somewhat more of a healthy state simply due to the presence of the excess and surplus markets, both markets (admitted and non-admitted) have been becoming generally more concentrated since 2003, and only once (2003 Business Written basis) in the past 11 years would have been defined as having been only moderately concentrated.
Other graphical representations of the historical market data:

**Number of Active Companies**

- Licensed Company Basis
- Business Written Basis

**Historical Loss Ratios**

- Licensed Company Basis
- Business Written Basis
Section IV

Other Sources of Data
IV. Other Sources of Data

IV-A: Medical Liability Fund Data

Becoming effective on January 1, 2002, HB 601 increased the fee associated with filing a medical professional liability action in part to support the Medical Liability Fund created pursuant to §29-12B-1 et seq. As part of this change, a portion of the moneys received for each such action filed are received by the State Treasurer's Office. It is noted that due to the particular timing involved in posting these transactions the data appears to lag by a period of approximately one month from the actual date that the action in consideration was actually filed in a court of law. The data associated with these transactions can be examined to roughly establish the total number of actions involving Medical Professional Liability filed in West Virginia per year and as well the total number filed by county of venue.

Examining this data in aggregate, the following information is noted:

<table>
<thead>
<tr>
<th>Year</th>
<th># of Filed Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>239</td>
</tr>
<tr>
<td>2003</td>
<td>315</td>
</tr>
<tr>
<td>2004</td>
<td>130</td>
</tr>
<tr>
<td>2005</td>
<td>273</td>
</tr>
<tr>
<td>2006</td>
<td>154</td>
</tr>
<tr>
<td>2007</td>
<td>174</td>
</tr>
<tr>
<td>2008</td>
<td>178</td>
</tr>
<tr>
<td>2009</td>
<td>205</td>
</tr>
<tr>
<td>2010</td>
<td>169</td>
</tr>
</tbody>
</table>

Although 2004 is clearly a low point, and the 2010 figure is below the nine year average of 204.1, not a great deal of information can be gleaned from these figures apart from what appears to be a general decline (indicated by the polynomial trend line in the graph below) in the number of actions filed by year.
Perhaps of more interest than the annual counts above, the Medical Liability Fund data also provides the county of venue where the action was filed. Compiling this data from 2002-2010 provides the following: (See also Appendix page 91.)
The data on suits by county above appears to be roughly equivalent to population levels by county: (See also Appendix page 111.)
By making the suits by county data relative to the number of residents per county, we can determine which counties have the highest suit ratios per 1,000 of population.

It is noted that approximately 146 cases were filed against a single Doctor in Putnam County over the time period being reviewed above. Adjusting the county level data to account for this outlier results in a Putnam County ratio of 0.73 (otherwise 3.37), and a State-wide average ratio of 0.91 (otherwise 0.99).
### IV-B: Board of Medicine Data

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

<table>
<thead>
<tr>
<th>West Virginia Board of Medicine Licensure Data</th>
<th>1997</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actively Licensed Physicians (M.D.)</td>
<td>5,026</td>
<td>5,107</td>
<td>5,251</td>
<td>5,212</td>
<td>5,246</td>
<td>5,199</td>
<td>5,182</td>
</tr>
<tr>
<td>Inactively Licensed Physicians</td>
<td>937</td>
<td>896</td>
<td>869</td>
<td>920</td>
<td>947</td>
<td>901</td>
<td>631</td>
</tr>
<tr>
<td>Actively Licensed Podiatrists (D.P.M.)</td>
<td>102</td>
<td>115</td>
<td>104</td>
<td>110</td>
<td>104</td>
<td>114</td>
<td>110</td>
</tr>
<tr>
<td>Inactively Licensed Podiatrists</td>
<td>13</td>
<td>13</td>
<td>22</td>
<td>24</td>
<td>22</td>
<td>22</td>
<td>17</td>
</tr>
<tr>
<td>Actively Licensed Physicians Practicing in WV</td>
<td>3,317</td>
<td>3,339</td>
<td>3,415</td>
<td>3,525</td>
<td>3,570</td>
<td>3,552</td>
<td>3,575</td>
</tr>
<tr>
<td>Actively Licensed Podiatrists Practicing in WV</td>
<td>58</td>
<td>59</td>
<td>65</td>
<td>67</td>
<td>68</td>
<td>71</td>
<td>73</td>
</tr>
<tr>
<td>Physician Assistants (P.A.)</td>
<td>289</td>
<td>333</td>
<td>335</td>
<td>371</td>
<td>378</td>
<td>405</td>
<td>421</td>
</tr>
<tr>
<td>Medical Corporations</td>
<td>585</td>
<td>595</td>
<td>590</td>
<td>603</td>
<td>611</td>
<td>568</td>
<td>565</td>
</tr>
<tr>
<td>Professional Limited Liability Companies</td>
<td>11</td>
<td>26</td>
<td>34</td>
<td>42</td>
<td>41</td>
<td>45</td>
<td>55</td>
</tr>
<tr>
<td>Special Volunteer Medical Licenses</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>4</td>
<td>9</td>
<td>13</td>
<td>21</td>
</tr>
<tr>
<td>Medical School Faculty Limited Licenses</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>2</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>West Virginia Board of Medicine Licensure Data</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actively Licensed Physicians (M.D.)</td>
<td>4,873</td>
<td>5,058</td>
<td>5,187</td>
<td>5,379</td>
<td>5,594</td>
<td>5,776</td>
<td>5,857</td>
</tr>
<tr>
<td>Inactively Licensed Physicians</td>
<td>853</td>
<td>757</td>
<td>734</td>
<td>692</td>
<td>650</td>
<td>627</td>
<td>628</td>
</tr>
<tr>
<td>Actively Licensed Podiatrists (D.P.M.)</td>
<td>105</td>
<td>99</td>
<td>105</td>
<td>103</td>
<td>104</td>
<td>101</td>
<td>111</td>
</tr>
<tr>
<td>Inactively Licensed Podiatrists</td>
<td>22</td>
<td>20</td>
<td>20</td>
<td>16</td>
<td>16</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>Actively Licensed Physicians Practicing in WV</td>
<td>3,532</td>
<td>3,650</td>
<td>3,743</td>
<td>3,837</td>
<td>3,708</td>
<td>3,730</td>
<td>3,864</td>
</tr>
<tr>
<td>Actively Licensed Podiatrists Practicing in WV</td>
<td>72</td>
<td>68</td>
<td>66</td>
<td>75</td>
<td>73</td>
<td>64</td>
<td>68</td>
</tr>
<tr>
<td>Physician Assistants (P.A.)</td>
<td>467</td>
<td>480</td>
<td>540</td>
<td>542</td>
<td>580</td>
<td>604</td>
<td>658</td>
</tr>
<tr>
<td>Medical Corporations</td>
<td>557</td>
<td>540</td>
<td>521</td>
<td>513</td>
<td>502</td>
<td>500</td>
<td>498</td>
</tr>
<tr>
<td>Professional Limited Liability Companies</td>
<td>57</td>
<td>54</td>
<td>51</td>
<td>47</td>
<td>50</td>
<td>50</td>
<td>53</td>
</tr>
<tr>
<td>Special Volunteer Medical Licenses</td>
<td>20</td>
<td>16</td>
<td>15</td>
<td>13</td>
<td>16</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>Medical School Faculty Limited Licenses</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>
Looking at only actively licensed physicians that are reported to actually practice in West Virginia, an overall favorable increase can be observed for the State.

Tying the physician licensure data to historical premium data for the physician sub-line of medical malpractice, we can estimate how the cost of malpractice premiums might be spread on average throughout the physician population.

<table>
<thead>
<tr>
<th>Business Written Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>P &amp;S Written Premiums</td>
</tr>
<tr>
<td>2004</td>
</tr>
<tr>
<td>2005</td>
</tr>
<tr>
<td>2006</td>
</tr>
<tr>
<td>2007</td>
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<tr>
<td>2008</td>
</tr>
<tr>
<td>2009</td>
</tr>
<tr>
<td>2010</td>
</tr>
</tbody>
</table>
Note the significant decrease in average premium occurring from 2004 to present.

Note also that the “averaged” premiums above are not necessarily representative of the premium that a given physician doing business in West Virginia may actually be paying, as that premium would be influenced by the physicians specialty (e.g. physician classes versus surgeon classes), the maturity of their claims-made policy, the limits of insurance afforded, presence of rating credits and debits, etc. However it is clear from the representative information above that, on average, malpractice rates in West Virginia are continuing to decline. This is also directly observable via the rate filing history appearing on page 109.
Section V

Summary Observations
V. Summary Observations

- In 2010, medical malpractice insurance in West Virginia continued to demonstrate highly favorable results, culminating in a very favorable loss ratio of **22.52%**. Total premium volume for 2010 declined slightly from 2009 to a level comparable to that last experienced here during 2003. With yet a subsequent decline in premium volume, a significant concern remains the possibility of future adverse volatility occurring within our marketplace due to its inherently small (and still declining) size.

- **Countrywide** net operating results for all lines of business in 2010 remained at a favorable (94.4%), but overall medical malpractice results remain stable (63.7% for 2010, 71.3% for 2009, 70.1% in 2008, 67.6% in 2007 and 72.3% in 2006.)

- The key volume writer in the state, *West Virginia Mutual Insurance Company* which holds 74.2% of the admitted market and 43% of the entire West Virginia market, again experienced a favorable year in 2010, posting a pure direct loss ratio of just 23.86%. Encouragingly, there were 2 companies again who met the 5% or more market share threshold for inclusion in the 2010 report, whereas only *WVMIC* met that threshold in 2008. Notably, there were also only 2 companies which met this criterion in 2007 and 3 in 2006.

- During 2010 medical malpractice rates in West Virginia remained stable. WVMIC held a substantial majority of the market share and proposed no change in rate, and while other top writers did amend their rates, this only impacted the entire market by less than 1% (+0.01%).

- As noted in previous reports, one of the key elements underlying the historical adverse results for West Virginia had been a very high level of defense costs. Loss adjustment expenses in West Virginia had fallen from a high of 69.5% in 1999 to be more in line with (or better) than the industry countrywide ratios by 2002. However, this favorable change did not continue in 2007 as Loss Adjustment Expense grew to 50.8% of premium (up from only 11.8% in 2006), and only improved slightly over that level for 2008 with 39.42%. While in 2010, Loss Adjustment Expense returned to a somewhat favorable 23.1%. This volatility remains an item of concern for the future.
• In the admitted market, the top five malpractice writers in West Virginia by premium written accounted for 92.25% of the entire admitted market (previously 93.7%). In the whole market (admitted and non-admitted), the top five writers account for 70.96% of the market (previously 72.2%). Also, Lexington returned as a key Excess & Surplus writer. In 2010, our medical malpractice market improved slightly in its level of concentration, but still indicates an overall absence of competition.

• The small size of our medical malpractice marketplace in West Virginia, with only 3,864 active physicians practicing in our State, inherently lends itself toward volatility, as can be demonstrated by simply considering the 2006 through 2010 results (with Direct Loss Ratios of 15.7%, 59.4%, -8.4%, 36.6%, and 22.5% respectively).

• An analysis of West Virginia Board of Medicine data revealed the following:
  ➢ The number of paid claims continues to generally decline in West Virginia.
  ➢ Roughly 31% of claims filed are still being dismissed.
  ➢ The total number of claims in 2010 (188) is about half of that experienced in 2001 (375 or 50.13%).

This appears to suggest that the “certificate of merit”, required by H. B. 601, continues to have a diminishing impact on medical malpractice claims.
  o Approximately 9% of claims filed actually go to court.
  o 61% of Malpractice claims are settled outside of court.
  o There still does not appear to be any clear and credible pattern of escalating jury awards, although the small number of awards yields little in the way of credible data upon which to draw conclusions.

• A review of Medical Liability fund data indicates that the number of filed actions in West Virginia remain below that of earlier years overall, although notably increasing slightly just over the past 4 years.

• Examination of the 5% market share companies data as required by §114CSR22, §114CSR23, and §33-20B-6 found no areas of material concern.
Glossary of Terms

**Accident Year Experience:** Measures premiums and losses relating to accidents which occurred during a 12-month period.

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

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

**BRIM I:** Term to identify the medical malpractice program for teaching schools and their physicians. This program is administered by *National Union Fire of Pittsburgh* (an *AIG* subsidiary) under a fronting arrangement. *AIG* assumes no real risk under this arrangement; they simply issue the policies on *AIG* paper and are fully reimbursed by *BRIM* for loss and other expenses. They receive a percentage of premium for providing this service. **BRIM I** policies are written on an occurrence basis.

**BRIM II:** Term to identify the medical malpractice program for private physicians and hospitals. This program was administered by *Marsh*. **BRIM II** was written on a claims-made basis. All **BRIM II** business novated to the *West Virginia Mutual Insurance Company (WVMIC)* on July 1, 2004.

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

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

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

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

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

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

"HHI": The Herfindahl-Hirschman Index. A commonly accepted measure of marketplace concentration, calculated by squaring the market share of each firm competing in a market and then summing the resulting numbers for all firms. The measurement accounts for the relative size and distribution of firms within a market. It approaches 0 when a market consists of a large number of firms of relatively equal size, and 10,000 when a monopoly is measured.
**Incurred Loss:** A monetary payment and/or reserve on the part of the insurance company to cover claims of the insureds which are payable by the terms of the insurance contract.

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

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

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

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

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

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

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

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

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

**Severity:** Average loss per claim.

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

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

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

**Written Premium:** The total premium from all policies with effective dates within a given time period.
Exhibits
### I: Loss and Premium Information/Reconciliation

#### West Virginia Mutual Ins Co

<table>
<thead>
<tr>
<th>Year</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Adjusted On-Level E.P.</strong></td>
<td>$104,072</td>
<td>$7,341,768</td>
<td>$24,848,844</td>
<td>$45,745,391</td>
<td>$39,504,147</td>
<td>$43,510,815</td>
<td>$19,048,681</td>
<td>$42,315,000</td>
<td>$44,726,967</td>
<td>$42,058,272</td>
</tr>
<tr>
<td><strong>Trended, Dev Ult Loss &amp; ALAE</strong></td>
<td>$435,307</td>
<td>$1,074,647</td>
<td>$13,215,724</td>
<td>$5,171,540</td>
<td>$18,815,166</td>
<td>$16,550,040</td>
<td>$13,081,000</td>
<td>$34,101,000</td>
<td>$201,789</td>
<td>$112,000</td>
</tr>
<tr>
<td><strong>Loss &amp; ALAE Ratio</strong></td>
<td>418.3%</td>
<td>14.6%</td>
<td>53.2%</td>
<td>11.3%</td>
<td>47.6%</td>
<td>38.0%</td>
<td>60.1%</td>
<td>---</td>
<td>---</td>
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</tr>
</tbody>
</table>

#### Medics Insurance Company

<table>
<thead>
<tr>
<th>Year</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Adjusted On-Level E.P.</strong></td>
<td>$109,340</td>
<td>$7,713,356</td>
<td>$26,106,517</td>
<td>$44,434,475</td>
<td>$23,102,934</td>
<td>$42,315,000</td>
<td>$19,048,681</td>
<td>$42,315,000</td>
<td>$44,726,967</td>
<td>$42,058,272</td>
</tr>
<tr>
<td><strong>Trended, Dev Ult Loss &amp; ALAE</strong></td>
<td>$596,784</td>
<td>$3,020,844</td>
<td>$17,615,263</td>
<td>$23,339,607</td>
<td>$16,236,906</td>
<td>$201,789</td>
<td>$112,000</td>
<td>$34,101,000</td>
<td>$201,789</td>
<td>$112,000</td>
</tr>
<tr>
<td><strong>Loss &amp; ALAE Ratio</strong></td>
<td>545.8%</td>
<td>39.2%</td>
<td>67.5%</td>
<td>52.5%</td>
<td>70.3%</td>
<td>---</td>
<td>---</td>
<td>---</td>
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</tbody>
</table>
# West Virginia Offices of the Insurance Commissioner

## 5% Market Share Report

### Loss and Premium Information/Reconciliation

#### Exhibit I--Sheet 1b

<table>
<thead>
<tr>
<th></th>
<th>West Virginia Mutual Ins Co</th>
<th>Physicians &amp; Surgeons</th>
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</thead>
<tbody>
<tr>
<td><strong>2011 Filed Information</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earned Premium</td>
<td>$40,430,000</td>
<td>$44,390,000</td>
</tr>
<tr>
<td>Incurred Losses</td>
<td>$13,198,000 ($1,306,000)</td>
<td>$18,123,000</td>
</tr>
<tr>
<td>Loss Ratio</td>
<td>32.6%</td>
<td>-2.9%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>40.8%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20.2%</td>
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<tr>
<td></td>
<td></td>
<td>36.2%</td>
</tr>
<tr>
<td></td>
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<td>22.7%</td>
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#### Medicus Insurance Company

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<th>Physicians &amp; Surgeons</th>
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</thead>
<tbody>
<tr>
<td><strong>2011 Filed Information</strong></td>
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<tr>
<td>Earned Premium</td>
<td>$57,965,000</td>
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<tr>
<td>Incurred Losses</td>
<td>$32,051,000</td>
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<td>Loss Ratio</td>
<td>55.3%</td>
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<table>
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<th>Physicians &amp; Surgeons</th>
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<tbody>
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### West Virginia Mutual Ins Co

#### Physicians & Surgeons

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### Medicus Insurance Company

#### Physicians & Surgeons

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<tr>
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<td>Loss &amp; ALAE Ratio</td>
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## West Virginia Offices of the Insurance Commissioner
### 5% Market Share Report

#### Exhibit II

### II: Comparison of Budgeted Expenses

<table>
<thead>
<tr>
<th>West Virginia Mutual Ins Co</th>
<th>Physicians &amp; Surgeons</th>
<th>Filing Number</th>
<th>Effective Date</th>
<th>Variable Expense</th>
<th>Fixed Expense (Per Policy)</th>
<th>BSE (Mature Class 3)</th>
<th>Fixed Expense loading</th>
<th>Total Expense (Loading %)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>§114CSR22</td>
<td>100006008</td>
<td>1/1/2011</td>
<td>7.00% n/a</td>
<td>n/a</td>
<td>$5,532</td>
<td>n/a</td>
<td>42.20%</td>
</tr>
<tr>
<td></td>
<td>90918009</td>
<td>1/1/2010</td>
<td>6.50%</td>
<td>20.30% 6.50%</td>
<td>$4,977</td>
<td>$20,528</td>
<td>26.95%</td>
<td>44.55%</td>
</tr>
<tr>
<td></td>
<td>80903007</td>
<td>1/1/2009</td>
<td>6.00%</td>
<td>5.00% 6.00%</td>
<td>$4,481</td>
<td>$20,528</td>
<td>24.24%</td>
<td>41.34%</td>
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<tr>
<td></td>
<td>70918006</td>
<td>1/1/2008</td>
<td>7.50%</td>
<td>7.50% 7.50%</td>
<td>$4,289</td>
<td>$20,528</td>
<td>21.83%</td>
<td>38.93%</td>
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<tr>
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<td>6915016</td>
<td>1/1/2007</td>
<td>7.50%</td>
<td>13.20%</td>
<td>$3,840</td>
<td>$23,612</td>
<td>21.04%</td>
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<td>7.50%</td>
<td>$1,254</td>
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<td>40331017</td>
<td>7/1/2004</td>
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<td>$846</td>
<td>$22,558</td>
<td>20.8%</td>
<td>29.35%</td>
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<table>
<thead>
<tr>
<th>Medicus Insurance Company</th>
<th>Physicians &amp; Surgeons</th>
<th>Filing Number</th>
<th>Effective Date</th>
<th>Variable Expense</th>
<th>Fixed Expense (Per Policy)</th>
<th>BSE (Mature Class 3)</th>
<th>Fixed Expense loading</th>
<th>Total Expense (Loading %)</th>
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<td>§114CSR22</td>
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<td>90630015</td>
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<td>10.00%</td>
<td>$4,481</td>
<td>$20,528</td>
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<td>24.50%</td>
</tr>
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<td>$4,289</td>
<td>$20,528</td>
<td>n/a</td>
<td>26.00%</td>
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<th>Base Rate (Mature Class 3)</th>
<th>Fixed Expense loading</th>
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<td>n/a</td>
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<td>n/a</td>
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### Exhibit III

#### III: Comparison of Investment Income Provisions

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<th>Net Investment Gain</th>
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<tr>
<td>2005</td>
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<td>2006</td>
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<td>2007</td>
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<td>2008</td>
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<td>2009</td>
<td>13.1%</td>
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<td>2010</td>
<td>16.2%</td>
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Rate of Return Underlying 2005 Filing: 3.50%
2006 Filing: N/A
2007 Filing: N/A
2008 Filing: N/A
2009 Filing: N/A
2010 Filing: N/A
2010 Filing: N/A

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<tr>
<th>Calendar Year</th>
<th>Net Investment Gain</th>
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<tbody>
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</tr>
<tr>
<td>2008</td>
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<td>7.3%</td>
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<td>2010</td>
<td>5.5%</td>
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Rate of Return Underlying 2008 Filing: N/A
2009 Filing: 5%
2010 Filing: 5%
2010 Filing: 5%
### IV: Comparison of Pure Premium Trends

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<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>5% Report</th>
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<td>3.00%</td>
<td>3.00%</td>
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<td>3.00%</td>
<td>3.00%</td>
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### V: Comparison of Incurred Loss Development Factors

#### West Virginia Mutual Insurance Company

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<th>LDFs</th>
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<tr>
<td>12-ultimate</td>
<td>1.659</td>
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<td>24-ultimate</td>
<td>1.100</td>
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<td>36-ultimate</td>
<td>1.009</td>
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</tr>
<tr>
<td>48-ultimate</td>
<td>0.999</td>
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<tr>
<td>60-ultimate</td>
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<tr>
<td>72-ultimate</td>
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<tr>
<td>84-ultimate</td>
<td>1.000</td>
<td></td>
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<tr>
<td>96-ultimate</td>
<td>1.000</td>
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<tr>
<td>108-ultimate</td>
<td>1.000</td>
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</tr>
<tr>
<td>120-ultimate</td>
<td>1.000</td>
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#### Medicus Insurance Company

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<tr>
<th>Incurred</th>
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<th>LDFs</th>
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<td>12-ultimate</td>
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<td>24-ultimate</td>
<td>1.135</td>
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<tr>
<td>120-ultimate</td>
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West Virginia Offices of the Insurance Commissioner
5% Market Share Report

Exhibit VI

VI: Premium Reconciliation

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<th>Schedule T-Written Premium</th>
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<td>$35,549,901</td>
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<tr>
<td>Physicians &amp; Surgeons Premium</td>
<td>$35,496,599</td>
<td>$35,549,901</td>
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<tr>
<td>All Other Lines Premium</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
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<td>$35,549,901</td>
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</table>

<table>
<thead>
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<th>Filing Forms</th>
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<td>$5,399,506</td>
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<td>All Other Lines Premium</td>
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<td><strong>Total</strong></td>
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# West Virginia Offices of the Insurance Commissioner

## 5% Market Share Report

### Exhibit VII

### VII: Sample Comparison of Physicians & Surgeons Rates

#### Claims Made Policies -- Mature Rate -- $1M/$3M Limits

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<td></td>
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<td></td>
<td>$32,589</td>
<td>$23,845</td>
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<tr>
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<td>Cardiovascular Disease - Major Surgery</td>
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<td>$73,295</td>
<td>$83,770</td>
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<td>$59,017</td>
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<tr>
<td>80282</td>
<td>Dermatology - Minor Surgery</td>
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<td>$28,066</td>
<td>$28,455</td>
<td>$17,449</td>
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<td>$12,224</td>
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<tr>
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<td>Emergency Medicine - Minor Surgery</td>
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<td>$35,604</td>
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<td>$30,012</td>
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<td>$19,236</td>
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<tr>
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<td>$43,142</td>
<td>$46,893</td>
<td>$44,146</td>
<td>$94,127</td>
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<tr>
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<td>General Surgery</td>
<td></td>
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<td>$52,870</td>
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<td>80244</td>
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<td>$19,236</td>
<td>$17,449</td>
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<td>80284</td>
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<td>$129,867</td>
<td>$110,976</td>
<td>$197,146</td>
<td>$85,245</td>
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<td>80114</td>
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<tr>
<td>80154 (B)</td>
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<td>$73,295</td>
<td>$83,770</td>
<td>$71,890</td>
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<td>80155</td>
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<td>$28,455</td>
<td>$27,744</td>
<td>$39,887</td>
<td>$32,786</td>
</tr>
</tbody>
</table>

These rates are a starting point for rating a physician. Rates may be further adjusted by other rating plans. *ISO only files loss costs and increased limit factors. Affiliated Insurers may use ISO as a basis for their rates.

An underwriting expense load of 25% was used to convert ISO loss costs to rates.
Appendix
### 2010 Physicians/Hospitals/Other Facilities/Professionals-Totals

<table>
<thead>
<tr>
<th>Physicians (NAIC Database) COMPANY</th>
<th>2010 West Virginia Business Written</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Direct Premium Written</td>
</tr>
<tr>
<td>West Virginia Mut Ins Co</td>
<td>$35,496,599.00</td>
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<tr>
<td>Medicus Ins Co</td>
<td>$5,399,506.00</td>
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<tr>
<td>ProAssurance Ind Co Inc</td>
<td>$1,377,918.00</td>
</tr>
<tr>
<td>Ophthalmic Mut Ins Co RRG</td>
<td>$959,958.00</td>
</tr>
<tr>
<td>Doctors Co An Interins Exch</td>
<td>$683,806.00</td>
</tr>
<tr>
<td>National Union Fire Ins Co Of Pitts</td>
<td>$28,115.00</td>
</tr>
<tr>
<td>General Star Ind Co</td>
<td>$402,371.00</td>
</tr>
<tr>
<td>National Guardian RRG Inc</td>
<td>$342,324.00</td>
</tr>
<tr>
<td>Preferred Physicians Medical RRG</td>
<td>$271,011.00</td>
</tr>
<tr>
<td>National Fire &amp; Marine Ins Co</td>
<td>$226,519.00</td>
</tr>
<tr>
<td>Medical Protective Co</td>
<td>$201,332.00</td>
</tr>
<tr>
<td>Admiral Ins Co</td>
<td>$168,088.00</td>
</tr>
<tr>
<td>Columbia Cas Co</td>
<td>$149,256.00</td>
</tr>
<tr>
<td>Care RRG Inc</td>
<td>$111,634.00</td>
</tr>
<tr>
<td>Darwin Natl Assur Co</td>
<td>$60,500.00</td>
</tr>
<tr>
<td>Green Hills Ins Co RRG</td>
<td>$57,206.00</td>
</tr>
<tr>
<td>Essex Ins Co</td>
<td>$42,065.00</td>
</tr>
<tr>
<td>Professional Underwriters Liab Ins C</td>
<td>$41,014.00</td>
</tr>
<tr>
<td>Healthcare Safety &amp; Protection RRG I</td>
<td>$34,450.00</td>
</tr>
<tr>
<td>National Medical Professional RRG In</td>
<td>$22,877.00</td>
</tr>
<tr>
<td>American Cas Co Of Reading PA</td>
<td>$20,013.00</td>
</tr>
<tr>
<td>Southwest Physicians RRG Inc</td>
<td>$16,558.00</td>
</tr>
<tr>
<td>Hallmark Specialty Ins Co</td>
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</tr>
<tr>
<td>Lexington Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Cincinnati Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Ohic Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Continental Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>TIG Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>St Paul Mercury Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Athena Assur Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Travelers Prop Cas Co Of Amer</td>
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</tr>
<tr>
<td>National Cas Co</td>
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</tr>
<tr>
<td>Everest Ind Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Pacific Employers Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Ironshore Specialty Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>APSpeciality Ins Corp</td>
<td>$0.00</td>
</tr>
<tr>
<td>Homeland Ins Co of NY</td>
<td>$0.00</td>
</tr>
<tr>
<td>Scottsdale Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Capitol Specialty Ins Corp</td>
<td>$0.00</td>
</tr>
<tr>
<td>Interstate Fire &amp; Cas Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>St Paul Fire &amp; Marine Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Professionals Advocate Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>National Fire Ins Co Of Hartford</td>
<td>$0.00</td>
</tr>
<tr>
<td>ProAssurance Natl Capital Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Standard Fire Ins Co</td>
<td>$0.00</td>
</tr>
<tr>
<td>Steadfast Ins Co</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**TOTALS**

$49,672,860.00 | 100.00% | $53,656,100.00 | 100.00% | $17,873,450.00 | 32.38%

<p>| Licensed Companies (22) | $43,667,780.00 | 87.91% | $47,115,527.00 | $13,036,930.00 | 27.67% |
| Surplus Line Co’s (19)  | $1,991,858.00 | 4.01% | $2,525,030.00 | $1,670,679.00 | 66.16% |
| Risk Retention Groups (12)| $4,013,222.00 | 8.08% | $4,015,543.00 | $2,665,826.00 | 66.39% |</p>
<table>
<thead>
<tr>
<th>COMPANY</th>
<th>Written Direct Premium</th>
<th>Market Share Hospitals</th>
<th>Earned Direct Premium</th>
<th>Loss Incurred Direct</th>
<th>Loss Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lexington Ins Co</td>
<td>$6,952,665.00</td>
<td>29.20%</td>
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<td>40.29%</td>
</tr>
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<td>Mountaineer Freedom RRG Inc</td>
<td>$5,446,321.00</td>
<td>22.88%</td>
<td>$5,446,321.00</td>
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<td>Community Hospital RRG</td>
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<td>$4,417,875.00</td>
<td>$1,880,228.00</td>
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<td>7.94%</td>
<td>$1,843,680.00</td>
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</tr>
<tr>
<td>Steadfast Ins Co</td>
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<td>$596,744.00</td>
<td>68.83%</td>
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<td>$90,119.00</td>
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<td>Illinois Union Ins Co</td>
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<td>Arch Specialty Ins Co</td>
<td>$390,000.00</td>
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<td>Darwin Natl Assur Co</td>
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<td>($3,573.00)</td>
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<td>$141,932.00</td>
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<td>$67,559.00</td>
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<tr>
<td>St Paul Mercury Ins Co</td>
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<td>0.00%</td>
<td>$0.00</td>
<td>$5,469.00</td>
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<tr>
<td>Ironshore Specialty Ins Co</td>
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<td>$0.00</td>
<td>$2,694.00</td>
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<td>$43.00</td>
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<td>Ace Fire Underwriters Ins Co</td>
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<td>Pacific Employers Ins Co</td>
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<tr>
<td>Executive Risk Speciality Ins Co</td>
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<td>$0.00</td>
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<td>ProAssurance Specialty Ins Co</td>
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<td>($17,500.00)</td>
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<td>Executive Risk Ind Inc</td>
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<td>Premier Ins Exch RRG</td>
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<td>$0.00</td>
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<td>Everest Ind Ins Co</td>
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<td>$0.00</td>
<td>($205,978.00)</td>
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<td>$0.00</td>
<td>($352,335.00)</td>
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<td>($132,00)</td>
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<td>$15,611.00</td>
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<td>($14,600.00)</td>
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<tr>
<td>TOTALS</td>
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<td>100.00%</td>
<td>$23,209,562.00</td>
<td>$7,252,718.00</td>
<td>31.25%</td>
</tr>
</tbody>
</table>

| Licensed Companies (13)     | $109,049.00             | 0.46%                  | $126,415.00           | ($391,136.00)        | -309.41%   |
| Surplus Line Co's (16)      | $13,026,623.00          | 54.72%                 | $12,417,781.00        | $4,872,306.00        | 39.24%     |
| Risk Retention Groups (4)   | $10,671,696.00          | 44.83%                 | $10,665,366.00        | $2,771,548.00        | 25.99%     |
### 2010 West Virginia Business Written

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>Direct Premium Written</th>
<th>Other Facilities Earned</th>
<th>Direct Premium Incurred</th>
<th>Direct Loss Incurred</th>
<th>Pure Direct Loss Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Star Ind Co</strong></td>
<td>$388,483.00</td>
<td>18.50%</td>
<td>$81,616.00</td>
<td>($30,000.00)</td>
<td>-36.76%</td>
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<tr>
<td><strong>Guardian RRG Inc</strong></td>
<td>$336,342.00</td>
<td>16.01%</td>
<td>$336,342.00</td>
<td>($66,496.00)</td>
<td>-19.77%</td>
</tr>
<tr>
<td><strong>Evanston Ins Co</strong></td>
<td>$318,350.00</td>
<td>15.16%</td>
<td>$389,552.00</td>
<td>$57,445.00</td>
<td>14.75%</td>
</tr>
<tr>
<td><strong>Darwin Select Ins Co</strong></td>
<td>$244,369.00</td>
<td>11.64%</td>
<td>$219,379.00</td>
<td>($6,105.00)</td>
<td>-2.78%</td>
</tr>
<tr>
<td><strong>Homeland Ins Co of NY</strong></td>
<td>$198,783.00</td>
<td>9.46%</td>
<td>$227,635.00</td>
<td>$4,961.00</td>
<td>2.18%</td>
</tr>
<tr>
<td><strong>Cincinnati Ins Co</strong></td>
<td>$158,182.00</td>
<td>7.53%</td>
<td>$141,737.00</td>
<td>$17,020.00</td>
<td>12.01%</td>
</tr>
<tr>
<td><strong>Lexington Ins Co</strong></td>
<td>$127,318.00</td>
<td>6.06%</td>
<td>$139,738.00</td>
<td>($151,818.00)</td>
<td>-108.64%</td>
</tr>
<tr>
<td><strong>Arch Specialty Ins Co</strong></td>
<td>$108,846.00</td>
<td>5.18%</td>
<td>$103,892.00</td>
<td>($209,765.00)</td>
<td>-201.91%</td>
</tr>
<tr>
<td><strong>American Alt Ins Corp</strong></td>
<td>$88,490.00</td>
<td>4.21%</td>
<td>$90,993.00</td>
<td>($10,528.00)</td>
<td>-11.57%</td>
</tr>
<tr>
<td><strong>ProAssurance Specialty Ins Co</strong></td>
<td>$41,486.00</td>
<td>1.98%</td>
<td>$31,422.00</td>
<td>$11,312.00</td>
<td>36.00%</td>
</tr>
<tr>
<td><strong>Church Mut Ins Co</strong></td>
<td>$39,640.00</td>
<td>1.89%</td>
<td>$41,002.00</td>
<td>($1,593.00)</td>
<td>-3.89%</td>
</tr>
<tr>
<td><strong>Ironshore Specialty Ins Co</strong></td>
<td>$36,550.00</td>
<td>1.74%</td>
<td>$133,799.00</td>
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<td>$12,500.00</td>
<td>0.60%</td>
<td>$12,500.00</td>
<td>($1,588.00)</td>
<td>-12.70%</td>
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<tr>
<td><strong>Illinois Union Ins Co</strong></td>
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<td>0.03%</td>
<td>$24.00</td>
<td>$72.00</td>
<td>57.14%</td>
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<td><strong>Affiliates Ins Recip a RRG</strong></td>
<td>$280.00</td>
<td>0.01%</td>
<td>$280.00</td>
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<td><strong>Executive Risk Ind Inc</strong></td>
<td>$0.00</td>
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<td>($15,854.00)</td>
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<td><strong>Houston Cas Co</strong></td>
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<td>0.00%</td>
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<td><strong>National Union Fire Ins Co Of</strong></td>
<td>$0.00</td>
<td>0.00%</td>
<td>$5.00</td>
<td>$608,811.00</td>
<td>12176220.00%</td>
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<td>0.00%</td>
<td>$0.00</td>
<td>$164,149.00</td>
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<td><strong>St Paul Fire &amp; Marine Ins Co</strong></td>
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<td>0.00%</td>
<td>$0.00</td>
<td>$9,651.00</td>
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<tr>
<td><strong>St Paul Mercury Ins Co</strong></td>
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<td>0.00%</td>
<td>$0.00</td>
<td>$1,638.00</td>
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<td><strong>Interstate Fire &amp; Cas Co</strong></td>
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<td>0.00%</td>
<td>$0.00</td>
<td>$183.00</td>
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<td><strong>Travelers Prop Cas Co Of</strong></td>
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<td>0.00%</td>
<td>$0.00</td>
<td>($3.00)</td>
<td>---</td>
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<td><strong>Amer</strong></td>
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<td>($10,799.00)</td>
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<tr>
<td><strong>Executive Risk Speciality Ins Co</strong></td>
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<td>$0.00</td>
<td>($10,799.00)</td>
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<td><strong>TOTALS</strong></td>
<td><strong>$2,100,287.00</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$1,958,280.00</strong></td>
<td><strong>$431,341.00</strong></td>
<td><strong>22.03%</strong></td>
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**Licensed Companies (10)**
- $286,312.00 (13.63%)
- $280,085.00
- $606,330.00
- 216.48%

**Surplus Line Co’s (17)**
- $1,477,353.00 (70.34%)
- $1,341,573.00 ($109,032.00)
- -8.13%

**Risk Retention Groups (2)**
- $336,622.00 (16.03%)
- $336,622.00 ($65,957.00)
- -19.59%
<table>
<thead>
<tr>
<th>Other Health Care Professionals</th>
<th>2010 West Virginia Business Written</th>
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<tr>
<td>(NAIC Database)</td>
<td>COMPANY</td>
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<tr>
<td></td>
<td></td>
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<tr>
<td>Other Health Care Professionals</td>
<td>COMPANY</td>
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<td></td>
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<tr>
<td>American Cas Co Of Reading PA</td>
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<td>Continental Cas Co</td>
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<tr>
<td>Liberty Surplus Ins Corp</td>
<td>$426,776.00</td>
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<tr>
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<td>Evanston Ins Co</td>
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<tr>
<td>Doctors Co An Interins Exch</td>
<td>$10,510.00</td>
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<tr>
<td>Pharmacists Mut Ins Co</td>
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<td>Allied Professionals Ins Co RRG</td>
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<td>Steadfast Ins Co</td>
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<tr>
<td>Professional Underwriters Liab Ins C</td>
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<td>American Home Assur Co</td>
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<tr>
<td>Firemans Fund Ins Co</td>
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<td>St Paul Fire &amp; Marine Ins Co</td>
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<tr>
<td>American Ins Co</td>
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<td>American Automobile Ins Co</td>
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<tr>
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<tr>
<td>Pacific Employers Ins Co</td>
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<tr>
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<td>TIG Ins Co</td>
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<td>Westport Ins Corp</td>
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<td>Clarendon Amer Ins Co</td>
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<td><strong>TOTALS</strong></td>
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<th>Licensed Companies (34)</th>
<th>Surplus Line Co's (16)</th>
<th>Risk Retention Groups (3)</th>
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<td>$1,655,280.00</td>
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<td>$1,467,903.00</td>
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<td>$280,573.00</td>
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<td>Total Medical Malpractice</td>
<td>2010 West Virginia Business Written</td>
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<tr>
<td>(NAIC Database) COMPANY</td>
<td>Direct Premium Written</td>
<td>Total Med Mal Market Share</td>
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<td>35,496,599.00</td>
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<td>Mountaineer Freedom RRG Inc</td>
<td>5,399,506.00</td>
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<tr>
<td>ProAssurance Ind Co Inc</td>
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<td>Nautilus Ins Co</td>
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<td>Evanston Ins Co</td>
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<td>Company Name</td>
<td>Face Value</td>
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- **Surplus Line Co's (36)**: $19,400,200.00, 23.51%, $18,887,614.00, $7,017,916.00, 37.16%
- **Risk Retention Groups (19)**: $15,302,113.00, 18.54%, $15,296,076.00, $5,327,258.00, 34.83%
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<p>| Licensed Companies (14)         | 125                | 395                | 520               |
| Surplus Line Co's (3)           | 2                  | 7                  | 9                 |
| Risk Retention Groups (8)       | 6                  | 14                 | 20                |</p>
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**Licensed Companies (15)**

<p>| Surplus Line Co's (1)                      | 122                | 335                | 457               |
| Risk Retention Groups (6)                  | 6                  | 14                 | 20                |</p>
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<p>| Licensed Companies (15)     | <strong>140</strong>   | <strong>316</strong>     | <strong>456</strong>|
| Surplus Line Co's (8)       | 17        | 59          | 76     |
| Risk Retention Groups (4)   | 1         | 10          | 11     |</p>
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| Surplus Line Co's (5)        | 2         | 6           | 8      |
| Risk Retention Groups (1)    | 0         | 1           | 1      |</p>
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| Risk Retention Groups (1)     | 0                  | 2                  | 2                 |</p>
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<p>| Licensed Companies (19)                | <strong>132</strong>            | <strong>599</strong>            | <strong>731</strong>           |
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| Risk Retention Groups (1)              | 0                  | 2                  | 2                 |</p>
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| Licensed Companies (19)                       | **233**            | **831**            | **1064**          |
| Surplus Line Co’s (8)                         | **11**             | **17**             | **28**            |
| Risk Retention Groups (1)                     | 0                  | 1                  | 1                 |
## 2000 PHYSICIANS

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### Historical top 10 Companies in WV Market Share for the Medical Malpractice line

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## Historical top 10 Companies in WV Market Share for the Medical Malpractice line

<table>
<thead>
<tr>
<th>Year</th>
<th>Company Name</th>
<th>Market Share</th>
<th>Pure Direct L/R</th>
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</thead>
<tbody>
<tr>
<td>2006</td>
<td>West Virginia Mut Ins Co</td>
<td>73.13%</td>
<td>-3.61%</td>
</tr>
<tr>
<td>2006</td>
<td>Woodbrook Cas Ins Inc</td>
<td>9.77%</td>
<td>-12.62%</td>
</tr>
<tr>
<td>2006</td>
<td>Health Care Ind Inc</td>
<td>5.22%</td>
<td>20.52%</td>
</tr>
<tr>
<td>2006</td>
<td>National Fire Ins Co Of Hartford</td>
<td>3.23%</td>
<td>35.51%</td>
</tr>
<tr>
<td>2006</td>
<td>American Cas Co Of Reading PA</td>
<td>1.41%</td>
<td>34.91%</td>
</tr>
<tr>
<td>2006</td>
<td>Doctors Co An Interins Exchn</td>
<td>1.13%</td>
<td>36.61%</td>
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<tr>
<td>2006</td>
<td>Continental Cas Co</td>
<td>1.01%</td>
<td>432.48%</td>
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<td>-20.75%</td>
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<tr>
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<td>0.79%</td>
<td>1277.56%</td>
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<th>Year</th>
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<th>Market Share</th>
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<td>30.25%</td>
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<td>26.65%</td>
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<td>Health Care Ind Inc</td>
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<td>147.73%</td>
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<td>National Fire Ins Co Of Hartford</td>
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<td>35.51%</td>
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<tr>
<td>2005</td>
<td>NCRIC Inc</td>
<td>5.10%</td>
<td>6.95%</td>
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<td>Doctors Co An Interins Exchn</td>
<td>1.30%</td>
<td>14.47%</td>
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<tr>
<td>2005</td>
<td>American Cas Co Of Reading PA</td>
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<td>12.01%</td>
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<table>
<thead>
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<th>Year</th>
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<th>Market Share</th>
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<td>NCRIC Inc</td>
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<td>49.80%</td>
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<td>44.09%</td>
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<td>27.77%</td>
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<td>99.04%</td>
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<td>77.12%</td>
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<td>2003</td>
<td>NCRIC Inc</td>
<td>15.77%</td>
<td>50.55%</td>
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<td>2003</td>
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<td>3.34%</td>
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<td>28.34%</td>
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</table>
## Historical top 10 Companies in WV Market Share for the Medical Malpractice line

<table>
<thead>
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<th>Year</th>
<th>Company Name</th>
<th>Market Share</th>
<th>Pure Direct L/R</th>
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<td>88.83%</td>
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<td>Doctors Co An Interins Exchn</td>
<td>1.76%</td>
<td>41.99%</td>
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<td>Ophthalmic Mut Ins Co RRG</td>
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<td>90.45%</td>
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Historical top 10 Companies in WV Market Share for the Medical Malpractice line

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<td>35.51%</td>
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<tr>
<td>2006 Admiral Ins Co</td>
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<td>57.17%</td>
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<td>11.65%</td>
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<td>26.65%</td>
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<tr>
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<td>147.73%</td>
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<td>35.51%</td>
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<tr>
<td>2005 NCRIC Inc</td>
<td>3.77%</td>
<td>6.95%</td>
<td></td>
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<tr>
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<td>45.87%</td>
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<td>51.80%</td>
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<tr>
<td>2003 Doctors Co An Interins Exchn</td>
<td>1.95%</td>
<td>28.34%</td>
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</table>
## Historical top 10 Companies in WV Market Share for the Medical Malpractice line

<table>
<thead>
<tr>
<th>Year</th>
<th>Company Name</th>
<th>Business Written Basis</th>
<th>Market Share</th>
<th>P Direct L/R</th>
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## Approved Rate Change History of Admitted Carriers for Medical Malpractice (Physicians & Surgeons unless noted)

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# 2010 West Virginia Population by County

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*Source: 2010 U.S. Census*