



**WEST VIRGINIA
OFFICES OF THE
INSURANCE COMMISSIONER**

**2023
Medical
Malpractice
Report**

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Insurance Commissioner**

Introduction

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

As shown later in this report, the West Virginia Mutual Insurance Company (WVMIC) retained its position as the market share leader by premium. In 2020, the Insurance Commissioner approved the WVMIC demutualization conversion and subsequent acquisition by MAG Mutual Insurance Company (MMIC) effective November 1, 2020. The acquisition and demutualization of WVMIC, the market share leader since its creation, has an enormous effect on the medical malpractice industry in West Virginia. On the calendar year 2022 annual statement data, WVMIC maintained a premium market share of 43.0% for licensed insurers and 26.6% on business written premiums. The WVOIC will continue to monitor the transition and analyze the market conditions that may be affected by the acquisition from a reporting and data standpoint.

In addition to the MAG Mutual acquisition of WVMIC, there was yet another prominent demutualization and business acquisition that affected national medical professional liability markets. The demutualization and acquisition of NORCAL Mutual Insurance Company by the ProAssurance Corporation was announced in 2020 and finalized in May 2021. NORCAL Mutual Insurance Company is West Virginia's second largest insurer with 8.2% market share for licensed insurers and 5.1% on business written premiums. As both insurer groups are financially stable with diverse operations and extensive expertise in healthcare professional liability, the WVOIC does not anticipate upheaval in the West Virginia market as a result of the acquisition.

A reporting anomaly was found for a specific insurer during the medical malpractice current and historical analysis. The insurer's annual reported data was unusable for data analysis due to policy structures where there is generally no transfer of risk from the policyholder to the insurer. Due to the circumstances relating to the data reporting, all annual data reported by the insurer has been excluded from this report and is not used in the premium components for all years shown in datasets. However, claims reported to the WVOIC from this insurer are used in the Closed Claim Analysis section details.

In May 2023, the United States Department of Health and Human Services declared the end of the public health emergency for COVID-19. However, the effects of the pandemic have permanently changed the medical profession and standard of care and service. Early in the pandemic, millions of doctors' visits and healthcare check-ups were postponed or canceled. In many other cases, these typically in-person visits were instead conducted by phone or video conference. Due to the COVID-19 social distancing restrictions in place during the pandemic, telehealth and telemedicine treatments were the prevalent forms of medical care. In the wake of the pandemic, virtual medicine has continued to increase in utilization. With more and more people receiving healthcare through virtual methods, it is unknown what the ultimate impact may be on the medical malpractice market. Medical professional liability is a long tail insurance product so potential impacts to this line of business may not be realized for several years. In West Virginia, the statute of limitations to file a claim is generally two (2) years from the date or discovery of the injury. This report does include COVID-19 medical malpractice claims in the analysis, but no other assumptions relating to COVID-19 were used, such as after-effects or potential future impacts to market conditions.

Several data sources used in this report recently changed reporting requirements or data displays. In previous years and medical malpractice reports, the medical malpractice liability has been a singular value on one line item. However, in 2022, the medical malpractice line of insurance was divided into two (2) separate line items, each with their own datasets and values. The line items are medical professional liability (occurrence) and medical professional liability (claims-made). A "claims-made" policy only covers incidents that occur and are reported while the policy is in effect unless a 'tail' extension is purchased. An "occurrence" policy offers lifetime coverage for incidents that occur during the policy period, regardless of when the claim is reported. The data used in this report are either combined (premium, losses, expenses) or averages of the two (2) separate lines (percentages for ratios, expenditures, expenses) so that comparisons may be made to prior years when the lines were combined.

As previously mentioned in last year's report, the filed actions by county data are no longer captured or available from the West Virginia Board of Risk and Insurance Management (BRIM). W. Va. Code §29-12B-1 contains a sunset provision stating the Patient Injury Compensation Fund would no longer assess additional fees on claims after December 31, 2021. The West Virginia Board of Medicine data will continue to be included within this report.

Countrywide Medical Malpractice Insurance Results

Medical professional liability insurance, sometimes known as medical malpractice insurance, is a type of professional liability insurance which protects physicians/surgeons, other licensed healthcare professionals and facilities such as hospitals and nursing homes from liability associated with wrongful practices resulting in bodily injury, medical expenses, property damage, and covers the cost of defending lawsuits related to such claims.

When analyzing the West Virginia medical malpractice market results, it is important to understand how the state level market compares to countrywide results. While the West Virginia market is obviously a much smaller premium scale and without the law of large numbers to predict trends and projections more accurately, a comparison to countrywide results remains a relevant method of determining current market conditions.

According to the 2023 Best's Aggregates and Average publication that includes analyses on the year end 2022 data, the current medical professional liability countrywide direct combined ratio result is averaged at 102.6%, the seventh consecutive year of industry loss. A combined ratio includes claim losses and insurer expenses divided by earned premiums. A combined ratio of 102.6% means that for every \$1.00 an insurer charges in premium, \$1.03 is spent on losses and expenses.

The tables below display the countrywide medical professional liability industry direct combined ratios. This is where you will notice the previously mentioned separation of data by occurrence and claims-made lines into different datasets. A. M. Best and NAIC no longer combine the annual data and instead report the once aggregated data as separate variables. Each table has a highlight to identify the line of insurance data reported.

CUMULATIVE BY LINE UNDERWRITING EXPERIENCE - DIRECT PREMIUMS WRITTEN											
MEDICAL PROFESSIONAL LIABILITY (OCCURRENCE)											
LINES OF BUSINESS	Year	Direct Premiums Written (000)	Direct Premiums Earned (000)	Ratios To Direct Premiums Earned			Ratios To Direct Premiums Written			Dividends to Policy-holders	Combined Ratio After Div
				Losses Incurred	Loss Adj Expenses Incurred	Losses & Adj Expenses Incurred	Comms & Brokerage Incurred	Other Under-Writing Expenses Incurred	Total Under-Writing Expenses Incurred		
MEDICAL PROFESSIONAL LIABILITY (OCCURRENCE)	2013	-	-	-	-	-	-	-	-	-	-
	2014	-	-	-	-	-	-	-	-	-	-
	2015	-	-	-	-	-	-	-	-	-	-
	2016	-	-	-	-	-	-	-	-	-	-
	2017	-	-	-	-	-	-	-	-	-	-
	2018	-	-	-	-	-	-	-	-	-	-
	2019	-	-	-	-	-	-	-	-	-	-
	2020	-	-	-	-	-	-	-	-	-	-
	2021	-	-	-	-	-	-	-	-	-	-
	2022	2,525,573	2,497,797	54.4	26.8	81.3	10.9	12.9	23.8	0.3	105.4
	TOTALS	2,525,573	2,497,797	54.4	26.8	81.3	10.9	12.9	23.8	0.3	105.4

CUMULATIVE BY LINE UNDERWRITING EXPERIENCE - DIRECT PREMIUMS WRITTEN											
MEDICAL PROFESSIONAL LIABILITY (CLAIMS MADE)											
LINES OF BUSINESS	Year	Direct Premiums Written (000)	Direct Premiums Earned (000)	Ratios To Direct Premiums Earned			Ratios To Direct Premiums Written			'Dividends to Policy-holders	Combined Ratio After Div
				Losses Incurred	Loss Adj Expenses Incurred	Losses & Adj Expenses Incurred	Comms & Brokerage Incurred	Other Under-Writing Expenses Incurred	Total Under-Writing Expenses Incurred		
MEDICAL PROFESSIONAL LIABILITY (CLAIMS MADE)	2013	-	-	-	-	-	-	-	-	-	-
	2014	-	-	-	-	-	-	-	-	-	-
	2015	-	-	-	-	-	-	-	-	-	-
	2016	-	-	-	-	-	-	-	-	-	-
	2017	-	-	-	-	-	-	-	-	-	-
	2018	-	-	-	-	-	-	-	-	-	-
	2019	-	-	-	-	-	-	-	-	-	-
	2020	-	-	-	-	-	-	-	-	-	-
	2021	-	-	-	-	-	-	-	-	-	-
	2022	8,994,940	8,794,637	53.4	24.1	77.6	8.9	11.8	20.7	1.4	99.7
	TOTALS	8,994,940	8,794,637	53.4	24.1	77.6	8.9	11.8	20.7	1.4	99.7

The 102.6% averaged combined ratio considers 105.4% ratio from Occurrence data and 99.7% ratio from claims-made data. For comparative purposes, the historical combined medical professional liability table is provided below.

CUMULATIVE BY LINE UNDERWRITING EXPERIENCE - DIRECT PREMIUMS WRITTEN											
MEDICAL PROFESSIONAL LIABILITY											
LINES OF BUSINESS	Year	Direct Premiums Written (000)	Direct Premiums Earned (000)	Ratios To Direct Premiums Earned			Ratios To Direct Premiums Written			'Dividends to Policy-holders	Combined Ratio After Div
				Losses Incurred	Loss Adj Expenses Incurred	Losses & Adj Expenses Incurred	Comms & Brokerage Incurred	Other Under-Writing Expenses Incurred	Total Under-Writing Expenses Incurred		
MEDICAL PROFESSIONAL LIABILITY	2013	9,665,084	9,743,829	39.5	23.9	63.5	7.0	14.0	21.0	4.0	88.5
	2014	9,532,881	9,595,373	40.1	25.6	65.7	7.2	14.1	21.3	3.3	90.3
	2015	9,195,726	9,356,483	42.3	27.1	69.4	7.7	18.1	25.9	3.6	98.9
	2016	9,084,805	9,138,519	48.4	29.4	77.7	7.9	15.7	23.7	3.3	104.7
	2017	9,006,990	9,033,873	49.1	25.2	74.3	8.3	14.8	23.1	2.7	100.1
	2018	9,122,639	9,157,729	47.6	27.2	74.9	8.7	14.3	23.1	2.5	100.4
	2019	9,580,369	9,407,115	56.7	29.3	86.0	8.9	14.2	23.1	2.1	111.2
	2020	9,954,753	9,755,162	56.2	28.1	84.4	9.0	13.2	22.2	1.9	108.4
	2021	10,914,867	10,586,434	54.2	27.4	81.6	9.3	36.4	45.7	128.4	255.7
	2022	-	-	-	-	-	-	-	-	-	-
	TOTALS	86,058,114	85,774,517	48.3	27.0	75.3	8.2	17.5	25.8	18.4	119.5

The industry loss duration and severity over the most recent seven (7) years are an indicator that medical malpractice liability has entered a hard market across the nation. In the insurance industry, a hard market is the upswing in a market cycle, when premiums increase and capacity for most types of insurance decreases. This can be caused by several factors, including falling investment returns for insurers, increases in frequency or severity of losses, demographics including legal or political landscapes or in most recent years, COVID-19 effects on the industry and practices. Insurance markets are cyclical in nature, and it is impossible to estimate the duration of hard or soft markets.

In long tail lines of insurance, investment return is an important part of an insurance expense exhibit and the solvency of an insurer. Fluctuating returns on equity or surplus can affect the reasonableness of profitability for a market. The direct combined ratios tables include the combined ratio after dividends but does not include investment gains or other income. While A.M. Best does not provide investment percentages for the direct premiums, they do consider investment gain percentages for the net premium overall operating ratio.

The difference between net and direct premiums is that net premium represents premiums written minus premiums ceded to reinsurance companies whereas direct premiums do not include any reinsurance adjustments. Ceded reinsurance refers to the portion of liability that a primary insurer passes to a reinsurer. In exchange for taking on the liability, the reinsurance company receives a premium from the primary insurer and pays for claims they accept. Both net and direct premium datasets provide insight into market conditions from two different outlooks; the net premiums show a specific insurer's experience based on reinsurance contracts while direct premiums show market results in real time with no adjustments on who pays for the losses; insurer or reinsurer.

The net premium overall operating ratios (including dividends and investment gains) are shown below.

CUMULATIVE BY LINE UNDERWRITING EXPERIENCE - NET PREMIUMS WRITTEN													
MEDICAL PROFESSIONAL LIABILITY (OCCURRENCE)													
LINES OF BUSINESS	Year	Net Premiums Written (000)	Net Premiums Earned (000)	Ratios To Net Premiums Earned			Ratios To Net Premiums Written			Dividends to Policy-holders	Combined Ratio After Div	Inv Gain on Funds & Other Income	Overall Operating Ratio
				Losses Incurred	Loss Adj Expenses Incurred	Losses & Adj Expenses Incurred	Comms & Brokerage Incurred	Other Under-Writing Expenses Incurred	Total Under-Writing Expenses Incurred				
MEDICAL PROFESSIONAL LIABILITY (OCCURRENCE)	2013	-	-	-	-	-	-	-	-	-	-	-	-
	2014	-	-	-	-	-	-	-	-	-	-	-	-
	2015	-	-	-	-	-	-	-	-	-	-	-	-
	2016	-	-	-	-	-	-	-	-	-	-	-	-
	2017	-	-	-	-	-	-	-	-	-	-	-	-
	2018	-	-	-	-	-	-	-	-	-	-	-	-
	2019	-	-	-	-	-	-	-	-	-	-	-	-
	2020	-	-	-	-	-	-	-	-	-	-	-	-
	2021	-	-	-	-	-	-	-	-	-	-	-	-
	2022	2,520,663	2,491,418	54.9	25.1	80.0	12.6	13.1	25.7	0.4	106.0	15.8	90.3
	TOTALS	2,520,663	2,491,418	54.9	25.1	80.0	12.6	13.1	25.7	0.4	106.0	15.8	90.3

CUMULATIVE BY LINE UNDERWRITING EXPERIENCE - NET PREMIUMS WRITTEN													
MEDICAL PROFESSIONAL LIABILITY (CLAIMS MADE)													
LINES OF BUSINESS	Year	Net Premiums Written (000)	Net Premiums Earned (000)	Ratios To Net Premiums Earned			Ratios To Net Premiums Written			Dividends to Policy-holders	Combined Ratio After Div	Inv Gain on Funds & Other Income	Overall Operating Ratio
				Losses Incurred	Loss Adj Expenses Incurred	Losses & Adj Expenses Incurred	Comms & Brokerage Incurred	Other Under-Writing Expenses Incurred	Total Under-Writing Expenses Incurred				
MEDICAL PROFESSIONAL LIABILITY (CLAIMS MADE)	2013	-	-	-	-	-	-	-	-	-	-	-	-
	2014	-	-	-	-	-	-	-	-	-	-	-	-
	2015	-	-	-	-	-	-	-	-	-	-	-	-
	2016	-	-	-	-	-	-	-	-	-	-	-	-
	2017	-	-	-	-	-	-	-	-	-	-	-	-
	2018	-	-	-	-	-	-	-	-	-	-	-	-
	2019	-	-	-	-	-	-	-	-	-	-	-	-
	2020	-	-	-	-	-	-	-	-	-	-	-	-
	2021	-	-	-	-	-	-	-	-	-	-	-	-
	2022	8,048,272	7,864,001	52.5	23.6	76.0	9.0	14.5	23.5	1.6	101.2	8.1	93.0
	TOTALS	8,048,272	7,864,001	52.5	23.6	76.0	9.0	14.5	23.5	1.6	101.2	8.1	93.0

West Virginia Medical Malpractice Insurance Results

The prior section provided insight into the countrywide market results; we will now compare that experience to the West Virginia market. Since 2016, the countrywide medical professional liability line has generated negative underwriting results while the West Virginia line has historically performed better overall. The table below outlines the changes by component of the most recent combined ratio, including dividends and excluding investment gains, for the West Virginia data compared to the countrywide data.

West Virginia Direct Premium Data - NAIC					
Year	Loss	LAE	Expense	Dividends	Combined Ratio
2021	63.3%	24.2%	14.9%	0.6%	103.0%
2022	49.9%	21.8%	14.5%	0.1%	86.3%
Change	(21.2%)	(9.9%)	(2.7%)	(0.5%)	(16.2%)

Countrywide Direct Premium Data – A.M. Best					
Year	Loss	LAE	Expense	Dividends	Combined Ratio
2021	54.2%	27.4%	45.7%	128.6%	255.9%
2022	53.9%	25.5%	22.3%	0.9%	102.6%
Change	(0.3%)	(1.9%)	(23.4%)	(127.7%)	(153.3%)

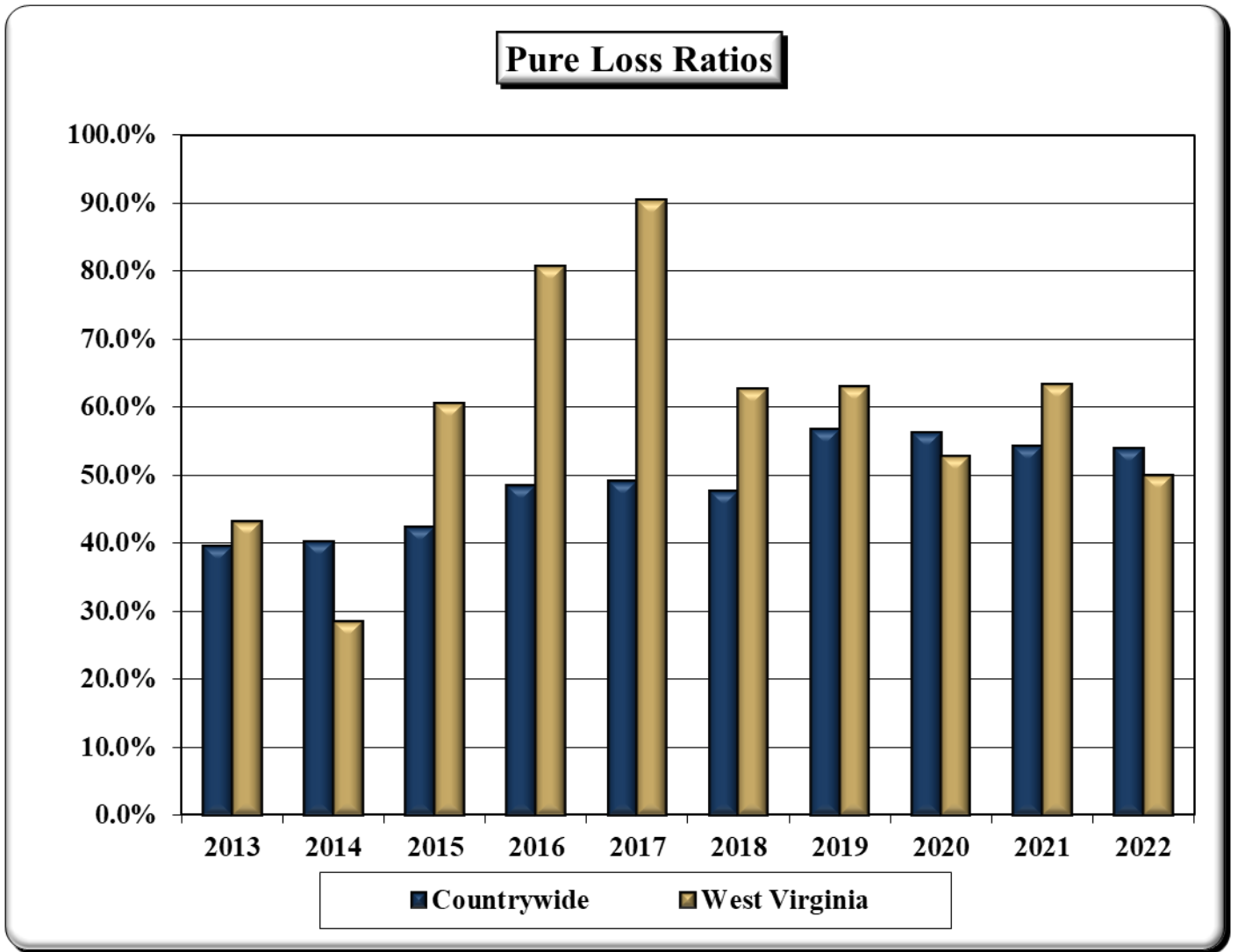
The loss portion of the ratio includes monies paid by an insurer for medical malpractice losses. Loss adjustment expense (LAE) includes insurer expenses that are associated with investigating and managing claims. Expenses include commissions, taxes, salaries, company overhead costs and any other costs not specifically related to claims. Dividends are payments returned to the policyholder due to better-than-expected company results and are not guaranteed for any policy term or year. As you can see in the countrywide data shown above, there is a substantial variation in the 2021 – 2022 data: specifically for expense and dividends. As noted in last year’s report, the 2021 data from A. M. Best likely had reporting errors but to date, those errors remain, and the data remains unchanged for 2021. The 2022 data is aligned with the pre-2021 levels and appears more credible than the 2021 percentages. While we have provided comparisons for the yearly data, we would caution using the comparison in any analysis or reporting due to apparent outliers that occurred in the 2021 countrywide reports.

While it may not be a balanced comparison due to two separate data sources of information and the anomalies previously noted in the countrywide data, it may be construed that the West Virginia combined ratio is 18.9% lower than the countrywide direct combined ratio. It is again important to note the volatility in the West Virginia market and the impact that a single claim may have on the entire market so ups and downs are expected in a year-to-year comparison.

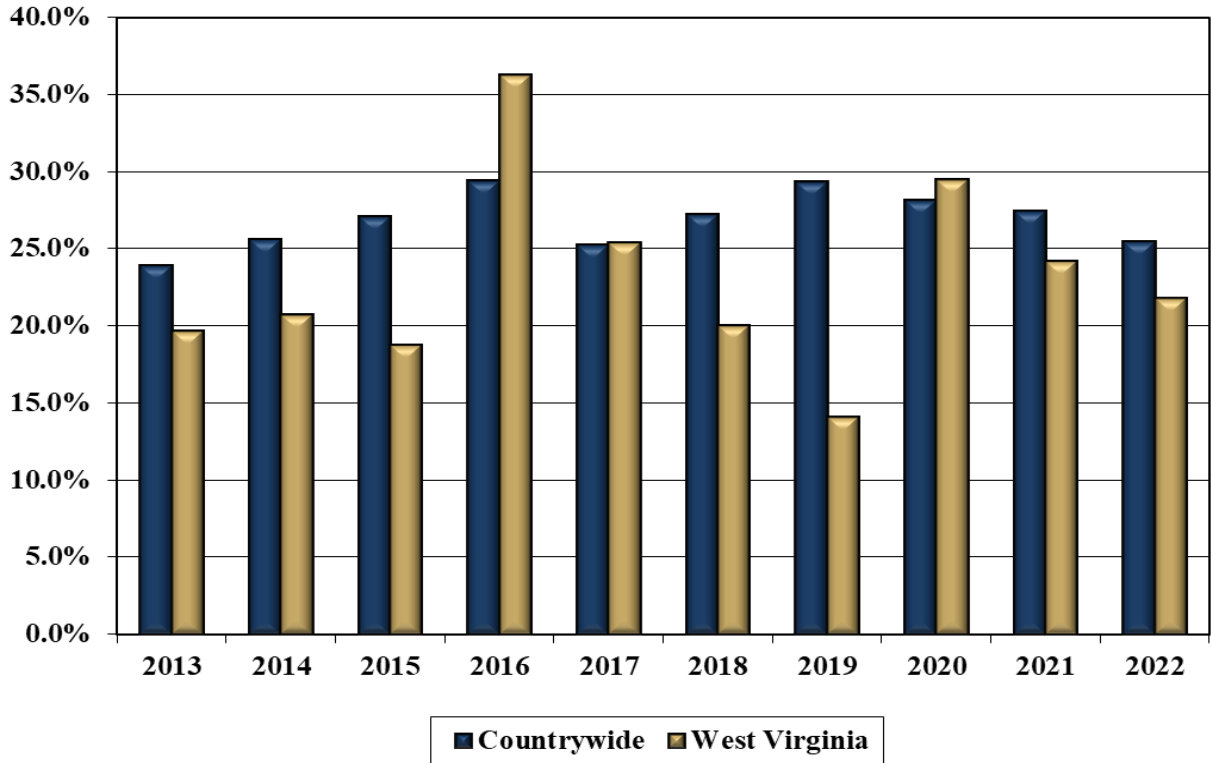
The following observations and exhibits provide a comparison of the medical professional liability line of insurance for the countrywide industry compared to West Virginia experience for the past ten years. In reviewing this exhibit, a few key areas of difference are noted.

- West Virginia medical malpractice earned premiums increased 13.2% from the 2021 premium level to the 2022 premium level with written premiums increasing by 13.3%. The current earned premium level is nearing the 2014 premium level and has shown an increase in the last three (3) years.
- The West Virginia pure loss ratio (incurred losses / total earned premiums) decreased 21.2% in 2022. The 2022 pure loss ratio is the lowest ratio since 2014. While it may appear that premiums are increasing while the losses are decreasing, you cannot compare ratemaking components on a single year basis. Many years of experience and losses are included in the ratemaking process to ensure premium covers the anticipated losses and current loss reserves. The loss ratio graph later in this report will show the volatility of this ratio in current and historical years.
- Loss allocated expenses (LAE) decreased 9.9% from the 2021 level. These expenses include legal fees, court costs, expert witnesses, investigation costs, costs of records duplications, trial preparations, etc. West Virginia's 2022 LAE is 14.5% lower than countrywide but a 10-year average shows only a 3% difference. LAE is another component that is volatile on a year-to-year basis and dependent upon the type of claims filed and paid within any given year.
- The 2022 underwriting expenses decreased 2.7% from the 2021 expense percentage. The underwriting expense has the least volatility of all cost and loss components. A 10-year average is 14.1% and the 2022 percentage is 14.5%. The expense cannot be compared to the countrywide change due to the reporting anomaly in the A. M. Best data that has been previously mentioned in this report.
- The West Virginia 2022 combined ratio decreased by 16.2% and is 86.3%, which indicates a marginal profit for the market. The 2022 loss ratio is at its lowest point since 2014. The 49.9% pure loss ratio is the driver of profitable combined ratio. The combined loss ratio does not include investment gains. As medical malpractice liability insurance is a long tail line, investment gain may offset some of the loss by approximately 3% (industry standard discounting for gains) even during potential recessive economies or hard markets. Combined ratios have traditionally been volatile due to frequency, severity, and types of claims variances within the relatively small West Virginia market.

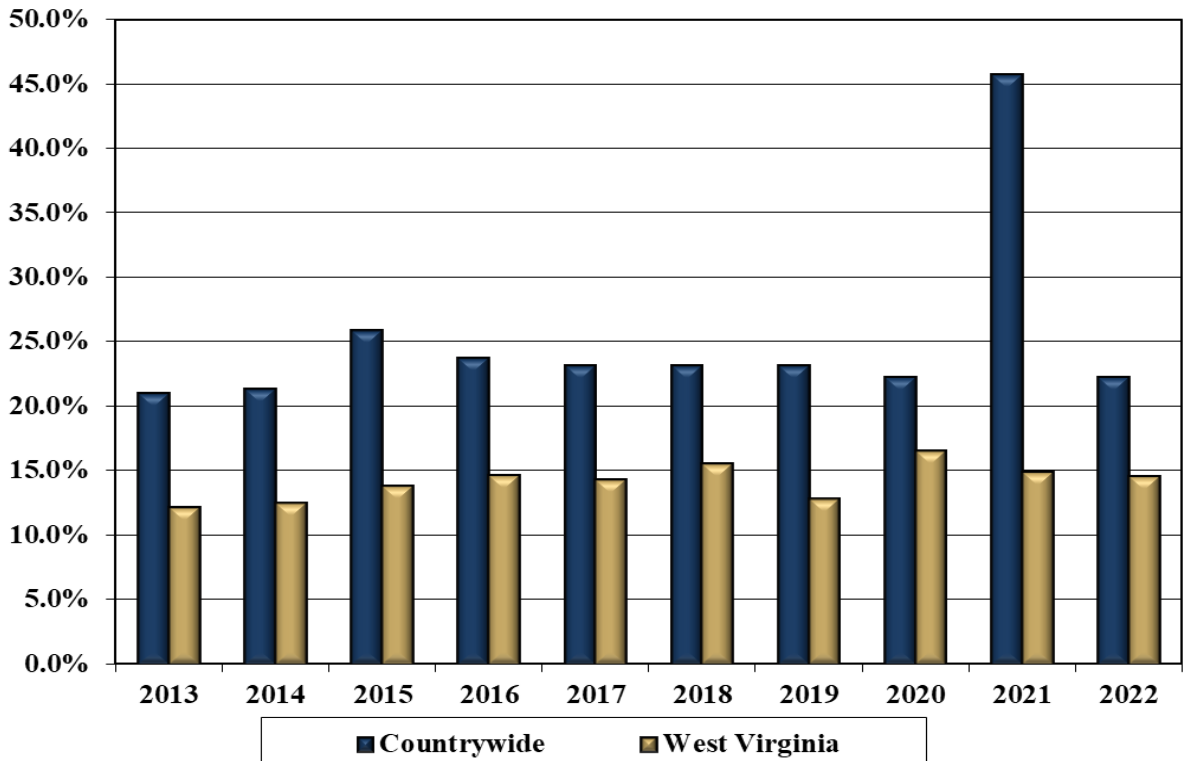
Visual graphics are provided below to show the comparisons in countrywide and West Virginia experience by market components.



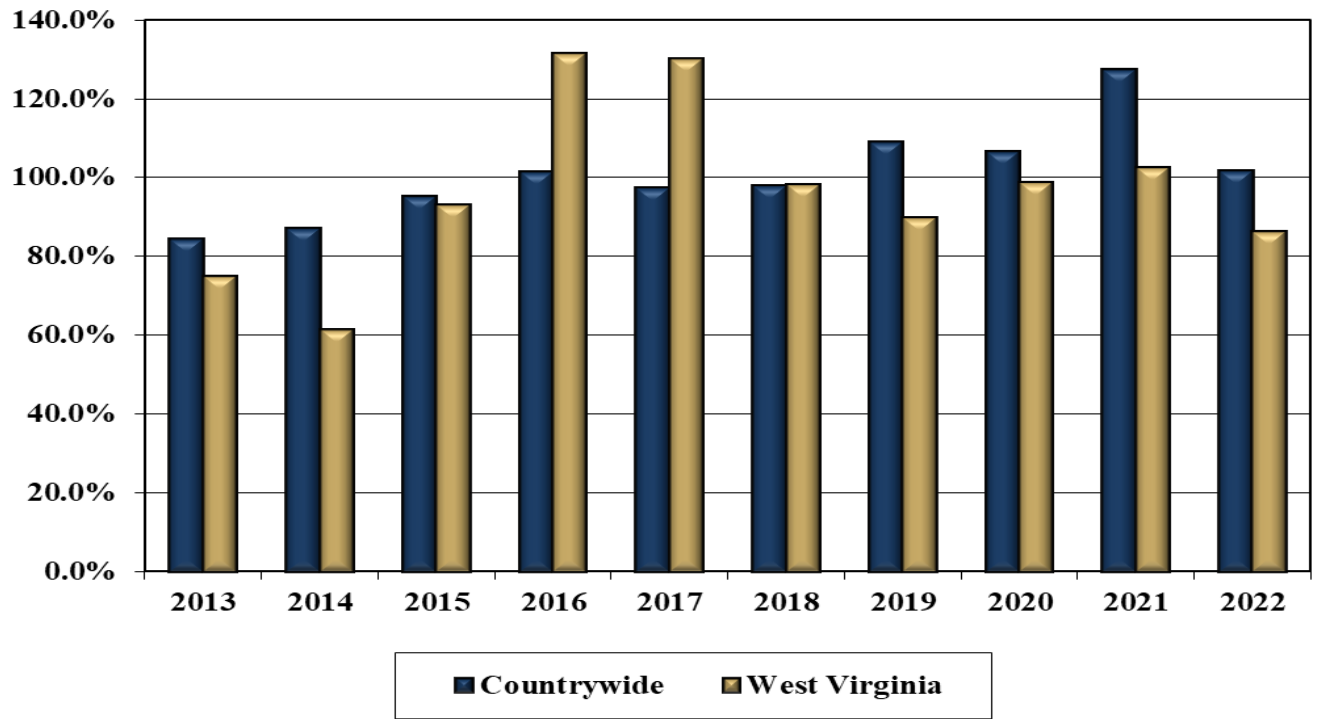
Loss Adjustment Expense (LAE)



Underwriting Expense

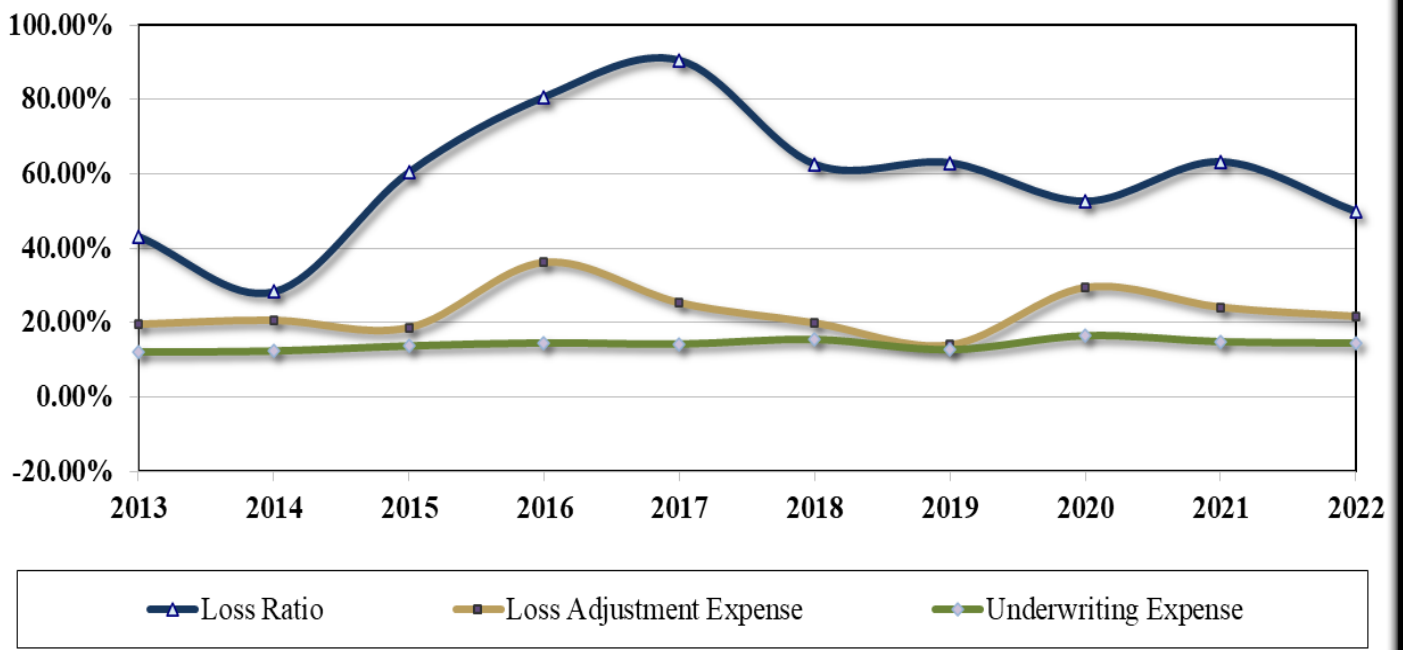


Direct Combined Ratios

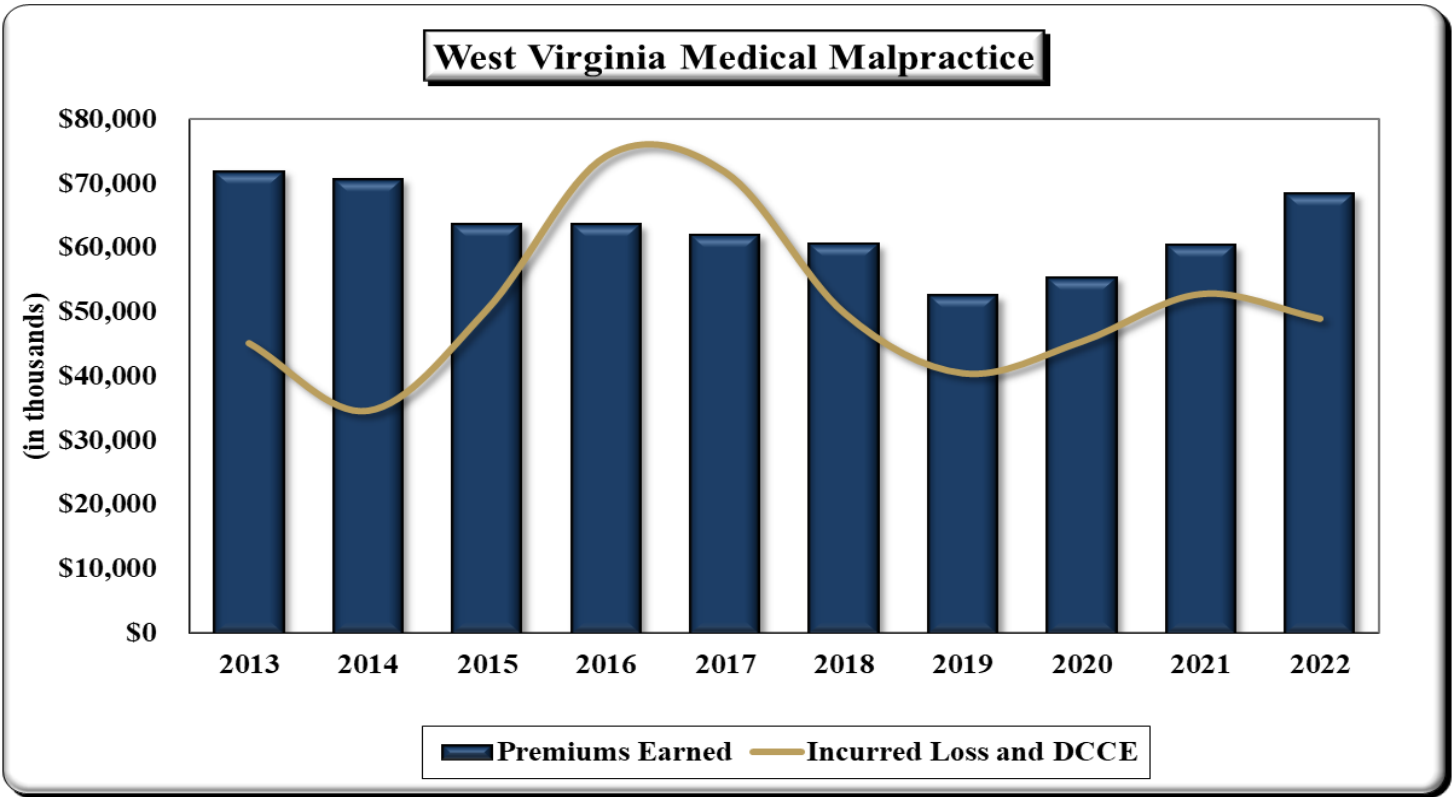
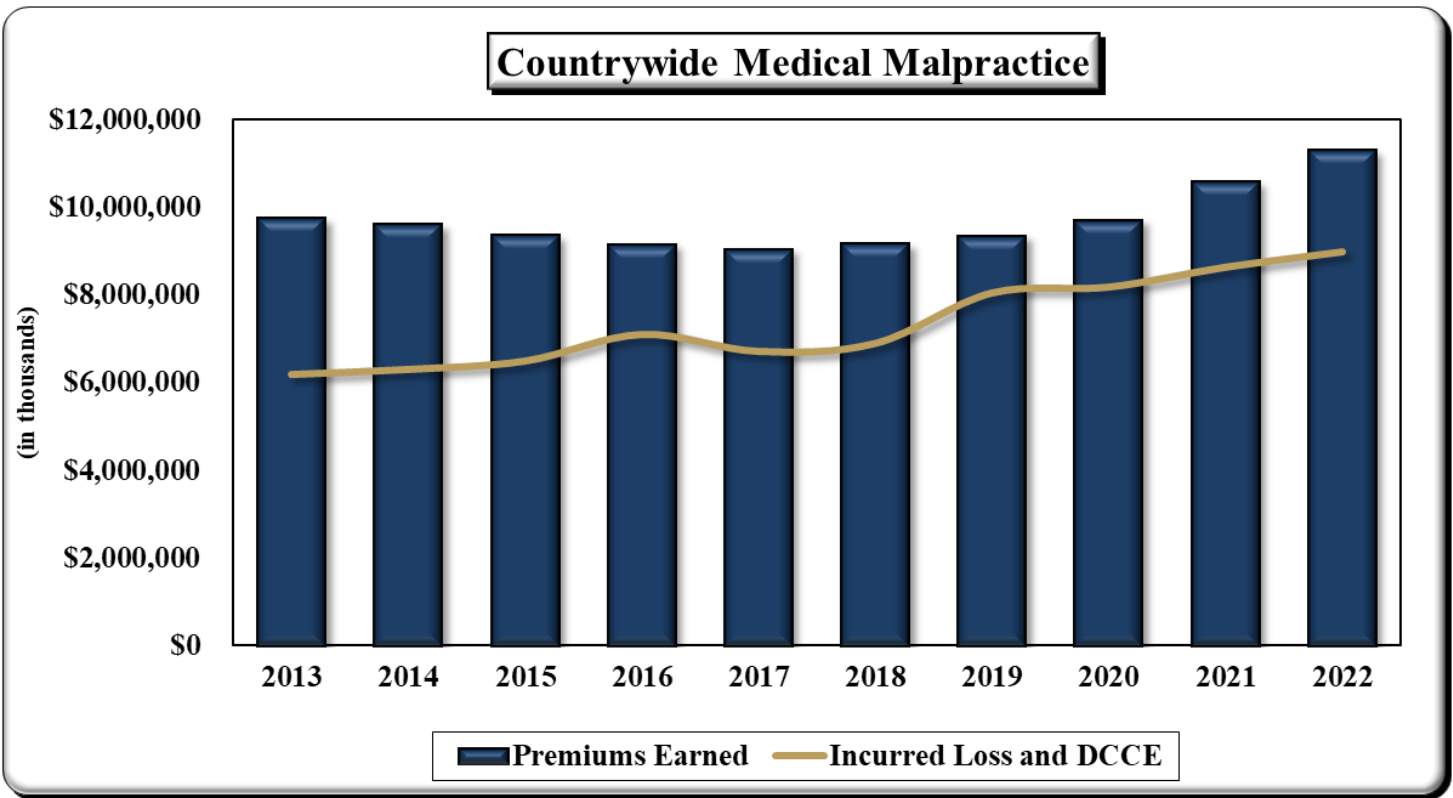


The combined loss ratio summary graph below indicates the West Virginia medical malpractice line continues to exhibit volatile direct loss ratios, moderate loss adjustment expenses and generally stable underwriting expenses.

Combined Ratio Expense Components



The following graphs provide a visual representation of the historical countrywide and West Virginia earned premiums and loss information that includes incurred loss amounts and LAE components such as defense cost containment expenses (DCCE), where DCCE includes all expense related to defense and litigation costs, both internal and external to an insurer.



The premium and loss charts compare incurred losses and DCCE for the countrywide industry and the comparable figures for the West Virginia market. The 2022 West Virginia incurred losses were \$34,133,727 and DCCE incurred was \$14,879,765 for a total of \$49,013,492. The loss and DCCE expenses in West Virginia had far exceeded earned premiums until tort reform in medical malpractice in 2003. When considering the last ten years, the incurred losses and DCCE have averaged 82.5% of the earned premiums. The 2022 West Virginia results performed better than countrywide data with West Virginia achieving a 71.7% loss to premium ratio while the countrywide loss to premium ratio was 79.5% for a difference of 9.8%.

While not part of DCCE, it is prudent to provide the 2022 commissions and taxes, licenses, and fees as these are considered in the combined ratio as underwriting expenses paid by the insurer. There was \$7,770,595 paid in commissions/brokerage expenses and \$2,171,076 paid for taxes, licenses, and fees for a total underwriting expense of \$9,941,671.

The table below displays the 2022 West Virginia aggregate totals by component as reported by insurers on the annual statements to NAIC on a business written basis.

Direct Premiums Written	Direct Premiums Earned	Dividends	Direct Losses Paid	Direct Losses Incurred	Direct Defense and Cost Containment Expense Paid	Direct Defense and Cost Containment Expense Incurred	Commission and Brokerage Expenses	Taxes, Licenses and Fees
\$72,047,593	\$68,360,341	\$83,150	\$30,023,451	\$34,133,727	\$11,714,356	\$14,879,765	\$7,770,595	\$2,171,076

Closed Claims Analysis

A medical malpractice claim occurs when a hospital, doctor, or other healthcare professional, through a negligent act or omission, causes an injury or harm to a patient. The negligence may be the result of errors in diagnosis, treatment, pre- or post-care or health management. West Virginia Code §33-20B-8 requires insurers report closed claim information to the WVOIC. This section will provide insight into closed claims data as reported by insurers to both the West Virginia Board of Medicine and the WVOIC.

The Board of Medicine (BOM) information is not insurance data; but is information provided by insurers to the West Virginia Board of Medicine about medical malpractice claims after the disposition and has not been audited for accuracy. Disposition means any claim which has been dismissed, settled, or adjudicated. While not considered insurance data, this information is useful in attempting to identify trending of the market over time because even with twenty years of data, the number of claims and loss dollars are not at credible levels needed for analysis. Additionally, note that the BOM information does include Board of Risk and Insurance Management (BRIM) claims and self-insured claims.

A summary of the 2022 BOM claims is provided below:

Action Type	Count of Action	Amount of Action
Judgment in Legal Action	2	\$261,250
Settlement	78	\$23,633,557
Total	80	\$23,894,807

The exhibit below displays paid claim count information for 2013 – 2022.

Year	Judgments		Settlements	
	\$0 Awards	Total	Total	Total
2013	1	3	87	90
2014	3	3	119	122
2015	2	3	120	123
2016	4	5	140	145
2017	2	3	114	117
2018	0	0	99	99
2019	0	2	92	94
2020	0	0	67	67
2021	0	0	91	91
2022	0	2	78	80
Total	12	21	1,007	1,028

In general, the number of claims filed have dropped significantly since the passage of 2001 legislation. After a large decrease in 2020, the 2021 and 2022 claims are more in-line with recent history. The 2020 claim count of 67 may have been lower due to the COVID-19 restrictions rather than actual claim decreases. The 2013-2022 average is 103 claims per year, so the last five (5) years have resulted in less than average claim counts. The claims costs vary year-to-year due to the nature and types of claims, so severity trending is not statistically reliable.

As noted in the historical action table, claims are nearly always settled outside of courtrooms, notably in more recent years. This is likely the reason why the West Virginia loss adjustment expenses and DCCE costs have historically been lower than countrywide. Generally, claims are settled so that an insurer knows the ultimate cost outcome rather than leaving an award up to chance by a jury or court. Settlements are not uncommon in any line of insurance and are both preferred and prevalent in long tail lines such as medical malpractice.

The above summaries were based on data received from the West Virginia Board of Medicine. In accordance with §33-20B-8, the WVOIC also collects claim data from insurers. The method of collecting claim data was revised by the WVOIC in May 2017. Previously, insurers were required to complete and return paper forms to the WVOIC via email, postal mail, or fax. Once received, the data would be manually entered into a repository claim database by WVOIC personnel. In 2017, the WVOIC created and implemented an electronic, web-based module that replicated the form. This allowed insurers to complete the form online and submit to the WVOIC in real time thus saving time and money for insurers and WVOIC personnel. The online portal is continually reviewed and updated as needed by the WVOIC for data validation and accuracy of user inputs.

As a result of the modernization and ongoing data quality improvements the WVOIC has implemented, along with increased insurer awareness and data reporting training, the closed claims reported as of May 2017 to current will be used in the analysis contained within this report. In this and future annual reports, year-to-year comparisons will not be possible until validated claims entered into the database have been in use for multiple years. The WVOIC places more value on smaller, credible datasets rather than larger quantities of unreliable data.

A medical malpractice claim includes four (4) damage components and an insurer expense component. Claim components and definitions of each follow:

Indemnity Paid – Indemnity payments include all compensation paid to claimants or plaintiffs.

Economic Damages Paid – Economic damages are monies awarded as compensation for monetary losses and expenses which the plaintiff has incurred, or is reasonably likely to incur in the future, as a result of the defendant's negligence. This includes:

- Medical care and future expenses
- Loss of earnings
- Loss of earning capacity

Non-Economic Damages Paid – Non-economic damages are monies awarded as compensation for non-monetary losses and injuries which the plaintiff has suffered, or is reasonably likely to suffer in the future, as a result of the defendant's negligence. This includes:

- Mental distress and suffering
- Loss of enjoyment of life
- Loss of consortium
- Disfigurement

Punitive Damages Paid – Punitive damages are monies awarded when it can be proven that a medical professional deliberately and maliciously caused serious harm to the patient. These damages are rarely awarded because the burden of proof falls to the claimant or plaintiff.

Loss Adjustment Expense (LAE) Paid – Expenses paid by the insurer in the process of administering or adjudicating a claim. The claimant/plaintiff does not receive these monies as part of an award.

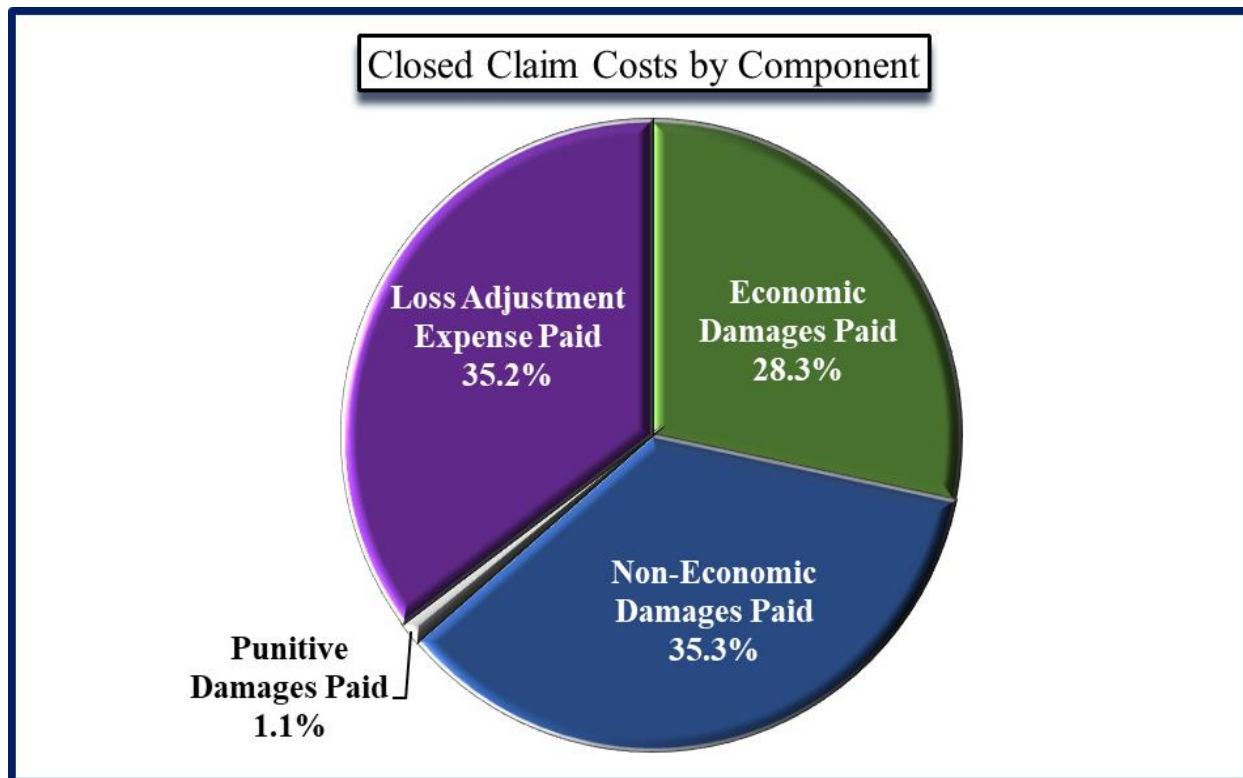
As mentioned in the definitions above, the indemnity payments should display the total amount paid to the plaintiff and the economic, non-economic and punitive damages should equal the indemnity payments to show the allocation of the damages. However, the historical data, and some more recent claim reports to the WVOIC, prove that is not always the case even though reporting instructions are clearly stated. The WVOIC cleansed and validated the data as much as possible prior to analysis but cautions that the reported claim data may not be fully credible. The WVOIC has taken steps to ensure this is not the case for future reporting by implementing validation rules embedded within the online medical malpractice reporting form.

For this report, the WVOIC is providing claim information as was reported directly by the insurer via the online claims reporting portal. While this is not a full history a claims information, the data is more accurate and uses current data validation techniques in the reported claims.

The summary below represents all claims reported including all professional codes such as physician and surgeons, nurses, hospitals, nursing homes, clinics, dentists, chiropractors, and podiatrists. The data table represents claims reported to the WVOIC as of August 2, 2023.

Claim Closed Year	Count of Claims	Indemnity Paid	Economic Damages Paid	Non-Economic Damages Paid	Punitive Damages Paid	Loss Adjustment Expense Paid
2013	2	\$0	\$0	\$0	\$0	\$8,806
2014	1	\$0	\$0	\$0	\$0	\$8,756
2015	1	\$0	\$0	\$0	\$0	\$4,154
2016	48	\$6,533,165	\$725,000	\$800,000	\$0	\$1,337,799
2017	151	\$74,669,078	\$7,198,781	\$6,867,787	\$0	\$31,066,299
2018	249	\$37,048,550	\$17,452,815	\$16,545,367	\$400,000	\$11,635,449
2019	275	\$31,993,559	\$11,916,330	\$13,116,536	\$0	\$10,632,368
2020	230	\$25,089,909	\$11,330,628	\$13,009,281	\$700,000	\$9,206,483
2021	226	\$40,712,243	\$14,268,555	\$25,355,212	\$1,088,476	\$13,801,675
2022	186	\$41,795,463	\$18,348,991	\$22,404,804	\$1,041,668	\$11,956,122
2023	84	\$8,590,262	\$2,301,924	\$6,138,005	\$150,333	\$14,101,095
Total	1,453	\$266,432,229	\$83,543,024	\$104,236,992	\$3,380,477	\$103,759,006

The chart below shows the allocation of indemnity payments by reported components and LAE expenses incurred by the insurer.



Considering that medical malpractice liability is a long tail line of insurance, it may be likely that the experience of later years will be subject to further adverse development. While these trends are important to understand the medical malpractice insurance and claim dynamics, it is important to realize that malpractice claims may take years to develop and/or be resolved through the litigation process and thus a year-to-year comparison may not be indicative of future trends or loss development.

Similar to the BOM data, we can also consider claim outcomes for the disposition of claims reported by the insurer to the WVOIC through the online reporting portal. Please note the claims costs provided in the data tables and analyses are not capped at policy limits and are analyzed using the dispositions and damage payments reported by the insurer. Claims data received via the online portal is not audited for accuracy by the WVOIC and is accepted as submitted by the insurer. Further, systemic cases may be counted as a single claim with high dollar payout which may affect averages and statistics.

Disposition	Claim Count	Indemnity Paid	Economic Damages Paid	Non-Economic Damages Paid	Punitive Damages Paid	LAE Paid
Settlement	814	\$265,098,897	\$83,376,325	\$103,081,366	\$3,380,477	\$86,910,604
Dismissal	334	\$435,706	\$166,699	\$258,000	\$0	\$11,503,788
Failure to Pursue/ Voluntarily Withdrawn	173	\$0	\$0	\$0	\$0	\$1,703,012
Lack of Certificate of Merit	75	\$0	\$0	\$0	\$0	\$256,844
Judgment	48	\$897,626	\$0	\$897,626	\$0	\$2,967,857
Closed	9	\$0	\$0	\$0	\$0	\$416,902
Total	1,453	\$266,432,229	\$83,543,024	\$104,236,992	\$3,380,477	\$103,759,006

Settlements account for the vast majority of the dispositions with 56.0% of overall claims. Settlements also account for 99.5% of overall indemnity payments and 83.8% of overall LAE payments. As shown above, many claims are closed with \$0 payments due to lack of merit, voluntarily withdrawn or dismissals. There were 672 claims, nearly half of the total, that were reportedly closed with \$0 indemnity payments. However, those claims accrued LAE costs of \$17,771,822 or 17.1% of overall LAE payments.

The next data table considers only the 781 claims that did have reported indemnity payments. By removing the \$0 paid claims, the remaining claims provide better per claim averages that are not skewed by outliers.

Disposition	Count	Indemnity Damages Paid	Economic Damages Paid	Non-Economic Damages Paid	Punitive Damages Paid	LAE Paid
Settlement	773	\$265,098,897	\$83,376,325	\$103,081,366	\$3,380,477	\$85,424,489
Dismissal	6	\$435,706	\$166,699	\$258,000	\$0	\$396,125
Judgment	2	\$897,626	\$0	\$897,626	\$0	\$166,570
Total	781	\$266,432,229	\$83,543,024	\$104,236,992	\$3,380,477	\$85,987,184

When considering the entire dataset of 1,453 reported claims the average indemnity paid per claim is \$183,367 with an average LAE paid of \$72,105 but when only considering the 781 claims with indemnity payments, the average paid per claim is \$341,142 and the average LAE paid is \$111,527.

Performing the same comparison and considering only 48 judgment claims from the entire dataset results in an average indemnity paid per claim of \$18,701 with an average LAE paid of \$63,146. When we remove the \$0 judgments and consider only the two (2) claims with indemnity payments, the average paid is \$448,813 with an average LAE of \$83,285. The average LAE for \$0 paid judgments is \$62,251. You will notice that the average LAE for both \$0 paid claims and non-\$0 paid claims is only 28.9% difference but with an average indemnity payment of nearly \$450,000 then it would make sense that judgments are not cost effective for the insurer and may result in unexpected and costly awards.

The same comparisons using the 814 settled claims from the entire dataset show an average indemnity paid per claim of \$325,674 with average LAE paid of \$108,098 but when only considering the 773 settlements with indemnity payments, the average settlement is \$342,948 and the average LAE is \$111,959. Based on those similar averages for claims payments, one may ask why settlements are the prevailing outcome with 773 claims compared to two (2) judgment rulings where both have very similar averages? The reasoning is the control of costs a settlement provides. There is generally less LAE involved, except in the larger systemic cases that require higher costs due to the amount of litigation involved. A judgment is an unknown cost which increases LAE for defense and legal preparation and may also result in a very large award or legal remedy to the plaintiff. It is unknown why there are 41 reported settlements with \$0 indemnity paid, but it is assumed that those claims are reporting errors from the insurer as 34 of them did include docket numbers for cases. Nineteen (19) of the 41 reported settlements had \$0 indemnity and \$0 LAE paid and again, these entries are assumed to be reporting errors but may include settlements where all future medical costs are covered but no indemnity was paid. The WVOIC will continue to attempt to verify data discrepancies for both the older claims and newly reported claims.

Review of 5% Market Share Insurer Data

The reporting of experience for insurance companies with 5% or more of the West Virginia medical malpractice direct written premium is mandated by:

[West Virginia Regulation §114CSR22](#)

[West Virginia Regulation §114CSR23](#)

[West Virginia Code §33-20B-6](#)

This section of the report reviews the rates and rules of insurers reporting 5% or greater premium market share of medical professional liability insurance. Two methods used to evaluate premium market share include premium reports based on a licensed basis and business written basis. Business written includes financial reports from excess and surplus lines insurers, whereas licensed reports exclude unlicensed company reports. Unlicensed companies are not subject to the same regulatory requirements as licensed companies, including the filing of and receiving approval of company rates and forms. Unlicensed companies must be admitted as a surplus lines company in order to do business in our State. While the majority of the analyses in this report use a business written approach to accurately capture the entirety of the industry for both premiums and claims costs, the market share request is based on licensed data. The reasoning for this method is due to regulatory authority. It was determined the 5% requirement applied to licensed (regulated) entities only.

This report previously included a narrative detailing a change made for 2022 in the medical professional liability reporting methodology by the NAIC and A. M. Best. The analyses in this report include a combination of occurrence and claims-made data. However, before this change was known, the WVOIC pulled the data extract to identify the licensed insurers meeting the 5% market share threshold. The initial data included only medical malpractice claims-made premium, so the 5% insurer requirement was based solely on claims-made premium. In future reports, insurers meeting the 5% premium market share for the combination of medical malpractice lines (occurrence and claims-made) will be required to submit supplemental data, but this report is based on claims-made only.

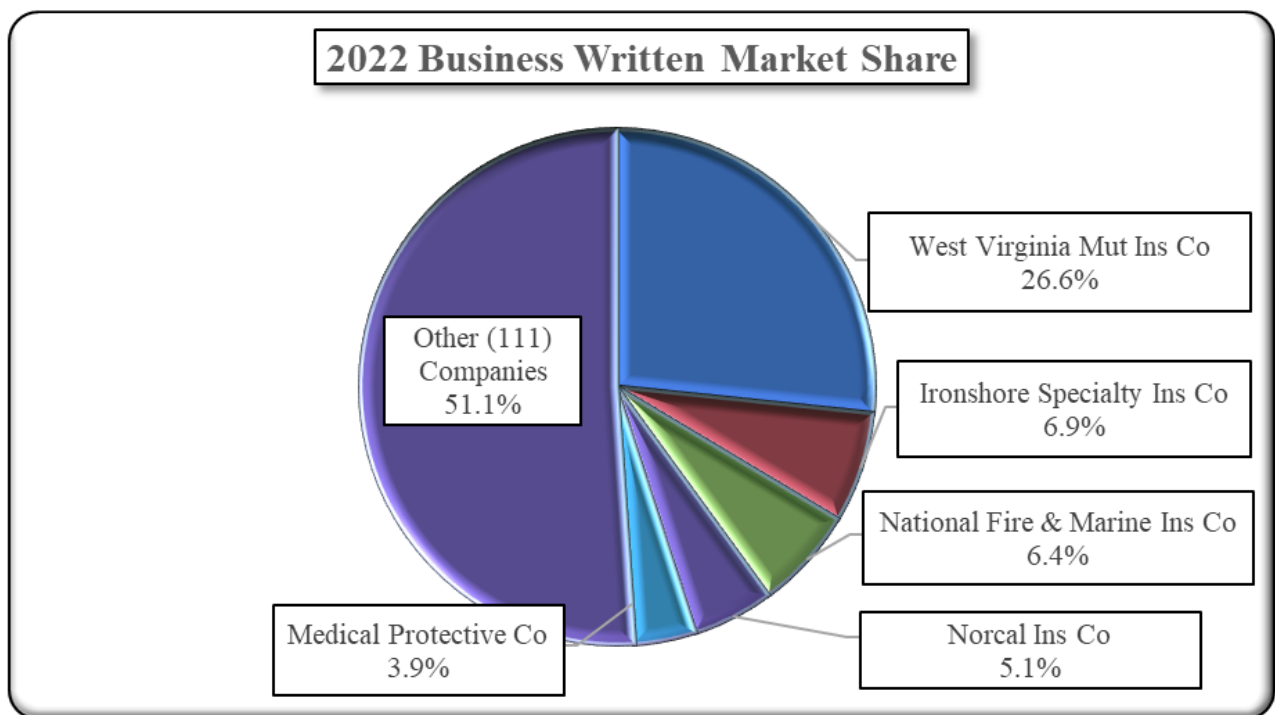
For calendar year 2022, if using the combined line business written report, then four (4) insurers would meet the 5% requirement. However, Ironshore Specialty Ins. Co. and National Fire & Marine Ins. Co. are surplus lines insurers that are outside of the Insurance Commissioner's regulatory authority to mandate a company response to comply with West Virginia Code.

When using the combined line licensed report, four (4) regulated insurers met the premium threshold requirement. However, with the initial data extract including only claims-made reports, three (3) regulated insurers met the market share requirement and were sent a notice to produce supplemental data as required by W.Va. Code §33-20B-6. The qualifying insurers were the West Virginia Mutual Insurance Company, NORCAL Mutual Insurance Company and Continental Cas Co. All three (3) insurers complied with the mandate and provided all required and supplemental data as directed by the WVOIC and W.Va. Code.

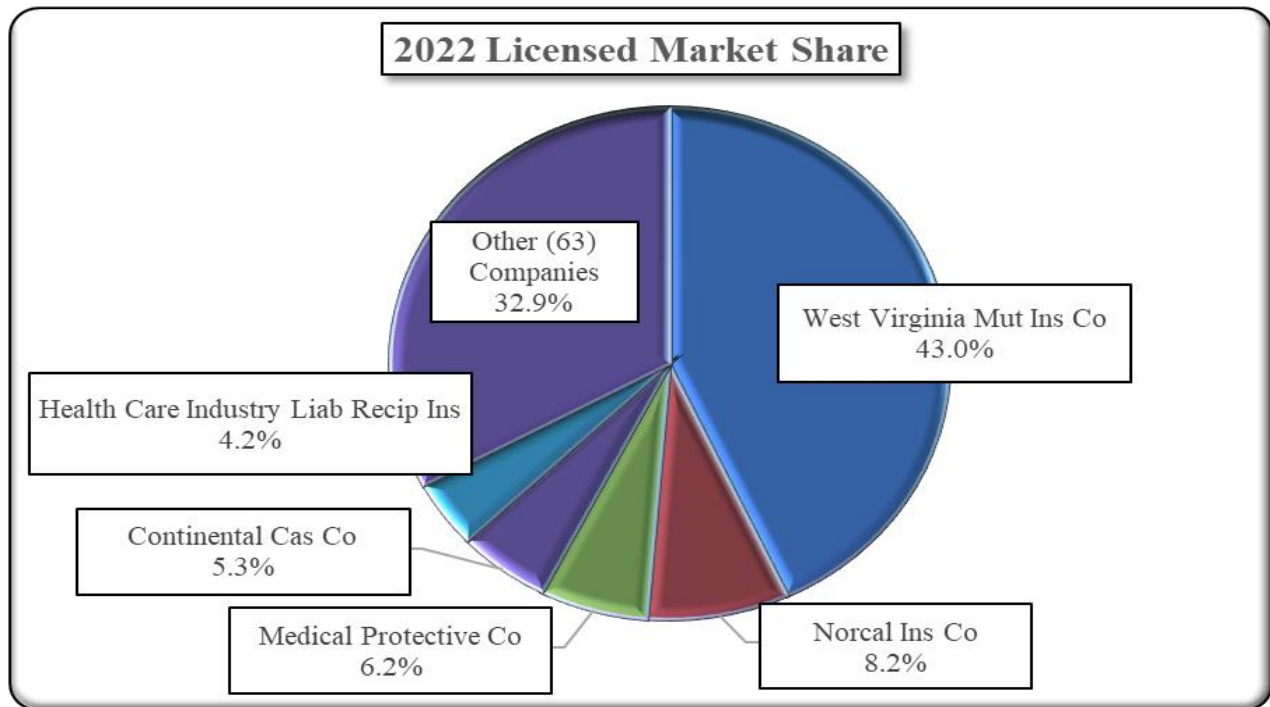
Medical Protective Co. would have met the 5% premium market share had the initial extract included combined occurrence and claims-made reported data so it is expected that next year’s report will require supplemental data from this insurer.

The charts below identify the top five (5) market share percentages by insurer for both business written and licensed premium using combined lines. The full table with all insurers reporting medical professional liability premiums in West Virginia for 2022 is provided as an exhibit at the conclusion of this report.

Based on business written premiums for 2022, the West Virginia medical malpractice market currently consists of the following insurers with the subsequent market share for each:



Based on licensed premiums for 2022, the West Virginia medical malpractice market currently consists of the following insurers and risk retention groups with the subsequent market share for each:



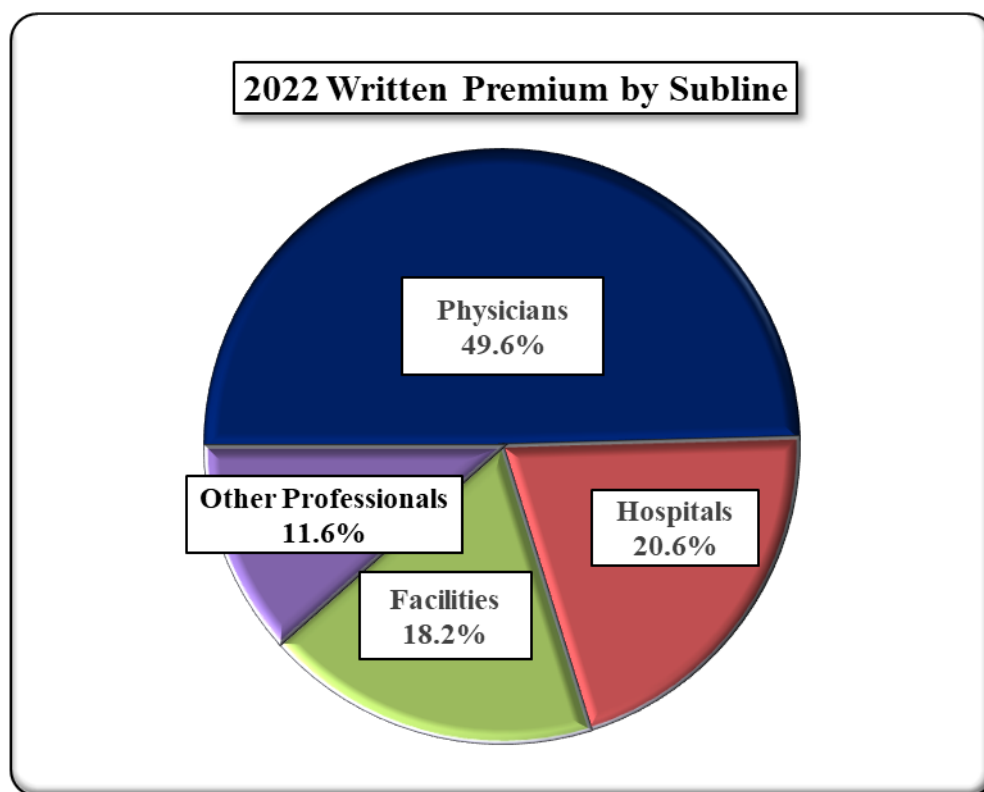
When evaluating the two reports for market share calculations, you can see there is a large disparity in the market share percentages by reporting basis. For instance, the West Virginia Mutual Ins. Co. reports 26.6% of the total business written premiums with 43.0% of the licensed premiums. When considering the overall direct written premiums from business written and licensed, the difference is more than \$27.4M (business written is \$72.0M and licensed is \$44.6M). Considering the difference of \$27.4M, it can be calculated that more than 47% of total medical professional liability premiums are written by surplus lines insurers, risk retention groups or other non-licensed entities. Surplus lines insurance fills an important need in the marketplace as they have the ability to accommodate a wider variety of risk and provides insurance for hard to place, unique or high-capacity risks where insurance coverage may not otherwise be available through a licensed insurer. However, there are also cons for surplus lines coverage such as premiums are generally more expensive and surplus lines insurers aren't subject to the same regulatory authority as a licensed insurer.

When comparing the premiums from year to year, it is notable that the business written premiums increased 10.5% and licensed premiums increased 15.4% from 2021 to 2022. These premium increases were not unexpected as current hard market conditions have led to many insurers filing rate increases and credit/debit adjustments that affect overall premium levels.

The medical professional liability premiums can be segmented into four sublines. The sublines are Physicians and Surgeons, Hospitals, Other Professionals and Facilities. Other Professionals coverage includes nurses, nurse practitioners, pharmacists, dentists, etc. Facilities coverage includes long-term care facilities, medical clinics and spas, surgery centers, etc.

The allocated business written combined medical professional liability premium by subline is shown in the table and chart below.

Subline	Direct Written Premium	Total Percentage	Difference from 2021
Physicians	\$35,706,011	49.6%	18.1%
Hospitals	\$14,877,456	20.6%	17.1%
Facilities	\$13,126,952	18.2%	(18.3%)
Other Professionals	\$8,337,174	11.6%	34.3%
Total	\$72,047,593	100.0%	10.5%



The table below displays the written premiums by subline for each of the insurers meeting the 5% market share threshold.

Insurer	Subline	Written Premium
West Virginia Mut Ins Co	<i>Physicians and</i>	\$19,187,715
	<i>Hospitals</i>	\$0
	<i>Facilities</i>	\$0
	<i>Other Professionals</i>	\$0
	Total	\$19,187,715
Norcal Mut Ins Co	<i>Physicians and</i>	\$3,673,075
	<i>Hospitals</i>	\$0
	<i>Other</i>	\$0
	Total	\$3,673,075
Continental Cas Co	<i>Physicians and</i>	\$0
	<i>Hospitals</i>	\$ 2,377,999
	<i>Other</i>	\$0
	Total	\$2,377,999

The next section of this report will review market positions and rate histories for each of the three (3) insurers.

West Virginia Mutual Insurance Company (WVMIC)

As a long-term solution to the availability of medical malpractice coverage in West Virginia, §33-20F established WVMIC and all policies previously insured as part of the BRIM II program novated to the company upon inception. The rate history of WVMIC since inception follows:

2022 Market Share	Company	Effective date	% Requested	% Granted*	Filing Number
26.6% (business written basis)	<i>West Virginia Mutual Ins Co</i>	1/1/2024	9.9%	Pending	MAGM-133769769
		1/1/2023	9.9%	9.9%	MAGM-133407329
		1/1/2022	9.9%	9.9%	MAGM-133000288
		1/1/2021	9.9%	9.9%	100054272
43.0% (licensed basis)		1/1/2020	0%	0%	100051088
		1/1/2019	0%	0%	100048474
		1/1/2018	0%	0%	100045368
		1/1/2017	0%	0%	100040549
		1/1/2016	0%	0%	100035423
		1/20/2015	0%	0%	100030006
		1/1/2014	0%	0%	100023353
		1/1/2013	0%	0%	100016727
		1/1/2012	(5.0%)	(5.0%)	100011255
		1/1/2011	0%	0%	100006008
		1/1/2010	0%	0%	90918009
		1/1/2009	0%	0%	80903007
		1/1/2008	0%	0%	70918006
		1/1/2007	(15.0%)	(15.0%)	60915016
		1/1/2006	(5.0%)	(5.0%)	50826007
		1/1/2005	10.2%	10.2%	41006013
		7/1/2004	Initial filing	Initial filing	40331017

* Does not include renewal credit adjustments

WVMIC was purchased by the MAG Mutual Insurance Group in 2020. With this acquisition, WVMIC's ratemaking methodology was impacted. WVMIC had previously used investment income from operations to offset indicated rate changes. MAG's approach is to use investment income generated from the premiums collected only to offset rate changes. It should be noted that MAG's use of premium investment income opposed to operations investment income more closely matches the industry standards used by most companies. This change impacted the ratemaking calculations by producing a substantial indicated rate increase.

The most recent indicated rate increases from annual rate filings are:

2020 – indicated 8.1%; requested 0%; approved 0%

2021 – indicated 36.1%; requested 9.9%; approved 9.9% and removal of 5% renewal credit

2022 – indicated 16.9%; requested 9.9%; approved 9.9%

2023 – indicated 9.9%; requested 9.9%; approved 9.9%

2024 – indicated 16.2%; requested 9.9%; pending approval

Prior to 2021 and the MAG acquisition, WVMIC had not filed for a rate change in several years as indicated by the rate filing history chart. In simplest terms, a rate increase is needed when projected costs exceed projected premium. The 2021 rate filing not only requested and received approval of a 9.9% rate increase but also eliminated the 5% renewal credit effective 1/1/2021. This was the first rate increase the company had filed since 2005; excluding the removal of renewal credits throughout the years. A similar 9.9% increase was filed and approved effective 1/1/2022 and another 9.9% increase effective on 1/1/2023. WVMIC has also filed an additional 9.9% rate increase to be effective 1/1/2024, which is currently pending approval from the Insurance Commissioner.

As the WVMIC’s 2022 market share for licensed companies is 43.0%, their results have a substantial impact on the overall market. As noted, the recent increased rate indications have been significantly influenced by the change in the calculation of investment income for ratemaking purposes.

NORCAL Mutual Insurance Company (NORCAL)

This insurer is domiciled in California and commenced business operations in November 1975. NORCAL’s business operations are focused on long-tail liability lines of business. They primarily write professional liability coverage for physicians and medical groups on a claims-made basis. They received their initial Certificate of Authority to write casualty insurance in West Virginia in September 2013.

In 2011, NORCAL purchased Medicus Insurance Company (Medicus). Medicus was the second largest premium writer of medical malpractice liability insurance in West Virginia from 2012 through 2015. The purchase of Medicus propelled NORCAL into a leading insurer of medical malpractice insurance in our state. NORCAL accepted the business and assumed the Medicus rates that were in effect at the time of purchase. Medicus had previously suffered adverse development with reported loss ratios of 143.7% in 2015 and 122.9% in 2014. In May of 2016 NORCAL began the transition of Medicus’ book of business to their company.

NORCAL implemented strategic underwriting processes and rate increases to reverse the trend created by the assumption of Medicus’ book of business. As shown by the last six (6) rate filings, NORCAL continues to file and receive approval for rate increases to achieve rate adequacy for their assumed and current book of business.

The rate history of NORCAL Mutual Insurance Company follows:

2022 Market Share	Company	Effective date	% Requested	% Granted	Filing Number
5.1% (business written basis)	<i>Norcal Mut Ins Co</i>	1/1/2024	7.4%	7.4%	NCMC-133735001
		1/1/2023	7.0%	7.0%	NCMC-133319639
		1/1/2022	8.6%	8.6%	100056390
		1/1/2021	8.0%	8.0%	100053130
8.2% (licensed basis)		1/1/2020	4.0%	4.0%	100050574
		1/1/2019	7.0%	7.0%	100047937
		1/1/2018	0%	0%	100044426
		1/1/2017	0%	0%	100039187
		5/1/2016	Initial filing	Initial filing	100035481

For the 2023 filing NORCAL made a change to the underlying data source. While the OIC usually only considers West Virginia experience only in rate filings, this filing included insureds that do practice in West Virginia but also have policies written outside of the state. Based on the rate experience provided in the filing and the OIC analysis, the indicated rate change was 19.1%. NORCAL selected an increase request of 7.4% and subsequently received approval from the Insurance Commissioner for 7.4% in August 2023 and effective January 2024.

Continental Casualty Company (CNA Insurance Group)

Continental Casualty company is a company within the CNA Insurance Group (CNA). CNA is one of the largest U.S. commercial property and casualty insurance groups. CNA has offices throughout the United States, Canada, and Europe.

Prior to 2022, Continental Casualty Company had not actively written medical malpractice liability insurance in West Virginia for several years. In 2022, the company reported \$2.3M in written premiums but reported only marginal amounts of written premium in previous years (\$0 to \$15K). The 2022 premium was all reported in the hospital subline, and a note in the company's supplemental data stated they issued a single medical professional liability policy in West Virginia relating to a captive reinsurance program. The last company rate filing for medical malpractice from the company was in 2006 but another filing may be forthcoming as the premium has increased.

This is the company previously mentioned in the beginning of this report that was sent the 5% request based solely on the claims-made separation of premium and not a combination of claims-made and occurrence. The company would not have qualified for the supplemental reporting on the combination, but the separation of the premiums reported was unknown at the time of extraction and review of premium market share for inclusion of this report.

W.Va. Code §33-20B-6 requires that the WVOIC report the investment portfolio, including reserves, and the annual rate of return on the investment portfolio for each insurer providing 5% or more of the malpractice insurance coverage in the state. This report also includes insurer responses to the questions outlined in the above referenced W.Va. code section.

The data sets below summarize the supplemental information as reported to the WVOIC by the companies.

Insurance Expense Exhibit

2022	WVMIC ¹	NORCAL	Continental Casualty Co. ²
Commission and Brokerage	0.0%	9.0%	0.0%
New Acquisition	0.0%	0.0%	0.0%
General	0.0%	10.0%	0.0%
Taxes	0.0%	5.0%	0.0%
Loss Ratio	0.0%	183.0%	0.7%
Combined Ratio	0.0%	207.0%	0.7%
Investment Gain/(Loss)	0.0%	-	0.0%

¹ WVMIC ceded 100% of operations to MAG Mutual. There is no method to separate WVMIC numbers from the overall MAG Mutual numbers due to the pooling.

² Continental Casualty Company provided this statement of disclosure as explanation for the lack of data: “CNA has a limited amount of historical Medical Professional Liability (MPL) data pertaining to West Virginia in Continental Casualty Company (CCC). For example, in policy year 2022, CNA issued only one medical professional liability policy in CCC in West Virginia, which was related to a captive reinsurance program. Due to this low volume of data, we are unable to provide a credible actuarial analysis of loss trends, loss development, and indicated rate level for West Virginia.”

A significant observation is that while the WVMIC retains majority market share in both the business written and licensed premium basis, the pooling agreement with MAG Mutual includes nearly 100% ceded reinsurance so the premiums are written by WVMIC and then transferred to MAG Mutual as part of the pooling arrangement. Due to the provisions included in the ceding and pooling agreement, comparisons of the WVMIC company specific expenses, investment, and income from year to year will be impossible as MAG Mutual controls the WVMIC company assets and expenses.

Investment Income Provisions
(as reported to the NAIC as earned during year)

2022	WVMIC	NORCAL	Continental Casualty Co.
Bonds	\$10,287,658	\$1,378,123,062	\$33,186,009,940
Preferred Stocks	\$0	\$3,791,605	\$490,210,891
Common Stocks	\$0	\$92,255,978	\$4,690,918,350
Real Estate	\$0	\$0	
Cash	\$2,726,432	(\$8,144,528)	\$321,912,460
Cash Equivalents	\$5,555,191	\$40,978,665	\$781,141,442
Short Term Investments	\$0	\$1,390,767	\$0
Derivatives	\$0	\$0	\$0
Other Invested Assets	\$0	\$32,207,529	\$2,251,356,197
Agg. w/ins for Invested Assets	\$0	\$0	\$0
Total Cash and Invested Assets	\$19,397,439	\$1,540,603,078	\$41,721,549,280
Net Investment Income Earned	\$249,058	\$33,024,095	\$1,976,499,622
Investment Yield	1.28%	2.14%	4.74%
Total Loss Reserves	\$0	\$726,143,699	\$17,237,776,762
Total LAE Reserves	\$0	\$254,490,497	\$2,313,618,723
Total Loss and LAE Reserves	\$0	\$980,634,196	\$19,551,395,485

Specific Claims, Underwriting and Investment Results

Reporting Requirement		WVMIC	NORCAL	Continental Casualty Co.
a.	The number of claims filed per category	12	17; 2 Admin Defense	0
b.	The number of civil actions filed	4	6	0
c.	The number of civil actions compromised or settled	42	6	0
d.	The number of verdicts in civil actions	2	0	0
e.	The number of civil actions appealed	2	0	0
f.	The number of civil actions dismissed	7	7	0
g.	The total dollar amount paid claims compromised or settled	\$10,582,838	\$1,085,961	\$0
h.	The total dollar amount paid pursuant to judgments in civil actions	\$0	\$0	\$0
i.	The number of claims closed without payments and the amount held in reserve	12 -\$454	1 - \$5,001	\$0
j.	The total dollar amount expended for:	\$20,723,583*	\$1,080,460	\$0
	Loss Adjustment Expense	\$8,919,689	\$766,518	\$0
	Commissions	\$1,220,590	\$313,942	\$0
	Brokerage Expenses	-	-	\$0
k.	The total dollar amount expended in defense and litigation of claims	\$6,615,000	\$766,518	\$0
l.	The total dollar amount held in reserve for anticipated claims:	\$43,581,062	\$6,656,278	\$1,262,510
	Incurred and Reported	\$30,055,812	\$4,778,459	\$1,262,510
	Incurred But Not Reported	\$13,525,250	\$1,877,819	\$0
m.	Net Profit or Loss	(\$132,497)	(\$2,993,455)	\$0
n.	Investment and other income on net realized capital gains and loss reserves and unearned premiums	\$182,000	\$275,097	\$0
o.	The number of malpractice insurance policies canceled for reasons other than non-payment of premium	0	13	0

*WVMIC included row g. and i. into the total amount expended. The WVOIC notes this should have been reported excluding claim losses for a total of \$10,140,279.

Summary Observations

- In 2022, medical malpractice insurance in West Virginia experienced favorable pure loss results, concluding with an overall business written pure loss ratio of 49.9% and licensed pure loss ratio of 48.0%. This is the lowest pure loss ratio since 2014 but the ratio has been volatile on a year-to-year basis.
- Comparing 2022 to 2021 premium levels, written premiums increased 13.3% and earned premiums increased 13.2% on a business written level. This is the third consecutive year of premium increases after 10 years of decreases due to reforms and market conditions. The overall premium is now equivalent to the 2011 amounts. The rate filing summary for the three (3) insurers indicates approved rate increases will be in effect for 2024 so the premium levels will continue to increase in the upcoming years. This is another indication that while pure losses seem to be improving on a short-term basis, the insureds projected losses and company expenses continue to escalate.
- As noted above, medical malpractice rates in West Virginia continued an upward cycle as filed increases were approved for several insurers. The WVMIC retained the majority market share and have increased rates by nearly 40% since 2021. It is expected that premiums will continue to climb through calendar year 2024 based on the rate indications and rate approvals.
- Examination of the 5% market share company data as required by §114CSR22, §114CSR23, and §33-20B-6 found no areas of material concern. As previously mentioned in the report, the WVMIC data was affected by the acquisition by MAG Mutual and subsequent ceding and pooling agreements. The WVOIC will continually monitor and trend the companies for future loss development and rate stabilization.
- Surplus lines insurers report \$27.4 in premiums. When more than 38% of an industry's premiums are in surplus lines, that generally indicates an unhealthy market or hard conditions where licensed insurer underwriting guidelines are tightened to the point that many physicians, hospitals, other professionals, and facilities cannot find coverage through normal avenues.

- Considering the entire medical malpractice market premium, the top five (5) premium business written malpractice writers account for more than 48% of the overall premium. When considering incurred losses, it should be noted that the same five (5) insurers reported \$17.4M or 51% of the total industry losses. The licensed market shows that the top five (5) insurers account for 67.1% of the premium and 80.7% of the losses. The business written data indicates that smaller premium insurers are assuming much of the risk of the market. The opposite occurs in licensed data where underwriting guidelines may already be tightened as many of the smaller premium companies are not suffering losses at the same rate as the market share leaders. The pure loss ratios are similar so both surplus lines carriers and licensed insurers are experiencing similar loss experience. With these differing market conditions, it is yet another indication that the future of medical malpractice market will result increased premium costs for insureds, stricter underwriting criteria by insurers, less capacity, restricted terms of coverage and less competition among insurance carriers for new business.

In summary, the medical malpractice industry has several indicators that the industry is in a hard market cycle. As with most insurance markets, there are cycles of highs and lows that affect rates, claims, and expenses. It is impossible to estimate the duration of a hard insurance market. The WVOIC will continually provide regulatory oversight and monitoring of conditions for the medical professional liability line of insurance.

Exhibits and Additional Information

Exhibit 1: Detailed View of Insurers on a Business Written Premium Basis for 2022

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
West Virginia Mut Ins Co	\$19,187,715	26.6%	\$18,030,047	\$6,710,970	37.2%
Ironshore Specialty Ins Co	\$4,986,551	6.9%	\$3,056,090	\$1,538,723	50.3%
National Fire & Marine Ins Co	\$4,602,167	6.4%	\$5,502,431	\$1,963,074	35.7%
Norcal Ins Co	\$3,673,075	5.1%	\$3,556,817	\$5,362,272	150.8%
Medical Protective Co	\$2,784,214	3.9%	\$3,003,684	\$1,841,303	61.3%
Continental Cas Co	\$2,377,999	3.3%	\$1,800,624	\$1,494,101	83.0%
Endurance Amer Specialty Ins Co	\$2,173,328	3.0%	\$3,848,321	\$5,278,101	137.2%
General Star Ind Co	\$1,946,025	2.7%	\$1,666,096	\$432,000	25.9%
Health Care Industry Liab Recip Ins	\$1,884,950	2.6%	\$1,506,292	\$767,917	51.0%
Professional Security Ins Co	\$1,861,817	2.6%	\$1,752,967	-\$61,722	-3.5%
Pace RRG Inc	\$1,756,626	2.4%	\$1,514,600	\$1,675,705	110.6%
Applied Medico Legal Solutions	\$1,479,791	2.1%	\$1,610,757	-\$201,729	-12.5%
MAG Mut Ins Co	\$1,458,551	2.0%	\$599,520	\$425,445	71.0%
American Excess Ins Exch RRG	\$1,351,850	1.9%	\$1,351,850	-\$2,701,102	-199.8%
Admiral Ins Co	\$1,160,417	1.6%	\$1,047,463	\$166,301	15.9%
American Cas Co Of Reading PA	\$1,122,835	1.6%	\$1,080,991	\$1,205,288	111.5%
Bridgeway Ins Co	\$1,047,798	1.5%	\$763,606	\$328,527	43.0%
Columbia Cas Co	\$927,558	1.3%	\$695,843	\$1,437,268	206.6%
TDC Specialty Ins Co	\$890,390	1.2%	\$924,471	\$92,595	10.0%
ProAssurance Specialty Ins Co	\$852,234	1.2%	\$856,648	-\$19,196	-2.2%
Coverys Specialty Ins Co	\$792,034	1.1%	\$689,114	\$271,512	39.4%
Evanston Ins Co	\$776,948	1.1%	\$1,058,114	-\$491,230	-46.4%
Graph Ins Grp RRG LLC	\$757,465	1.1%	\$1,112,596	-\$897,367	-80.7%
Community Hospital RRG	\$738,121	1.0%	\$738,121	\$395,708	53.6%
Vantage Risk Specialty Ins Co	\$732,934	1.0%	\$244,981	\$121,899	49.8%
Ophthalmic Mut Ins Co RRG	\$644,689	0.9%	\$682,155	\$151,466	22.2%
Lone Star Alliance RRG	\$578,203	0.8%	\$489,287	\$773,785	158.1%
National Guardian RRG Inc	\$560,267	0.8%	\$560,267	-\$229,437	-41.0%
Aspen Amer Ins Co	\$555,660	0.8%	\$558,623	\$223,854	40.1%
Proselect Ins Co	\$532,275	0.7%	\$463,125	\$126,747	27.4%
ProAssurance Ins Co of Amer	\$503,932	0.7%	\$495,154	-\$227,189	-45.9%
Aspen Specialty Ins Co	\$492,696	0.7%	\$445,650	\$449,929	101.0%
Doctors Co An Interins Exch	\$465,075	0.6%	\$621,032	\$1,949,453	313.9%
Oms Natl Ins Co Rrg	\$446,714	0.6%	\$404,642	\$787,806	194.7%

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
Ace Amer Ins Co	\$411,387	0.6%	\$274,524	\$644,597	234.8%
Hallmark Specialty Ins Co	\$400,332	0.6%	\$267,390	\$57,533	21.5%
Clinician Assur Inc RRG	\$397,128	0.6%	\$216,082	\$114,205	52.9%
The Cincinnati Ins Co	\$391,467	0.5%	\$407,649	\$500,366	122.7%
Landmark Amer Ins Co	\$370,894	0.5%	\$420,970	\$174,989	41.6%
Illinois Union Ins Co	\$342,892	0.5%	\$287,429	-\$210,377	-73.2%
Church Mut Ins Co S I	\$310,391	0.4%	\$296,764	\$389,594	131.3%
Liberty Ins Underwriters Inc	\$302,556	0.4%	\$292,419	\$137,209	46.9%
Capitol Specialty Ins Corp	\$274,813	0.4%	\$255,814	\$85,847	33.6%
NCMIC Ins Co	\$267,395	0.4%	\$263,321	\$472,925	179.6%
StarStone Specialty Ins Co	\$267,146	0.4%	\$240,101	\$66,353	27.6%
ISMIE Ind Co	\$255,966	0.4%	\$267,010	\$902,574	338.0%
Preferred Physicians Medical RRG	\$248,963	0.3%	\$167,615	-\$17,960	-10.7%
Emergency Capital Mgmt LLC	\$240,206	0.3%	\$237,278	\$56,440	23.8%
Fair Amer Ins & Reins Co	\$215,509	0.3%	\$217,210	-\$42,410	-19.5%
Kinsale Ins Co	\$182,906	0.3%	\$370,651	\$110,194	29.7%
Sunland RRG Inc	\$155,026	0.2%	\$164,765	-\$12,378	-7.5%
Pharmacists Mut Ins Co	\$121,269	0.2%	\$121,427	\$16,889	13.9%
Medical Mut Ins Co Of NC	\$112,351	0.2%	\$105,229	-\$8,697	-8.3%
Lexington Ins Co	\$73,863	0.1%	\$33,718	-\$59,588	-176.7%
The Cincinnati Specialty Underwriter	\$70,523	0.1%	\$68,434	\$6,250	9.1%
Princeton Excess & Surplus Lines Ins	\$59,050	0.1%	\$59,050	-\$145,084	-245.7%
Medical Security Ins Co	\$53,483	0.1%	\$54,033	-\$2,069	-3.8%
Berkshire Hathaway Specialty Ins Co	\$43,152	0.1%	\$39,722	\$29,117	73.3%
Great Divide Ins Co	\$40,617	0.1%	\$36,989	\$9,156	24.8%
United Specialty Ins Co	\$39,311	0.1%	\$55,311	-\$16,500	-29.8%
State Farm Fire & Cas Co	\$38,988	0.1%	\$38,723	-\$3,065	-7.9%
Fortress Ins Co	\$31,087	0.0%	\$27,355	\$12,347	45.1%
Western World Ins Co	\$29,979	0.0%	\$33,373	\$23,859	71.5%
Green Hills Ins Co RRG	\$27,062	0.0%	\$21,388	\$6,648	31.1%
Allied World Ins Co	\$26,444	0.0%	\$51,214	-\$1,102	-2.2%
Allied Professionals Ins Co RRG	\$25,178	0.0%	\$25,449	-\$494	-1.9%
Preferred Professional Ins Co	\$20,699	0.0%	\$19,411	\$301,643	1554.0%
Arch Specialty Ins Co	\$20,626	0.0%	\$20,562	-\$69,628	-338.6%
The Cincinnati Ind Co	\$17,910	0.0%	\$17,888	\$8,067	45.1%
Spirit Mountain Ins Co RRG Inc	\$15,871	0.0%	\$21,728	\$770	3.5%
The Cincinnati Cas Co	\$13,817	0.0%	\$20,151	-\$12,887	-64.0%
American Assoc Of Orthodontists	\$11,630	0.0%	\$11,501	-\$638	-5.5%

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
NORCAL Specialty Ins Co	\$8,408	0.0%	\$7,230	\$912	12.6%
Hudson Excess Ins Co	\$7,163	0.0%	\$8,738	\$3,710	42.5%
Franklin Cas Ins Co RRG	\$7,000	0.0%	\$3,529	\$0	0.0%
Houston Specialty Ins Co	\$2,784	0.0%	\$40,813	\$0	0.0%
Academic Medical Professionals Ins	\$1,416	0.0%	\$1,416	\$2,355	166.3%
Hartford Fire Ins Co	\$1,038	0.0%	\$1,389	\$0	0.0%
Affiliates Ins Recip a RRG	\$724	0.0%	\$724	\$2,058	284.3%
Campmed Cas & Ind Co Inc	\$330	0.0%	\$330	\$11	3.3%
Hudson Ins Co	\$222	0.0%	\$830	-\$613	-73.9%
Beazley Ins Co Inc	\$208	0.0%	\$474	-\$103,198	-21771.7%
Capitol Ind Corp	\$0	0.0%	\$0	\$1,743	0.0%
Liberty Surplus Ins Corp	\$0	0.0%	\$4,180	\$1,471	35.2%
Everest Ind Ins Co	\$0	0.0%	\$0	-\$10,485	0.0%
QBE Specialty Ins Co	\$0	0.0%	\$0	\$435	0.0%
Care RRG Inc	\$0	0.0%	\$0	-\$6,199	0.0%
Medicus Ins Co	\$0	0.0%	\$0	\$16,772	0.0%
Southwest Physicians RRG Inc	\$0	0.0%	\$0	-\$1,084	0.0%
The Doctors Co RRG a Recip Exch	\$0	0.0%	\$0	\$6	0.0%
Cherokee Guar Co Inc a RRG	\$0	0.0%	\$0	-\$19,060	0.0%
Fair American Select Ins Co	\$0	0.0%	\$0	\$45,334	0.0%
Allied World Specialty Ins Co	\$0	0.0%	\$0	-\$65	0.0%
Nautilus Ins Co	\$0	0.0%	\$0	-\$1,102	0.0%
American Home Assur Co	\$0	0.0%	\$0	\$1,124	0.0%
Allied World Assur Co US Inc	\$0	0.0%	\$0	-\$16,898	0.0%
American Alt Ins Corp	\$0	0.0%	\$0	-\$13,937	0.0%
Nationwide Mut Fire Ins Co	\$0	0.0%	\$0	-\$2	0.0%
Nationwide Mut Ins Co	\$0	0.0%	\$0	-\$9	0.0%
St Paul Fire & Marine Ins Co	\$0	0.0%	\$0	\$357	0.0%
St Paul Mercury Ins Co	\$0	0.0%	\$0	-\$118	0.0%
Steadfast Ins Co	\$0	0.0%	\$0	\$236,982	0.0%
AXIS Surplus Ins Co	\$0	0.0%	\$0	\$14,115	0.0%
Atlantic Specialty Ins Co	\$0	0.0%	\$0	\$814	0.0%
Homeland Ins Co of NY	\$0	0.0%	\$0	-\$112,392	0.0%
Executive Risk Ind Inc	\$0	0.0%	\$0	-\$10,887	0.0%
Continental Ins Co	\$0	0.0%	\$0	\$26,230	0.0%
Hilltop Specialty Ins Co	\$0	0.0%	\$0	-\$650	0.0%
XL Specialty Ins Co	\$0	0.0%	\$0	\$1	0.0%
MT Hawley Ins Co	\$0	0.0%	\$0	-\$31,848	0.0%

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
QBE Ins Corp	\$0	0.0%	\$0	\$91	0.0%
Berkley Assur Co	\$0	0.0%	\$0	-\$44	0.0%
Executive Risk Specialty Ins Co	\$0	0.0%	\$0	-\$18,034	0.0%
Everest Natl Ins Co	\$0	0.0%	\$0	-\$1,887	0.0%
ProAssurance Ind Co Inc	-\$5,143	0.0%	\$14,554	-\$399,333	-2743.8%
Allied World Surplus Lines Ins Co	-\$7,348	0.0%	\$14,507	-\$140,421	-968.0%
Total – 116 Companies	\$72,047,593	100.0%	\$68,360,341	\$34,133,727	49.9%

Exhibit 2: Detailed View of Insurers on a Licensed Premium Basis for 2022

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
West Virginia Mut Ins Co	\$19,187,715	43.0%	\$18,030,047	\$6,710,970	37.2%
Norcal Ins Co	\$3,673,075	8.2%	\$3,556,817	\$5,362,272	150.8%
Medical Protective Co	\$2,784,214	6.2%	\$3,003,684	\$1,841,303	61.3%
Continental Cas Co	\$2,377,999	5.3%	\$1,800,624	\$1,494,101	83.0%
Health Care Industry Liab Recip Ins	\$1,884,950	4.2%	\$1,506,292	\$767,917	51.0%
Applied Medico Legal Solutions RRG	\$1,479,791	3.3%	\$1,610,757	-\$201,729	-12.5%
MAG Mut Ins Co	\$1,458,551	3.3%	\$599,520	\$425,445	71.0%
American Excess Ins Exch RRG	\$1,351,850	3.0%	\$1,351,850	-\$2,701,102	-199.8%
American Cas Co Of Reading PA	\$1,122,835	2.5%	\$1,080,991	\$1,205,288	111.5%
Graph Ins Grp RRG LLC	\$757,465	1.7%	\$1,112,596	-\$897,367	-80.7%
Community Hospital RRG	\$738,121	1.7%	\$738,121	\$395,708	53.6%
Ophthalmic Mut Ins Co RRG	\$644,689	1.4%	\$682,155	\$151,466	22.2%
Lone Star Alliance RRG	\$578,203	1.3%	\$489,287	\$773,785	158.1%
National Guardian RRG Inc	\$560,267	1.3%	\$560,267	-\$229,437	-41.0%
Aspen Amer Ins Co	\$555,660	1.2%	\$558,623	\$223,854	40.1%
Proselect Ins Co	\$532,275	1.2%	\$463,125	\$126,747	27.4%
ProAssurance Ins Co of Amer	\$503,932	1.1%	\$495,154	-\$227,189	-45.9%
Doctors Co An Interins Exch	\$465,075	1.0%	\$621,032	\$1,949,453	313.9%
Oms Natl Ins Co Rrg	\$446,714	1.0%	\$404,642	\$787,806	194.7%
Ace Amer Ins Co	\$411,387	0.9%	\$274,524	\$644,597	234.8%
Clinician Assur Inc RRG	\$397,128	0.9%	\$216,082	\$114,205	52.9%
The Cincinnati Ins Co	\$391,467	0.9%	\$407,649	\$500,366	122.7%
Church Mut Ins Co S I	\$310,391	0.7%	\$296,764	\$389,594	131.3%
Liberty Ins Underwriters Inc	\$302,556	0.7%	\$292,419	\$137,209	46.9%
NCMIC Ins Co	\$267,395	0.6%	\$263,321	\$472,925	179.6%
Preferred Physicians Medical RRG a M	\$248,963	0.6%	\$167,615	-\$17,960	-10.7%
Emergency Capital Mgmt LLC a RRG	\$240,206	0.5%	\$237,278	\$56,440	23.8%
Fair Amer Ins & Reins Co	\$215,509	0.5%	\$217,210	-\$42,410	-19.5%
Sunland RRG Inc	\$155,026	0.3%	\$164,765	-\$12,378	-7.5%
Pharmacists Mut Ins Co	\$121,269	0.3%	\$121,427	\$16,889	13.9%
Medical Mut Ins Co Of NC	\$112,351	0.3%	\$105,229	-\$8,697	-8.3%
Berkshire Hathaway Specialty Ins Co	\$43,152	0.1%	\$39,722	\$29,117	73.3%
Great Divide Ins Co	\$40,617	0.1%	\$36,989	\$9,156	24.8%
State Farm Fire & Cas Co	\$38,988	0.1%	\$38,723	-\$3,065	-7.9%
Fortress Ins Co	\$31,087	0.1%	\$27,355	\$12,347	45.1%
Green Hills Ins Co RRG	\$27,062	0.1%	\$21,388	\$6,648	31.1%
Allied World Ins Co	\$26,444	0.1%	\$51,214	-\$1,102	-2.2%

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
Allied Professionals Ins Co RRG	\$25,178	0.1%	\$25,449	-\$494	-1.9%
Preferred Professional Ins Co	\$20,699	0.0%	\$19,411	\$301,643	1554.0%
The Cincinnati Ind Co	\$17,910	0.0%	\$17,888	\$8,067	45.1%
The Cincinnati Cas Co	\$13,817	0.0%	\$20,151	-\$12,887	-64.0%
American Assoc Of Orthodontists RRG	\$11,630	0.0%	\$11,501	-\$638	-5.5%
Franklin Cas Ins Co RRG	\$7,000	0.0%	\$3,529	\$0	0.0%
Academic Medical Professionals Ins E	\$1,416	0.0%	\$1,416	\$2,355	166.3%
Hartford Fire Ins Co	\$1,038	0.0%	\$1,389	\$0	0.0%
Affiliates Ins Recip a RRG	\$724	0.0%	\$724	\$2,058	284.3%
Campmed Cas & Ind Co Inc	\$330	0.0%	\$330	\$11	3.3%
Hudson Ins Co	\$222	0.0%	\$830	-\$613	-73.9%
Beazley Ins Co Inc	\$208	0.0%	\$474	-\$103,198	-21771.7%
Atlantic Specialty Ins Co	\$0	0.0%	\$0	\$814	0.0%
QBE Ins Corp	\$0	0.0%	\$0	\$91	0.0%
XL Specialty Ins Co	\$0	0.0%	\$0	\$1	0.0%
Capitol Ind Corp	\$0	0.0%	\$0	\$1,743	0.0%
Allied World Specialty Ins Co	\$0	0.0%	\$0	-\$65	0.0%
American Alt Ins Corp	\$0	0.0%	\$0	-\$13,937	0.0%
Executive Risk Ind Inc	\$0	0.0%	\$0	-\$10,887	0.0%
Care RRG Inc	\$0	0.0%	\$0	-\$6,199	0.0%
Nationwide Mut Fire Ins Co	\$0	0.0%	\$0	-\$2	0.0%
Nationwide Mut Ins Co	\$0	0.0%	\$0	-\$9	0.0%
American Home Assur Co	\$0	0.0%	\$0	\$1,124	0.0%
Continental Ins Co	\$0	0.0%	\$0	\$26,230	0.0%
The Doctors Co RRG a Recip Exch	\$0	0.0%	\$0	\$6	0.0%
Medicus Ins Co	\$0	0.0%	\$0	\$16,772	0.0%
St Paul Mercury Ins Co	\$0	0.0%	\$0	-\$118	0.0%
Everest Natl Ins Co	\$0	0.0%	\$0	-\$1,887	0.0%
St Paul Fire & Marine Ins Co	\$0	0.0%	\$0	\$357	0.0%
Cherokee Guar Co Inc a RRG	\$0	0.0%	\$0	-\$19,060	0.0%
ProAssurance Ind Co Inc	-\$5,143	0.0%	\$14,554	-\$399,333	-2743.8%
Total – 68 Companies	\$44,579,408	100.0%	\$41,762,904	\$20,055,117	48.0%

Board of Medicine Physician Data

The following data is obtained by the West Virginia Board of Medicine (BOM) Annual Report:

West Virginia Board of Medicine Licensure Data	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Actively Licensed Physicians (M.D.) (In/Out of State)	6,282	6,636	6,533	6,780	6,945	7,060	7,207	7,283	7,411	7,781
Actively Licensed Podiatrists (D.P.M.) (In/Out of State)	100	101	111	110	120	116	126	125	133	139
Physician Assistants (P.A.)	781	821	791	891	846	974	956	943	953	964

