WEST VIRGINIA
OFFICES *of the*
INSURANCE COMMISSIONER

2020 Medical Malpractice Report

James A. Dodrill
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.

This report does not include any assumptions or current observations for the global pandemic, COVID-19. There may be references to potential future market conditions and effects due to COVID-19, but the focus remains to report on calendar year 2019 market analysis.

As shown later in this report, the West Virginia Mutual Insurance Company (WVMIC) retained its position as the market share leader by written premium. The WVMIC was legislatively formed as a West Virginia domestic company during the medical malpractice crisis with a mission to provide viable options for West Virginia physicians to obtain medical professional liability insurance coverage and has been insuring physicians since July 1, 2004. In 2020, the WVMIC disclosed its intent to convert from a mutual company to a stock insurance company and then to immediately sell the converted company's stock to MAG Mutual Insurance Company (MMIC). The final conversion and acquisition plan was unanimously approved by the Company's Board of Directors on September 10, 2020. As required by the West Virginia Insurance Holding Company Systems Act, the Insurance Commissioner must hold a public hearing on the acquisition plan and the change of control of the WVMIC. This public hearing was held virtually on October 8, 2020 via Zoom. After the Public Hearing, the Act requires the Commissioner to approve the plan and change of control of the WVMIC. Commissioner Dodrill issued two (2) separate Orders related to this conversion and subsequent acquisition by MMIC. On October 19, 2020, Commissioner Dodrill issued an Order approving the Plan of Conversion (i.e., the demutualization converting the mutual insurer into a stock insurer). On October 22, 2020, Commissioner Dodrill issued an Order approving the acquisition of control of WVMIC by MMIC and MAG Mutual Holding Company (MMHC). The orders approved the transactions, but included conditions, specifically that the Plan of Conversion must be approved by a vote of not less than three-fourths of the Record Date Members of WVMIC voting thereon in person, by proxy or by mail at the Special Meeting called for the purpose of approving the Plan of Conversion, as required by W.Va. Code

§33-5-24(b)(2), and that a certification of the vote be filed with this agency within five (5) business days of the vote. All conditions set forth in the Order were satisfied and Commissioner Dodrill gave final approval of the conversion and acquisition on October 28, 2020. The acquisition was finalized on 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. The WVOIC will monitor the transition and analyze the market conditions as a result of this transaction.

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, and the fact that the insurer's data significantly skewed the West Virginia medical malpractice market experience, 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 tables and graphs. However, claims reported to the WVOIC from this insurer are used in the Closed Claim Analysis section details.

Another notable anomaly occurred in 2019 that affected the West Virginia medical malpractice market when Capson Physicians Insurance Company (CPIC) was found to be insolvent and placed in liquidation by the Texas Department of Insurance. CPIC did not file an annual statement for 2019 so annual data was not included in this report. However, in the 2017 and prior years, CPIC wrote more than $1M in premium in West Virginia. The non-renewing of CPIC policies did not create upheaval in the market due to a surplus lines insurer, ISMIE Indemnity Company, agreeing to write the CPIC policies at the same rates and premiums as CPIC charged until the next policy cycle when ISMIE Indemnity Company could accurately underwrite the policies and adequately price the physician's and/or facilities medical malpractice coverage. The special deputy receiver of CPIC has approved the Sale of Charter and Certificates of Authority to Ag Workers Mutual Auto Insurance Company. This transaction is not expected to affect the West Virginia medical malpractice market.

The overall West Virginia medical malpractice pure direct loss ratio remained unchanged from 62.6% in 2018 to 62.9% in 2019. The average West Virginia pure direct loss ratio for calendar years 2010 through 2019 is 50.8%; with the lowest ratio of 19.4% occurring in 2012 and the highest ratio of 90.5% occurring in 2017. When considering the last five (5) years of experience, the average pure direct loss ratio is 71.5%. This report will address the volatility of the West Virginia medical malpractice market as well as the increased loss ratios realized in the most recent years.

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Countrywide Medical Malpractice Insurance Results

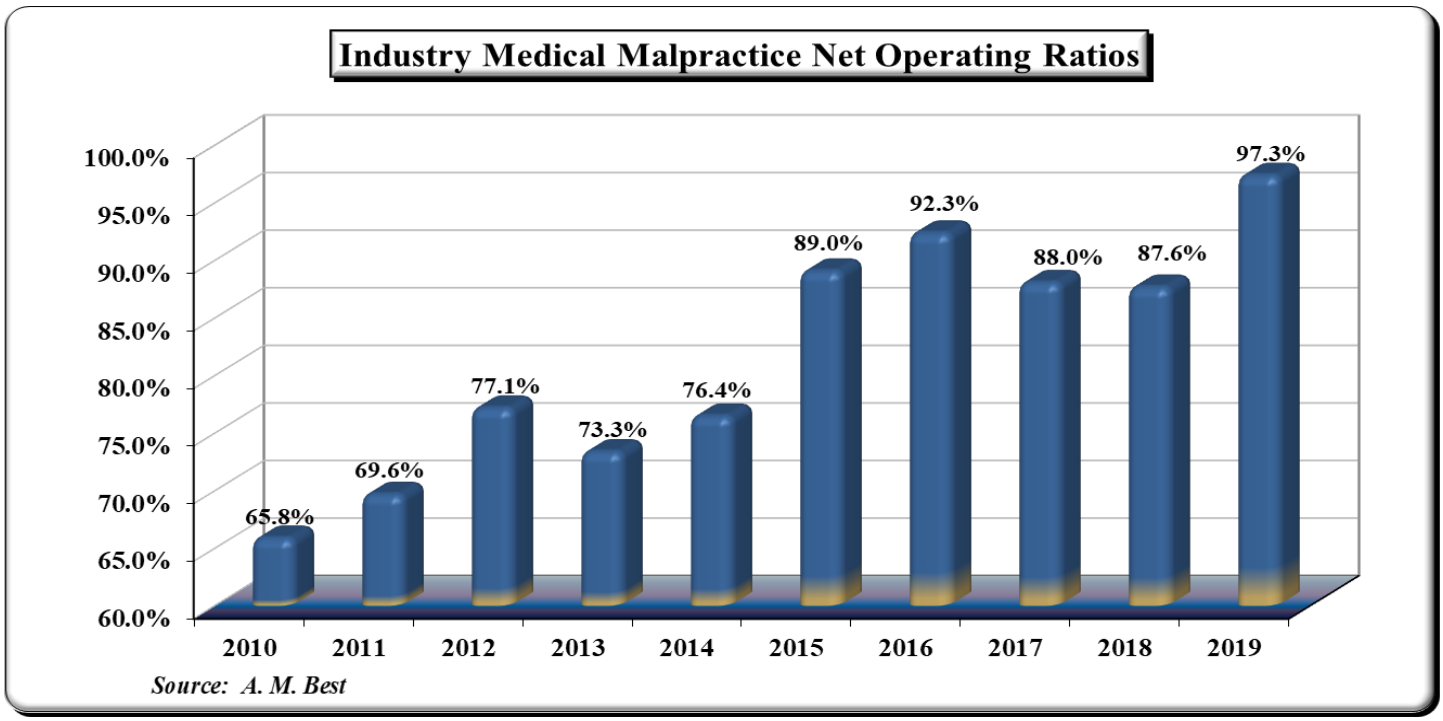
Medical professional liability insurance, sometimes known as medical malpractice insurance, is a type of professional liability insurance which protects physicians and other licensed health care professionals (e.g., dentists, nurses) from liability associated with wrongful practices resulting in bodily injury, medical expenses and property damage, as well as 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 compared to countrywide results. While the West Virginia market is obviously on a much smaller premium scale and without the law of large numbers in place to accurately predict trends and projections, a comparison to countrywide results is a relevant method of determining current market conditions.

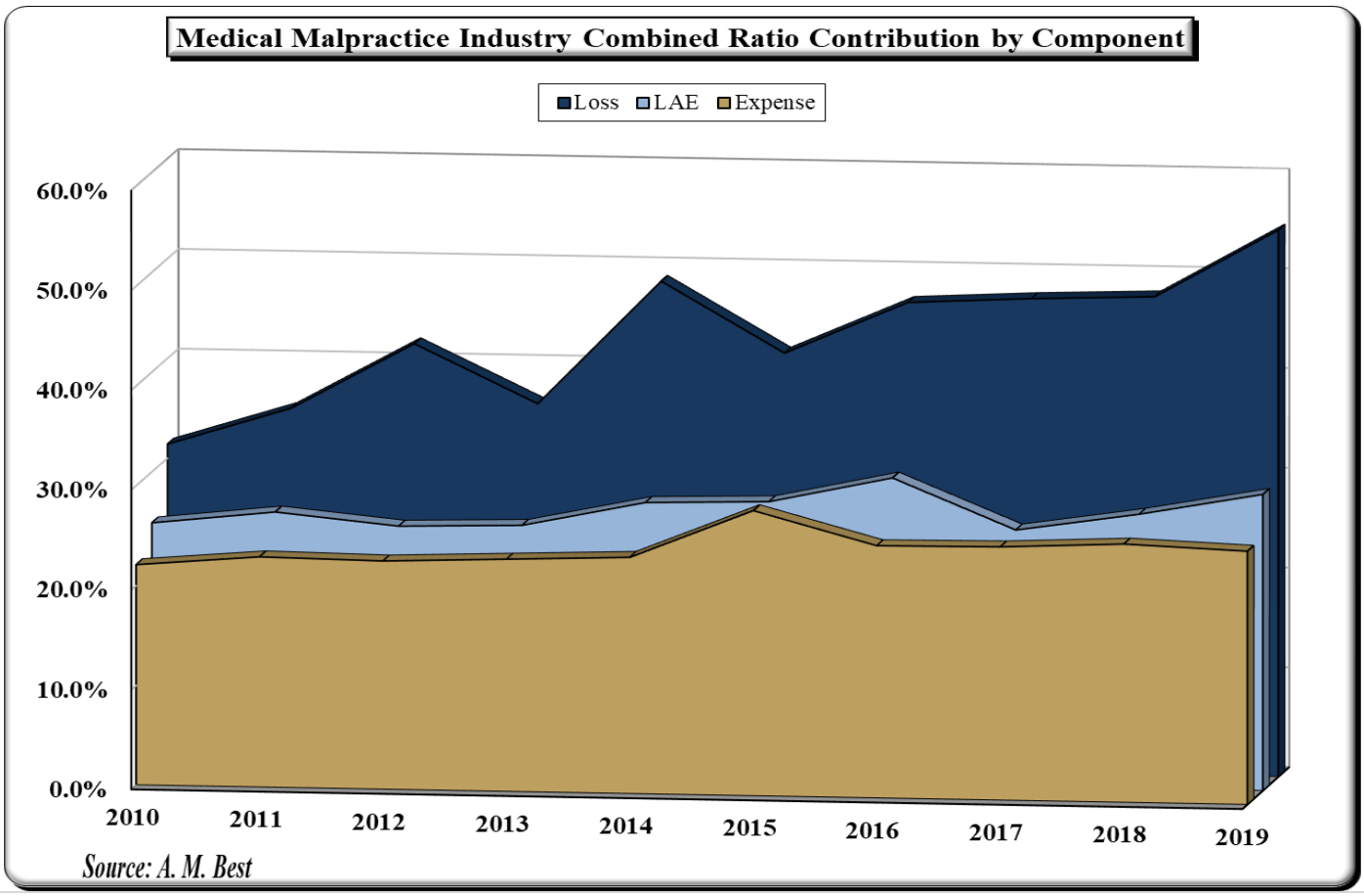
According to the 2019 Best's Aggregates and Average publication, the medical professional liability countrywide operating ratio result of 97.3% is the highest ratio since 2003 and is 11% more than the 2018 ratio of 87.6%. The countrywide medical malpractice net operating ratio has a ten (10) year average of 81.4%. When considering the last ten (10) years only, the operating ratio has increased 47.9% from 65.8% in 2010 to the most current 97.3% in 2019. The increases in the operating ratios may be an early indicator that medical malpractice liability is entering a hard market. While the overall ratio continues to be profitable to insurers, the increasing cost of operating expenses and diminishing returns on investments may produce higher rate indications for the industry in the near future.

The table and graph below display the countrywide medical professional liability industry net operating ratios and components realized over the last ten (10) years:

LINES OF BUSINESS	Year	Net Premiums Written (000)	Net Premiums Earned (000)	Ratios To Net Premiums Earned			Ratios To Net Premiums Written			①Dividends to Policy-holders	Com-bined Ratio After Div	①Inv 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	2010	8,761,160	8,759,394	31.4	24.9	56.3	6.2	15.9	22.1	3.6	82.0	16.2	65.8
	2011	8,826,089	8,839,781	35.2	26.2	61.4	6.3	16.8	23.1	3.5	88.0	18.4	69.6
	2012	8,682,098	8,789,095	41.9	25.0	66.9	6.2	16.7	22.9	3.6	93.3	16.2	77.1
	2013	8,500,590	8,580,946	36.1	25.3	61.5	6.3	17.0	23.3	4.7	89.5	16.2	73.3
	2014	8,467,832	8,516,452	48.6	27.8	76.4	6.3	17.4	23.7	3.5	103.6	27.3	76.4
	2015	8,194,961	8,369,236	41.6	28.1	69.7	7.1	21.5	28.6	4.1	102.3	13.4	89.0
	2016	8,176,495	8,152,278	46.9	30.7	77.6	7.3	18.0	25.3	3.6	106.4	14.1	92.3
	2017	8,036,798	8,005,004	47.5	25.7	73.3	7.5	17.9	25.4	3.0	101.7	13.8	88.0
	2018	8,404,174	8,460,763	47.9	27.5	75.3	8.7	17.1	25.9	2.9	104.1	16.6	87.6
	2019	8,689,012	8,552,972	54.8	29.7	84.5	9.0	16.3	25.4	2.5	112.3	15.1	97.3
TOTALS		84,739,209	85,025,921	43.1	27.1	70.1	7.1	17.4	24.5	3.5	98.2	16.8	81.4



The combined ratio is another important measure of an insured's or industry's financial strength. The chart above shows historical ratios including dividends and investment gain. The chart below displays the combined ratio by component, excluding dividends:



The 2019 combined ratio including dividends is 112.3%, without dividends is 109.8% and excluding both dividends and investments is 94.7%. The combined ratio has progressively worsened year by year and is currently at the highest level since 2004. Since 2014, the medical professional liability line has generated negative underwriting results due to rising loss costs and diminishing prior year reserve takedowns. 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. The table below outlines the difference by component of the 2019 and 2018 combined ratio for the countrywide medical malpractice line as shown in the Best's Aggregates and Averages 2020 Edition.

Year	Loss	LAE	Expense
2018	47.9%	27.5%	25.9%
2019	54.8%	29.7%	25.4%
Difference	14.4%	8.0%	(1.9%)

As shown in the graph and table above, the loss and LAE components are the biggest drivers of the increased operating ratio. This is an indication that the medical malpractice liability industry may be experiencing more claims (frequency) or claims costs are higher either in the payouts or the investigation of claims (severity) or a combination of both. Results may continue to worsen as medical professionals may have increased liability exposure related to COVID-19 as discussed in a later section of this report.

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. The table below outlines the changes by component of the most recent combined ratio, excluding dividends and investments, for the West Virginia medical malpractice line.

Year	Loss	LAE	Expense	Combined Ratio
2018	62.6%	20.0%	15.5%	98.1%
2019	63.0%	14.1%	12.8%	89.9%
Change	0.6%	(29.5%)	(17.4%)	(8.4%)

While it may not be a balanced comparison due to two separate data sources of information, it may be construed that the West Virginia combined ratio is in-line with the countrywide data. The countrywide combined ratio excluding both dividends and investment is 94.7% while the West Virginia combined ratio is 89.9% with West Virginia experience being more favorable to the market.

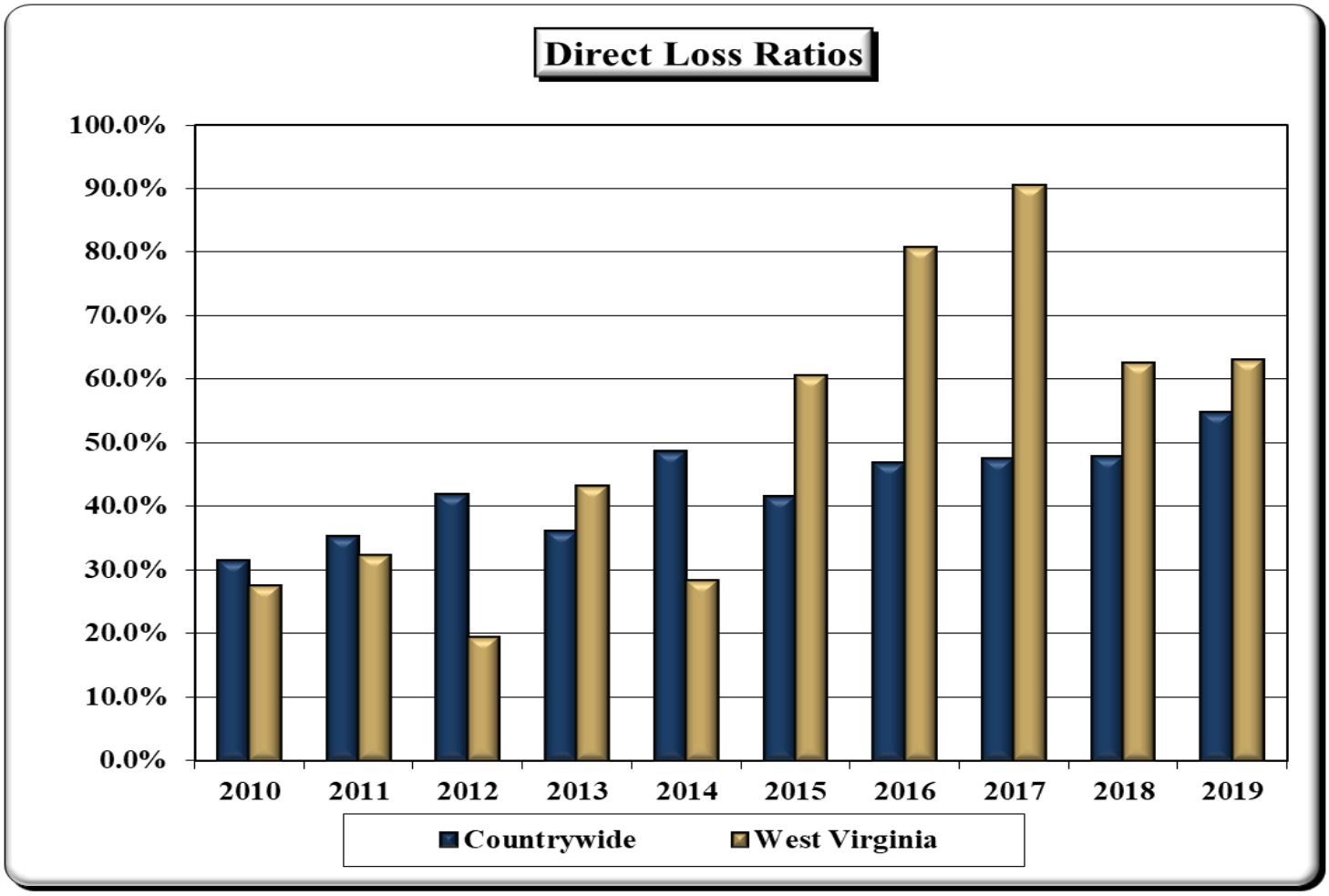
The following observations and exhibits provide a comparison of the medical professional liability line of business for the countrywide industry compared to West Virginia experience for the past ten years. In reviewing this exhibit, a few key areas of difference are noted.

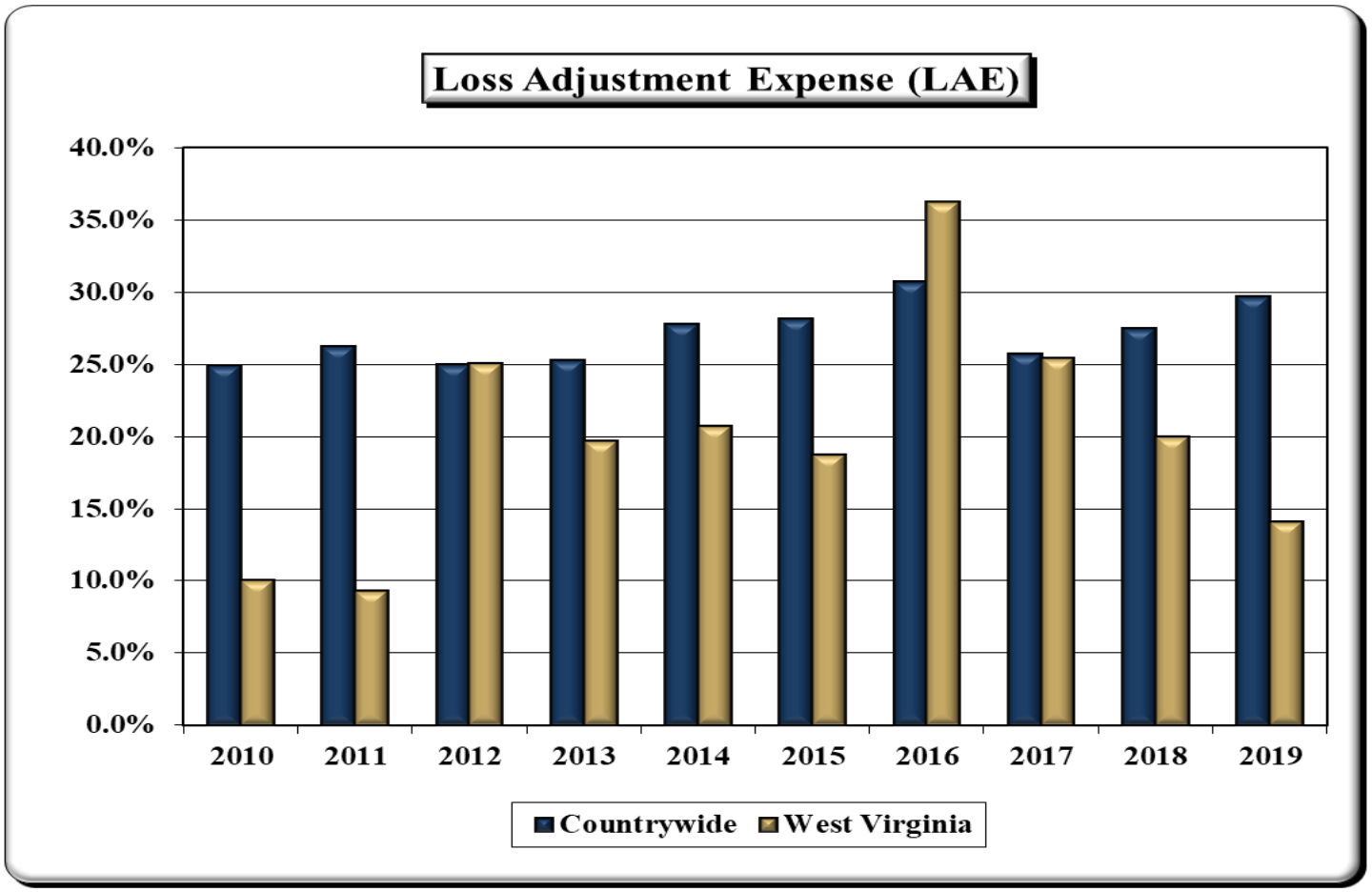
- West Virginia medical malpractice earned premiums decreased 13.1% from the 2018 premium level to the 2019 premium level with written premiums decreasing by 14.57%. This is a significant decrease after many years of steady decreases in premium, the 2019 earned premium levels are now at the lowest levels since 1999. The 2018 premium did have a slight increase over the 2017 levels, but it was insignificant at +1.3%. The countrywide earned premiums increased 2.0% from the 2018 premium level to the 2019 premium level with written premiums increasing by 4.3%. The 2019 premium increase is the first increase since 2011.
- Loss allocated expenses (LAE) diminished substantially from the 2018 levels and are currently at the lowest expense percentage since 2011.
- After three years of significant increases, the West Virginia loss ratio decreased in 2018 by 30% and decreased an addition 8.4% in 2019. However, the loss ratios continue to be much higher than 2008 – 2014 ratios. While the 2018 and 2019 results are encouraging, loss ratios have traditionally been volatile due to the frequency and severity variances within the relatively small market.

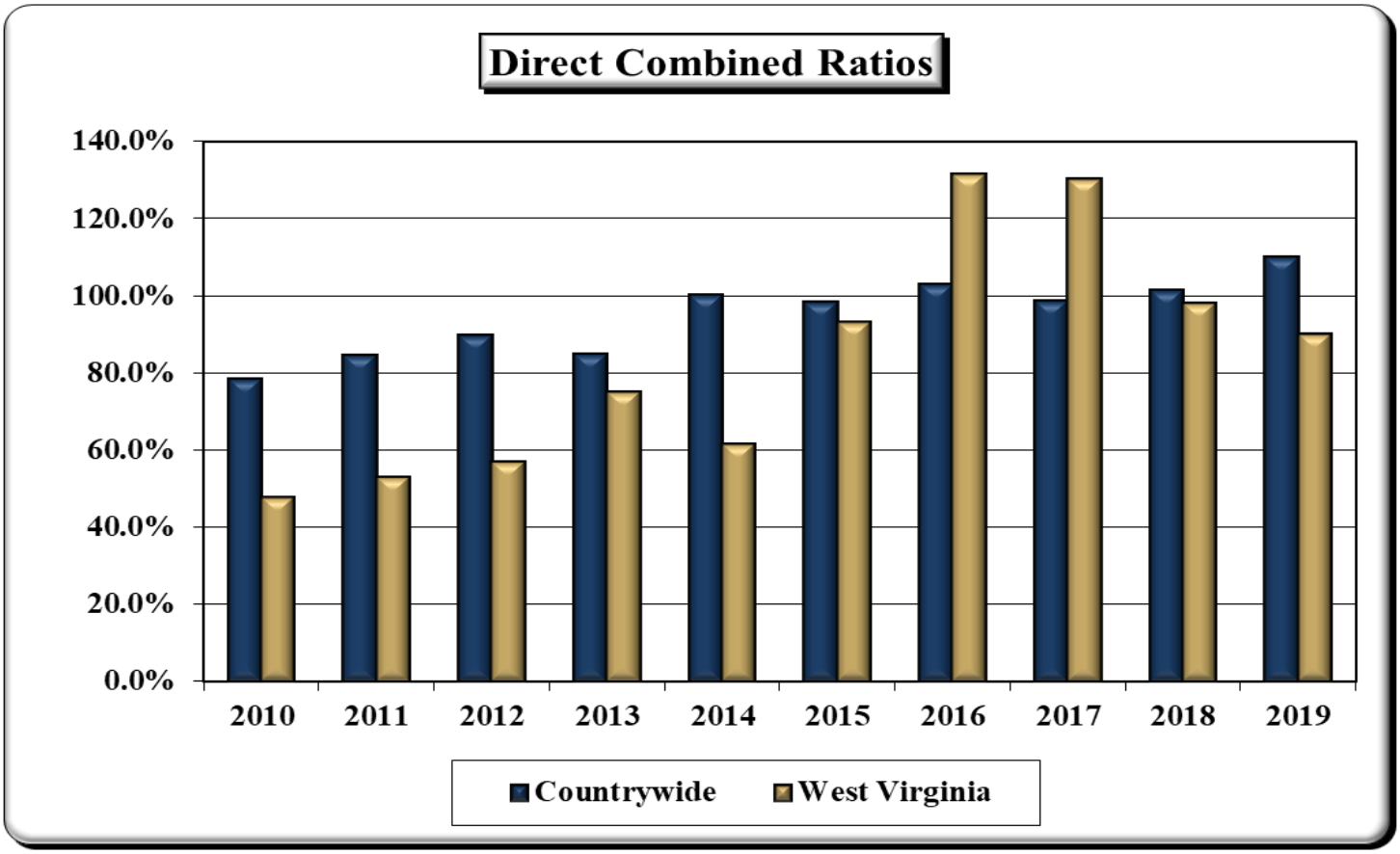
This data is on a calendar year basis. Increases or decreases in loss reserves from previous years will be carried forward to the calendar year on an accounting basis. This can result in incurred loss amounts which may appear inflated or even result in overall negative dollar values for the year.

West Virginia continues to realize higher than national industry pure loss ratios but performs significantly better than national industry in both LAE and Underwriting expense categories. Further, the West Virginia combined ratio is significantly better than the national industry ratio, excluding dividends and investments from both ratios.

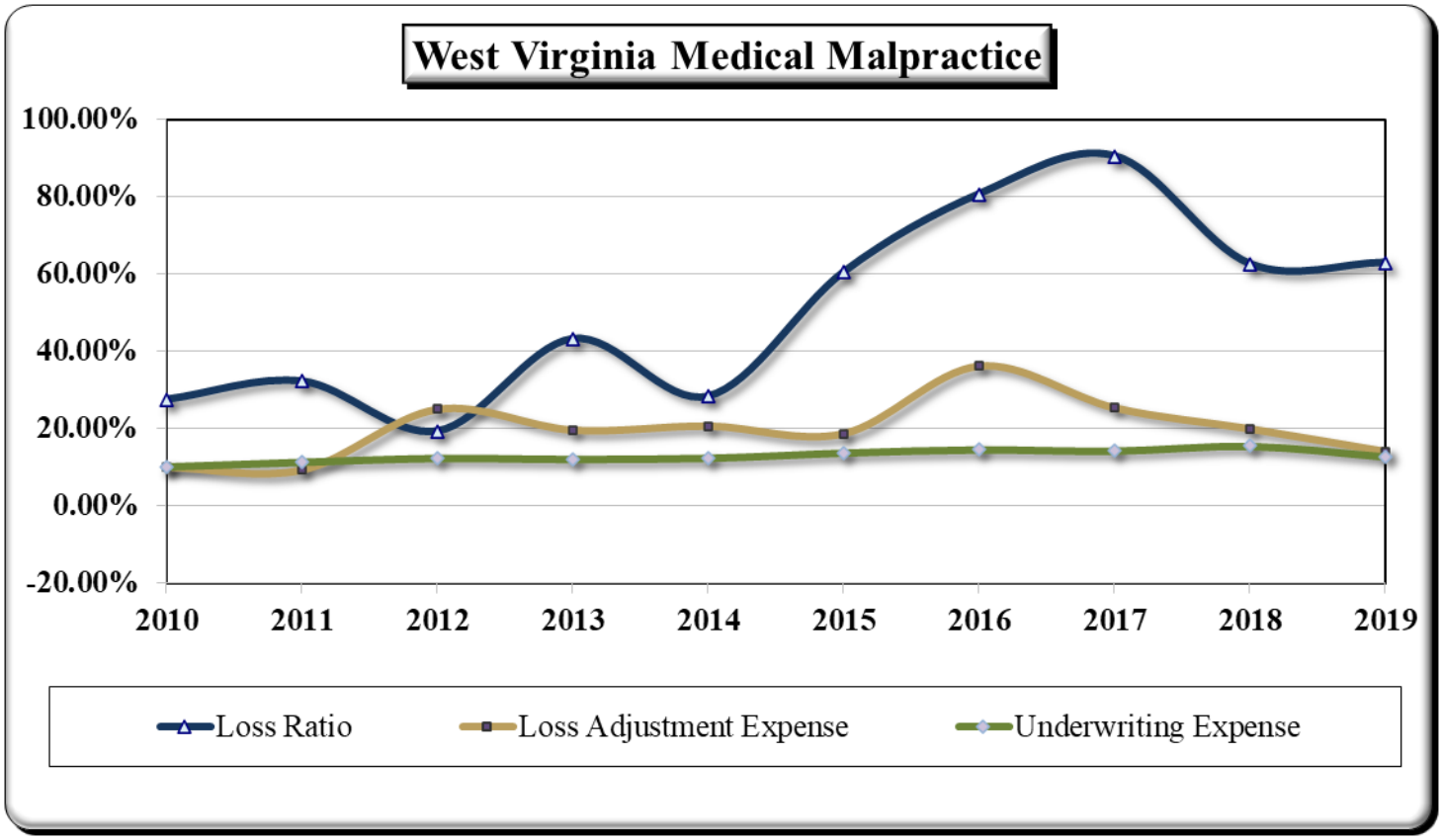
Visually, a comparison of countrywide industry and West Virginia results for medical malpractice utilizing data from the preceding tables can be seen in the three graphs that follow:




Loss Adjustment Expense (LAE)
40.0%
35.0%
30.0%
25.0%
20.0%
15.0%
10.0%
5.0%
0.0%
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
Countrywide
West Virginia


Direct Combined Ratios
140.0%
120.0%
100.0%
80.0%
60.0%
40.0%
20.0%
0.0%
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
Countrywide
West Virginia

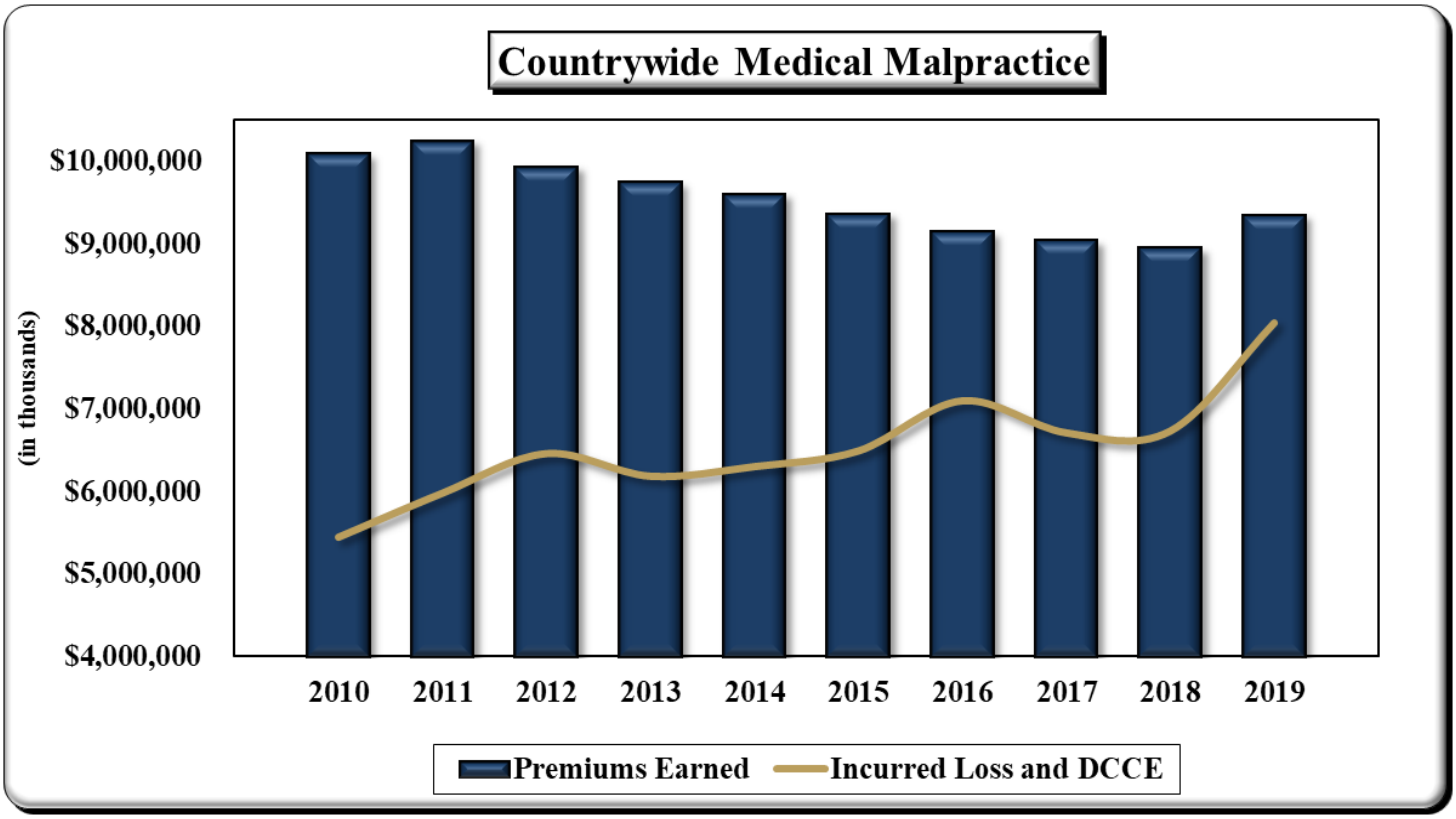
The combined loss ratio summary graph below indicates the West Virginia medical malpractice line continues to exhibit volatile direct loss ratios and loss expenses with stable underwriting expenses.

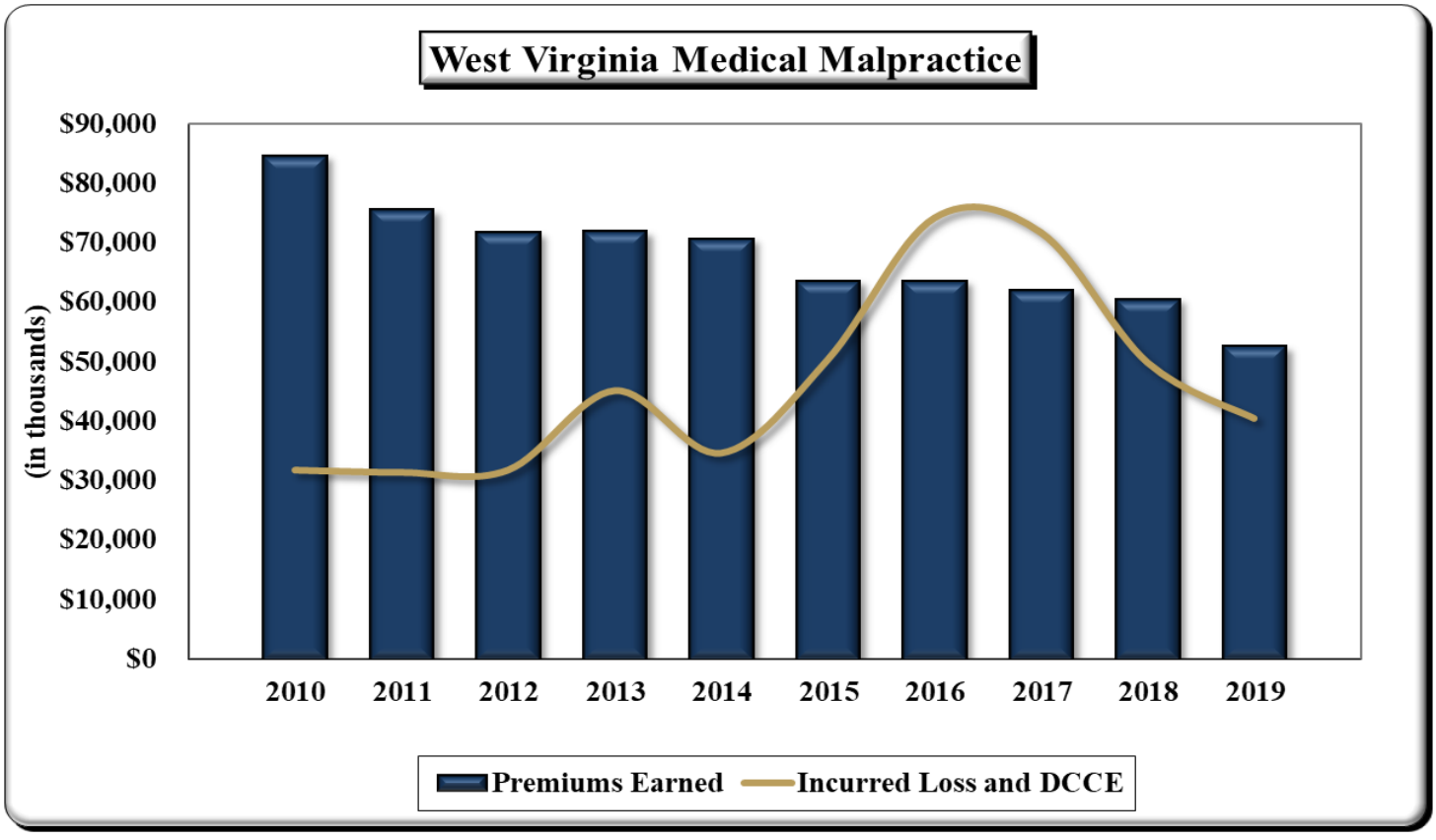


The loss adjustment expenses generally trend similarly to the loss ratio but may vary due to the specialized nature of litigation for the medical malpractice line of insurance. When the loss ratio and loss adjustment expenses are linearly trended using ten-year history values, the loss ratio was ~17% lower and the LAE was ~10% lower than the trended projection.

While both the direct loss ratio and loss adjustment expense fluctuate throughout the years, the underwriting expenses have remained static over the last ten years. The underwriting expenses are adequate and consistent for the West Virginia market and are much lower than countrywide expenses.

The following graphs provide a visual representation of the historical countrywide 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.


Countrywide Medical Malpractice
(in thousands)
$10,000,000
$9,000,000
$8,000,000
$7,000,000
$6,000,000
$5,000,000
$4,000,000
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
Premiums Earned
Incurred Loss and DCCE


West Virginia Medical Malpractice
(in thousands)
$90,000
$80,000
$70,000
$60,000
$50,000
$40,000
$30,000
$20,000
$10,000
$0
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
Premiums Earned
Incurred Loss and DCCE

The charts above compare pure losses and DCCE for the countrywide industry against the comparable figures for the West Virginia market. The 2019 West Virginia incurred losses were $33,087,885 and DCCE incurred was $7,416,513 for a total of $40,504,398. The results for loss and DCCE 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 68.3% of the earned premiums. 2016 and 2017 are the only years since 2002 where the losses and loss expenses exceeded earned premiums; the 2019 West Virginia results performed better than countrywide industry with West Virginia reported ratio as 77.1% loss to premium and the countrywide ratio was 86.1%.

While not part of DCCE, it is prudent to provide the 2019 commissions and taxes, licenses and fees expenses paid by insurers. There was $5,077,749 in commissions paid and $1,671,284 for taxes, licenses and fees.

The table below displays the 2019 West Virginia aggregate totals by expense component as reported to NAIC.

Direct Premiums Written	Direct Premiums Earned	Dividends	Direct Premiums Unearned	Direct Losses Paid	Direct Losses Incurred	Direct Losses Unpaid	Direct DCCE Paid	Direct DCCE Incurred	Direct DCCE Unpaid	Commission and Brokerage Expenses	Taxes, Licenses and Fees
$51,148,381	$52,553,930	$3,747,628	$29,648,633	$36,364,520	$33,087,885	$106,782,851	$13,496,949	$7,416,513	$25,578,386	$5,077,749	$1,671,284

Closed Claims Analysis

A medical malpractice claim may occur when a hospital, doctor, or other health care professional, through a negligent act or omission, causes an injury or harm to a patient. The negligence may be the result of errors in diagnosis, treatment, after care or health management. West Virginia Code requires insurers report closed claim information to the WVOIC. This section will provide insight into the reported claims data as reported by insurers.

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

A summary of the 2019 BOM claims is provided below:

Action Type	Count of Action	Amount of Action
Judgement in Legal Action	2	$1,296,185
Settlement	92	$40,213,315
Total	94	$41,509,500

The exhibit below displays paid claim count information for 2010 – 2019.

	Judgments		**Settlements**	
Year	$0 Awards	Total	Total	**Total**
2010	1	7	158	165
2011	3	8	162	170
2012	2	7	86	93
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
Total	**18**	**41**	**1,177**	**1,263**

In general, the number of claims filed has dropped significantly since the passage of the 2001 legislation. The claim frequency decreased more than 43% from 2010 to 2019 and was even more of a decrease when compared to earlier years.

As noted in the table, claims are nearly always settled outside of courtrooms. This is likely the reason why the West Virginia loss adjustment expenses and DCCE costs are lower that countrywide. Generally, claims are settled so that an insurer knows the ultimate cost outcome rather than leaving it up to chance to a jury or court. Settlements are not uncommon in any line of insurance and are 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. This 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. 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.

A medical malpractice claim includes four (4) damage components. The damage components and definitions of each follows:

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.

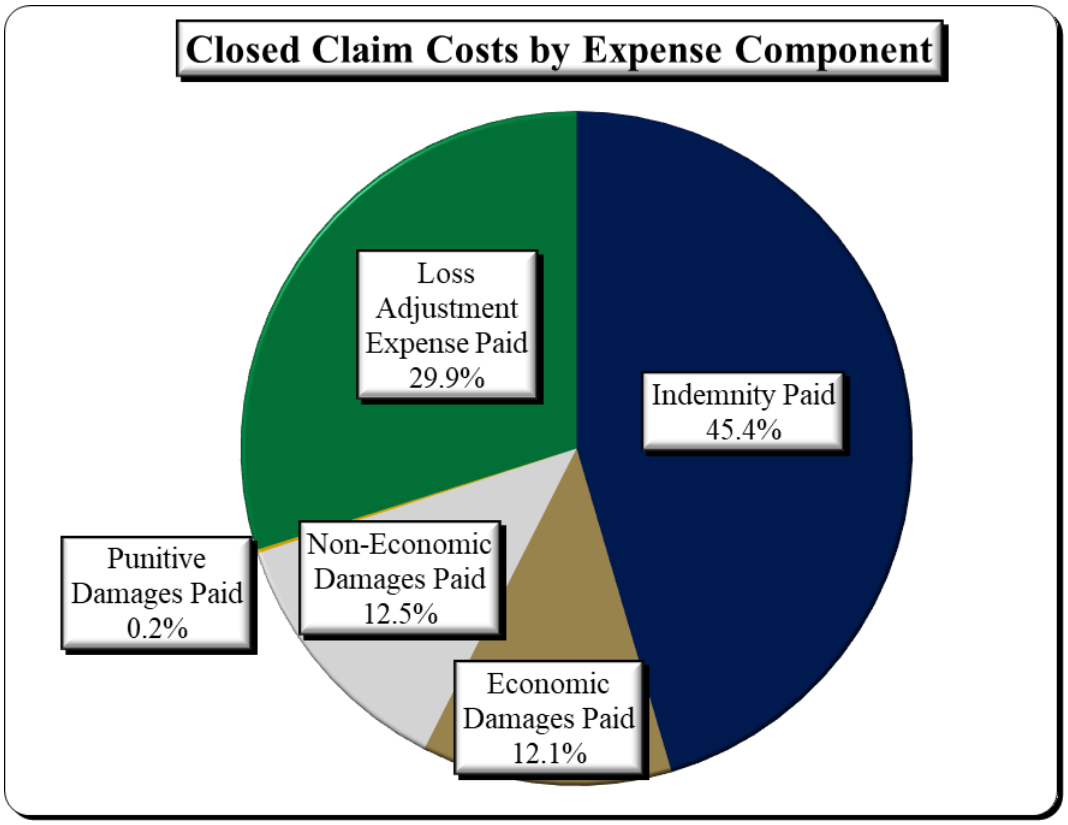
Loss Adjustment Expense (LAE) Paid – Expenses paid by the insurer associated with investigating and settling a claim. The claimant/plaintiff does not receive these monies as part of an award.

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 current claim reports to the WVOIC, show that is not always the case even though reporting instructions are clearly stated. The WVOIC cleansed the data as much as possible prior to analysis but cautions that the reported claim data is not currently credible. The WVOIC have taken steps to ensure this is not the case for future reporting by implementing validation rules embedded within the online medical malpractice reporting form. Further, processes are in progress to rebuild a reliable database of closed claims by contacting insurers to confirm all claim submissions within the previous five (5) years where the summation of the economic, non-economic and punitive damages do not equal the indemnity payment. In future annual reports, year to year comparisons will not be possible until we have used the five (5) year database claims for multiple years. Data analysis older than five (5) years will not be available, such as what is provided below. The WVOIC places more value on credible data rather than quantities of unreliable data.

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 incorporates recent data validation in the responses whereas this was not the case with historical reporting. 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 as of October 5, 2020.

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	154	$74,669,078	$7,198,781	$6,867,787	$0	$31,204,323
2018	245	$37,223,050	$17,612,815	$16,560,367	$400,000	$58,018,865
2019	275	$32,133,559	$11,925,080	$13,247,786	$0	$10,752,128
2020	159	$14,358,819	$6,300,267	$7,808,553	$200,000	$7,073,802
Total	885	$164,917,672	$43,761,943	$45,284,492	$600,000	$108,408,633

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



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

Similar to the BOM data, we can also consider claim outcomes for the disposition of claims reported by the insurer through the online reporting portal. Please note the claims costs provided in the data tables and analyses are not capped at $1M and are analyzed using the dispositions and damage payments reported by the insurer. Further, systemic cases may be counted as a single claim. For instance, there was a single claim report that had 124 defendants that settled for $50,000,000 and had ~$23,000,000 in LAE. Because of the mass litigation structured settlements, this was considered as a single claim.

Disposition	Claim Count	Indemnity Paid	Economic Damages Paid	Non-Economic Damages Paid	Punitive Damages Paid	LAE Paid
Settlement	464	$164,498,217	$43,685,943	$44,952,044	$600,000	$97,386,267
Dismissal	220	$91,007	$76,000	$4,000	$0	$6,922,008
Judgment	25	$328,448	$0	$328,448	$0	$2,678,397
Lack of Certificate of Merit	58	$0	$0	$0	$0	$205,833
Failure to Pursue/ Voluntarily Withdrawn	118	$0	$0	$0	$0	$1,216,128
Total	885	$164,917,672	$43,761,943	$45,284,492	$600,000	$108,408,633

Settlements account for the majority of the dispositions with 52.4% of overall claims that account for 99.7% of overall indemnity payments and 89.8% of LAE payments. As shown above, many claims are closed with $0 payments due to lack of merit, voluntarily withdrawn or dismissals. There were 447 claims, more than half, that were reportedly closed with $0 payments. However, those claims accrued LAE costs of $11,031,385 or 10.2% of overall LAE.

The next data table considers only the 438 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	435	$164,498,217	$43,685,943	$44,952,044	$600,000	$97,060,728
Dismissal	2	$91,007	$76,000	$4,000	$0	$153,745
Judgment	1	$328,448	$0	$328,448	$0	$162,775
Total	**438**	**$164,917,672**	**$43,761,943**	**$45,284,492**	**$600,000**	**$97,377,248**

When considering the entire dataset of 885 reported claims the average judgment was $13,138 with an average LAE of more than $107,000 but when only considering the 438 claims with payments, the average judgment is $328,448 and the average LAE is $162,775. The same comparisons using the 885 claims shows an average settlement of $354,522 with average LAE of more than $209,000 but when only considering the 438 claims with payments, the average settlement is $378,157 and the average LAE is $223,128. Based on those similar averages for claims payments, one may ask why settlements are the prevailing outcome with 435 claims compared to a single judgment ruling? The reasoning is the control of costs a settlement provides. There is generally lower LAE involved, except in the larger systemic cases that require higher costs due to the amount of litigation involved. A judgment is an unknown which increases LAE for defense and legal preparation and may also result in a very large award or legal remedy to the plaintiff.

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

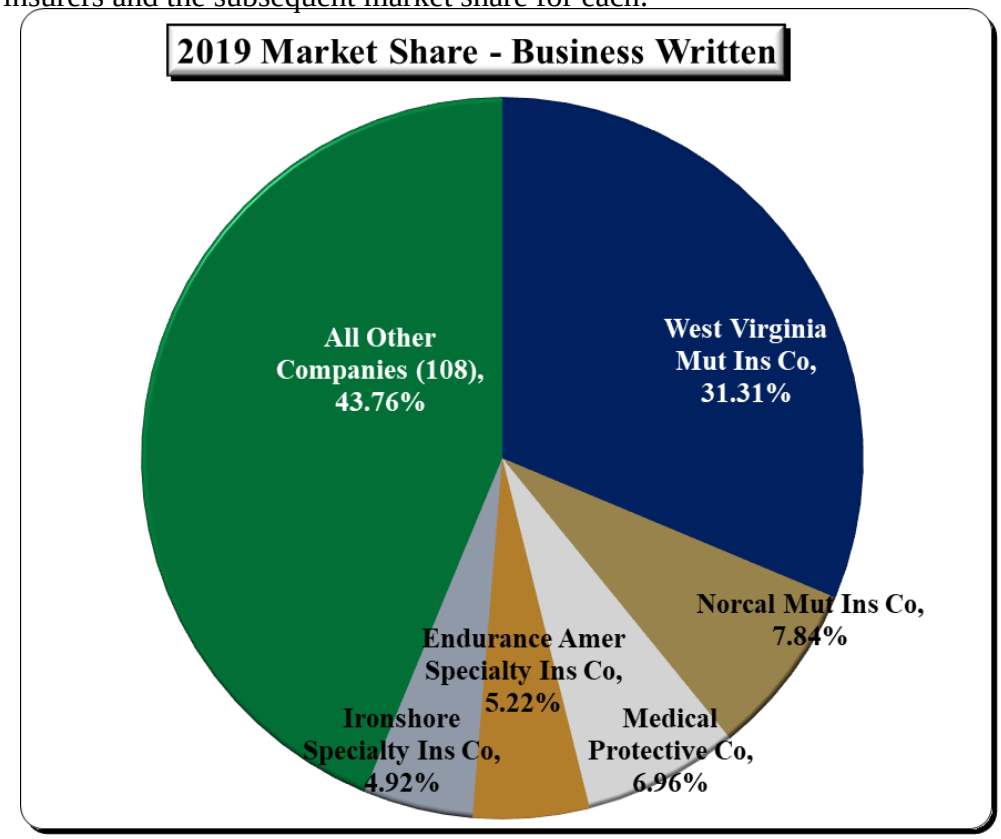
This section of the report reviews the rates and rules of insurers reporting 5% or greater premium market share of medical professional liability insurance. Two methods used to evaluate premium market share include reports based on an admitted, or licensed, basis and the other is on a business written basis. Business written includes financial reports from excess and surplus lines insurers, whereas licensed reports exclude unlicensed company reports. Unlicensed companies are not subject to the same regulatory requirements as licensed companies, including filing of 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. In the past, the WVOIC has asked non-licensed insurers to voluntarily provide the supplemental data in the past and none have complied. It was determined the 5% requirement applied to licensed (regulated) entities only.

For 2019, if using the business written report, then four (4) insurers would meet the 5% requirement. However, Endurance American Specialty Ins. Co. is a surplus lines company that is outside of regulatory authority. When using the licensed report, three (3) regulated insurers met the premium threshold requirement and was sent a notice to produce supplemental data as required by W.Va. Code. The insurers were the West Virginia Mutual Insurance Company, NORCAL Mutual Insurance Company and Medical Protective Company. The market share reports also identified the insurer mentioned earlier in this report that reported incorrect data as having greater than 5% market share but that reporting was not credible, so a data request was not sent to the insurer for response.

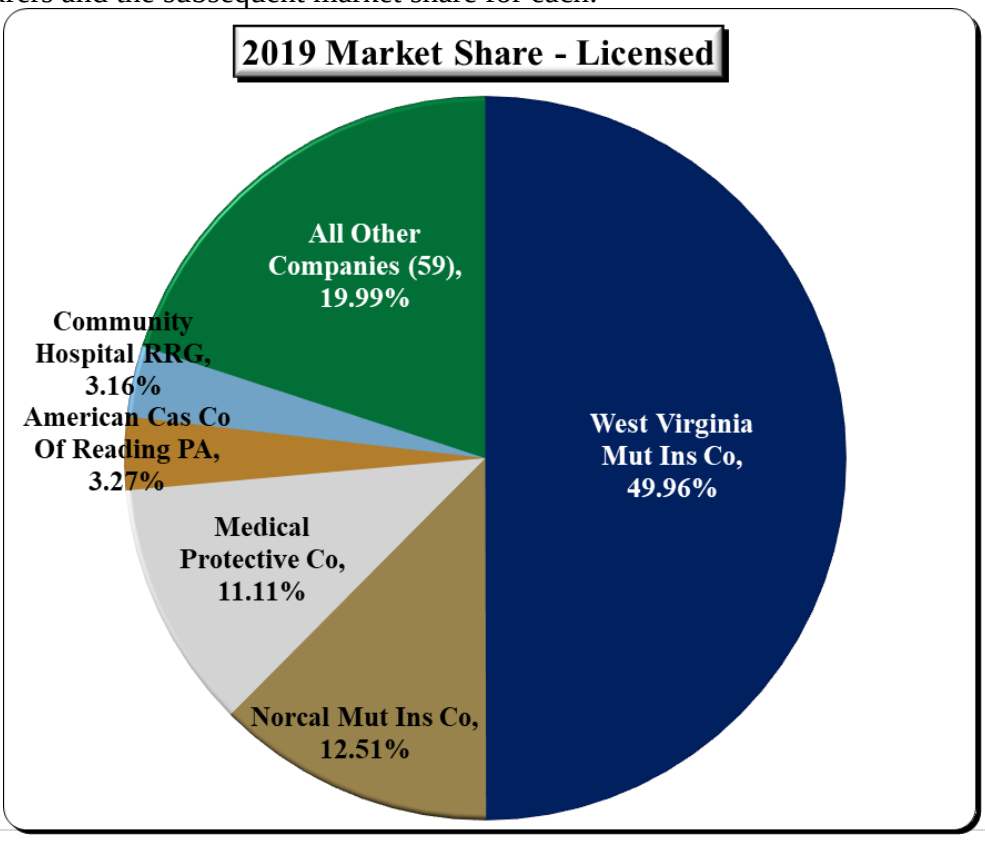
All three (3) insurers complied with the mandate and provided all required and supplemental data as directed by the WVOIC and W.Va. Code.

The charts below identify the top five (5) insurers market share percentages for both business written and licensed reports. The full table with all insurers reporting medical professional liability premiums in West Virginia for 2019 is provided as an exhibit in the conclusion of this report.

Based on business written premiums for 2019, the West Virginia medical malpractice market currently consists of the following insurers and the subsequent market share for each:



Based on licensed basis premiums for 2019, the West Virginia medical malpractice market currently consists of the following insurers and the subsequent market share for each:



When evaluating the two reports of market share calculations, you can see there is a large variation in the market share percentages by company. For instance, the West Virginia Mutual Ins. Co. reports 31.31% of the total business written premiums but nearly 50% of the overall licensed company reports. When considering the overall direct written premiums from the separate reports, the difference is more than $19.1M (business written is $51.1M and licensed is $32.0M). Considering the difference of $19.1M, it can be calculated that more than 37% of total medical professional liability premiums are written by surplus lines insurers, risk retention groups or other non-licensed entities.

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

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

West Virginia Mut Ins Co	*Physicians and Surgeons*	$15,986,381
	Hospitals	$0
	Other	$26,464
	Total	**$16,012,845**
Norcal Mut Ins Co	*Physicians and Surgeons*	$4,008,569
	Hospitals	$0
	Other	$0
	Total	**$4,008,569**
Medical Protective Co	*Physicians and Surgeons*	$3,013,152
	Hospitals	$0
	Other	$545,867
	Total	**$3,559,019**

The physicians and surgeons' premiums account for 57.8% of the total medical professional liability total with Hospitals accounting for 20.0%, Other Professionals 10.2% and Other Facilities at 12.0%.

The next section of this report will review market positions and rate histories of 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:

2019 Market Share	Company	Effective date	%Requested	% Granted*	WV #:
31.31%	***West Virginia Mutual Ins Co***	1/1/2020	0%	0%	100051088
(business written basis)	*fka W.V. Physicians Mutual	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

While WVMIC has not taken a rate change in several years, they did file and received approval to decrease their renewal premium credit from 10% to 5% in 2018. The 5% renewal credit will be eliminated effective 2021.

As the WVMIC's 2019 market share for licensed companies is 49.96%, their results have a substantial impact on the overall market. In 2019, the pure loss ratio for the WVMIC was 61.02%. This an increase from the prior year pure loss ratio of 52.2% in 2018.

WVMIC's rate filings included an indicated rate change of 12.8% in 2018, 9.3% in 2019, and 8.1% for 2020. These numbers do not reflect the experience of the company for the same time period. In reviewing the past three rate filings of the WVMIC, the company is showing the undiscounted loss ratio, loss adjustment expense, and administration ratio of 91.6% in the 2018 filing, 96.2% for the 2019 filing and 99.2% for the 2020 filing. This coincides with the increase of the projected loss severity per claim from $270,112 to $380,989 for the same period.

The explanation of the difference between the indicated rate change and the experience is the investment income. The company has a strong excess surplus position and has used investment income amounts of 12.6% in 2018, 19.7% in 2019, and 21.5% in 2020 to reduce or offset indicated rate needs and maintain premiums at current levels. The company's target loss ratio for the same period is consistent at approximately 67%. The company declared policyholder dividends in the amount of $3,494,945 for 2019 in addition to dividends totaling $1,495,320 for 2018.

At the time of this report, the WVOIC believes that rates are adequate and have no concerns with the operations or financial status of this company. The WVOIC is closely monitoring the acquisition of WVMIC by MAG Mutual and will report on any new updates or issues as part of the 2021 Medical Malpractice Report.

NORCAL Mutual Insurance Company (NORCAL)

Domiciled in California and commenced business operations in November 1975. NORCAL's business operations are focused on long-tail liability lines of business. 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. The initial approved rate increase of 7.0% (indicated was 31.2%) in 2019 was effective January 1, 2019 and the second rate increase of 4.0% (indicated was 18.0%) was effective January 1, 2020. The underwriting changes and rate increases have produced favorable results as the pure loss ratio for 2019 was 84.03%, a significant improvement from the previous adverse loss ratios.

The rate history of NORCAL Mutual Insurance Company follows:

2019 Market Share	Company	Effective date	%Requested	% Granted	WV #:
7.84% (business written basis)	***Norcal Mut Ins Co***	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

As the company has addressed underwriting and rate inadequacies in the last few years, the WVOIC believes rates are now adequate and have no concerns with the operations of financial status of this company.

Medical Protective Company

Medical Protective Company had written premium prior to 2010 but at that time the company was not profitable in West Virginia and did not assume new or renewal business. Medical Protective Company began actively writing premiums in 2013 after medical malpractice tort reform and improving market conditions.

2019 Market Share	Company	Effective date	%Requested	% Granted	WV #:
6.96% (business written basis)	***Medical Protective Co***	1/1/2020	9.2%	9.2%	100050676
		1/1/2019	4.1%	4.1%	100048408
		1/1/2018	0%	0%	100046609
		1/10/2017	0%	0%	100042047
		1/1/2016	0%	0%	100035921
		1/14/2013	(13.3%)	(13.3%)	100018489

The company took an overall rate change of 4.1% effective as of January 1, 2019. This rate increase was not across the board for all policyholders but rather, the company implemented the rate change by focusing on certain specialties within their book of business. They compared their rate relativities for these specialties to WVMIC and NORCAL's rate filings. The two specialties having the greatest impact on this change were Anesthesiology and Orthopedic and these policyholders received the premium rate increases.

The company received approval for a 9.2% (indicated 10.8%) rate increase effective January 1, 2020. The filing provided that base rates would increase 3.5% and a changing of classifications for certain specialties achieved an additional 5.7%.

The Medical Protective Company has requested and received approval for rate increases that are in-line with the indicated levels for the past two years and have closely reviewed the profitability of their overall book of business. The WVOIC believes rates are adequate and have no concerns with the operations or financial status of this company.

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 five percent or more of the malpractice insurance coverage in this 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

2019	WVMIC	NORCAL	Medical Protective
Commission and Brokerage	3.5%	9.0%	12.6%
New Acquisition	4.2%	0.0%	5.2%
General	14.1%	12.0%	7.7%
Taxes	3.7%	5.0%	4.8%
Combined Ratio	95.0%	143.0%	65.6%
Investment Gain/(Loss)	55.8%	-	0.2%

Investment Income Provisions

(as reported to the NAIC)

2019	WVMIC	NORCAL	Medical Protective
Bonds	$115,845,384	$1,028,922,938	$759,935,793
Preferred Stocks	$0	$5,441,540	$309,420,000
Common Stocks	$23,024,228	$356,809,128	$2,397,469,011
Real Estate	$0	$0	$10,966,307
Cash	$1,578,334	($4,572,515)	$194,823,460
Cash Equivalents	$3,791,415	$18,746,300	$74,724,635
Derivatives	$0	$0	$2,688,000
Other Invested Assets	$0	$27,441,074	$51,515,810
Agg. w/ins for Invested Assets	$0	$12,125,851	$0
Total Cash and Invested Assets	**$144,239,361**	**$1,444,914,316**	**$3,801,543,016**
Net Investment Income Earned	$4,072,063	$42,236,435	**$125,628,109**
Investment Yield	**2.82%**	**2.92%**	**3.30%**
Total Loss Reserves	**$24,358,657**	**$598,845,957**	**$690,199,435**
Total LAE Reserves	**$12,190,391**	**$177,207,143**	**$221,189,295**
Total Loss and LAE Reserves	**$36,549,048**	**$776,053,100**	**$911,388,730**

Specific Claims, Underwriting and Investment Results

Reporting Requirement		WVMIC	NORCAL	Medical Protective
a.	The number of claims filed per category	68	9 suits; 6 claims	23
b.	The number of civil actions filed	31	11	15
c	The number of civil actions compromised or settled	142	15	10
d.	The number of verdicts in civil actions	8	0	0
e.	The number of civil actions appealed	0	0	0
f.	The number of civil actions dismissed	34	8	0
g.	The total dollar amount paid claims compromised or settled	$12,679,147	$3,312,176	$808,750
h.	The total dollar amount paid pursuant to judgments in civil actions	$1,205,707	$0	$0
i.	The number of claims closed without payments and the amount held in reserve	12 - $676,795	17 - $584,511	8 - $6,000
j.	The total dollar amount expended for:	$8,372,835	$994,338	$1,150,911
	Loss Adjustment Expense	$7,298,532	$650,968	$703,215
	Commissions	$1,074,303	$343,370	$447,696
	Brokerage Expenses	$0	$0	$0
k.	The total dollar amount expended in defense and litigation of claims	$5,617,607	$650,968	$619,674
l.	The total dollar amount held in reserve for anticipated claims:	$36,549,000	$1,516,462	$8,412,912
	Incurred and Reported	$19,498,000	$387,024	$860,164
	Incurred But Not Reported	$17,051,000	$1,129,438	$7,552,748
m.	Net Profit or Loss	$4,414,122	($1,339,691)	$781,204
n.	Investment and other income on net realized capital gains and loss reserves and unearned premiums	$2,738,000	$149,800	$659,318
o.	The number of malpractice insurance policies canceled for reasons other than non-payment of premium	98 (by insured)	16	22

Summary Observations

- In 2019, medical malpractice insurance in West Virginia continued to demonstrate favorable pure loss results, concluding with an overall business written pure loss ratio of 62.96% and licensed pure loss ratio of 57.3%. While this is encouraging at face value, the operating and combined ratios are moving steadily upward which may indicate a hardening of the market in the near future.

- The 2019 premium volume decreased 14.57% over the 2018 premium on a business written basis. While the premium change is concerning, it does follow 2018's first premium increase in more than five (5) years which appears to be an anomaly. The WVOIC will continue to monitor the deterioration of premium for medical professional liability insurance.

- During 2019, medical malpractice rates in West Virginia were on the upswing as filed increases were approved for several insurers. WVMIC retained the majority market share and initiated no overall rate changes. The 2021 rate filings will likely include rate increases for WVMIC and possibly all the larger insurers as a potential hard market looms in the distance.

- In the entire medical malpractice market premium, the top five (5) premium business written malpractice writers accounted for more than 56% of the overall premium. When considering incurred losses, it should be noted that the same five (5) insurers reported 46% of the total industry losses. This is further supported by similar numbers in the licensed market. The data would indicate that the smaller premium insurers are assuming majority risk of the market which further leads us to hardened market conditions with more stringent underwriting standards and a lower supply of coverages or companies.

- Examination of the 5% market share company data as required by §114CSR22, §114CSR23, and §33-20B-6 found no areas of material concern. The WVOIC will continually monitor and trend the companies for future loss development and rate stabilization.

- The WVOIC will closely monitor the acquisition of the West Virginia Mutual Insurance Company by MAG Mutual Insurance Company. As WVMIC is the majority provider of medical professional liability in West Virginia, the Insurance Commissioner will ensure all regulatory actions are appropriate for the market in its entirety as well as the company, policyholders and consumers.

- Lastly, this report has no COVID-19 assumptions on the past results, but it is prudent to realize that COVID -19 will play a very important role in the next several years' results for the medical malpractice industry. Numerous types of medical malpractice claims are expected to emerge from the novel coronavirus which may include:

    - Provider failure to develop and implement an emergency preparedness plan and infection control policies in advance of the pandemic thus delaying or providing substandard care to patients.
    - Increased use of telehealth services increases the possibility of a healthcare professional missing a change in a patient's health status or not following up with the patient in person to ensure proper diagnosis of symptoms.
    - Failure to diagnose or provide treatment for COVID-19 due to unknown and ever-changing symptomology for the novel coronavirus.
    - Hospital overflow or crowding with reduced workforce of skilled physicians, nurses or other healthcare professionals may result in malpractice claims.

In summary, the medical malpractice industry has several indicators that a hard market is imminent. The brokerage firm of Parker, Smith and Feek outlined the signs and effects of a hard market[1] as:

> In a hardening market, insurers are less concerned about the growth of their business and more focused on the overall profitability of their existing books of business. They reevaluate their appetite, examine the profitability of an account, restrict terms and conditions, and may even reduce capacity. Several factors are contributing to the changes happening in the medical malpractice liability market, specifically, including the following:

- **Severity of Claims** – Although claim frequency appears to be on the decline, the severity of claims continues to rise. The higher cost of medical care, greater patient expectations, and rise in litigation costs, including higher value verdicts and settlements, are all contributing factors. Further, many of the high dollar severity claims are appearing in venues not historically known for these types of verdicts.

- **Industry Consolidation Among Healthcare Providers** – While the cost of claims and expenses continues to rise, the premium volume for many insurers continues to decrease due to consolidation among healthcare providers. Insurers are finding that the risk profile has changed within their book of business as larger systems absorb the smaller practices, leaving them with risks that have a higher propensity for loss.

[1] https://www.psfinc.com/articles/medical-malpractice-liability-and-the-changing-market/

- **Systemic Risk** – Insurers are carefully reviewing the systemic risks of their overall portfolio, including things such as abuse and molestation and the opioid crisis. They are heavily underwriting these exposures through detailed information gathering of how these risks are controlled and managed within a healthcare organization. Many insurers are pulling back the limits available for these exposures or simply electing not to write them at all by amending policy forms and adding exclusions.

- **Eroding Capacity** – The increase in claims' severity, along with the changing risk profile and need for insurers to reduce their combined loss ratio (premiums vs. incurred losses and expenses) and return to profitability have insurers controlling their capacity and evaluating the limits they are willing to provide. Insurers are selective about limits and the types of risks they are ready to write. Insurers are also mindful of the venue where the risk is located, taking into consideration the legal environment of certain jurisdictions. Some insurers have elected to non-renew entire books of business in venues with a propensity for large jury verdicts, leaving limited options. Other insurance carriers have recently chosen to exit medical professional liability altogether.

The WVOIC will continue to provide regulatory oversight that may lessen the effects of a potential hard market to insurers, physicians, hospitals, and all healthcare professionals and facilities to aid in lowering expenses, claims costs and premiums for the West Virginia medical malpractice market.

Exhibits and Additional Information

Exhibit 1: Detailed view of insurers on a business written premium basis for 2019

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
West Virginia Mut Ins Co	$16,012,845	31.31%	$16,240,577	$9,910,192	61.02%
Norcal Mut Ins Co	$4,008,569	7.84%	$3,943,964	$3,314,011	84.03%
Medical Protective Co	$3,559,019	6.96%	$3,570,189	$1,308,438	36.65%
Endurance Amer Specialty Ins Co	$2,669,247	5.22%	$3,063,035	$136,363	4.45%
Ironshore Specialty Ins Co	$2,517,351	4.92%	$1,582,298	$630,473	39.85%
National Fire & Marine Ins Co	$2,395,050	4.68%	$2,060,725	$2,163,085	104.97%
Professional Security Ins Co	$1,974,175	3.86%	$1,969,521	$1,454,547	73.85%
Applied Medico Legal Solutions RRG	$1,502,422	2.94%	$1,041,937	$641,565	61.57%
Pace RRG Inc	$1,280,910	2.50%	$1,364,216	$1,933,274	141.71%
American Cas Co Of Reading PA	$1,048,958	2.05%	$1,032,658	$329,751	31.93%
Community Hospital RRG	$1,013,831	1.98%	$1,013,831	($3,385,251)	(333.91%)
ISMIE Ind Co	$972,923	1.90%	$602,667	$310,934	51.59%
Evanston Ins Co	$883,835	1.73%	$773,697	$1,181,575	152.72%
ProAssurance Specialty Ins Co	$728,219	1.42%	$769,674	$808,075	104.99%
Ophthalmic Mut Ins Co RRG	$706,373	1.38%	$725,796	$258,391	35.60%
TDC Specialty Ins Co	$658,749	1.29%	$665,257	$475,614	71.49%
General Star Ind Co	$634,365	1.24%	$766,738	$102,000	13.30%
Aspen Amer Ins Co	$633,294	1.24%	$606,380	$96,569	15.93%
American Excess Ins Exch RRG	$630,800	1.23%	$630,800	$2,781,244	440.91%
Doctors Co An Interins Exch	$629,783	1.23%	$697,572	$1,549,187	222.08%
ProAssurance Ins Co of Amer	$468,514	0.92%	$493,400	$1,040,203	210.82%
Homeland Ins Co of NY	$424,670	0.83%	$407,143	$331,761	81.49%
Admiral Ins Co	$419,894	0.82%	$346,897	$36,846	10.62%
Aspen Specialty Ins Co	$408,760	0.80%	$367,725	($75,909)	(20.64%)
Oms Natl Ins Co Rrg	$395,003	0.77%	$374,427	$160,528	42.87%
Landmark Amer Ins Co	$393,713	0.77%	$351,814	$85,020	24.17%
The Cincinnati Ins Co	$359,515	0.70%	$385,787	$238,500	61.82%
Hallmark Specialty Ins Co	$315,167	0.62%	$213,736	($13,310)	(6.23%)
Fair Amer Ins & Reins Co	$305,481	0.60%	$315,842	$22,569	7.15%
Columbia Cas Co	$293,637	0.57%	$710,351	$426,097	59.98%
NCMIC Ins Co	$280,432	0.55%	$281,220	$424,987	151.12%
Liberty Ins Underwriters Inc	$257,627	0.50%	$280,420	$4,691	1.67%
Health Care Industry Liab Recip Ins	$212,978	0.42%	$1,907,438	$1,074,154	56.31%
Cherokee Guar Co Inc a RRG	$188,680	0.37%	$188,680	($26,653)	(14.13%)
Preferred Physicians Medical RRG a M	$163,380	0.32%	$163,683	($14,130)	(8.63%)

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
Illinois Union Ins Co	$156,619	0.31%	$105,406	($300,032)	(284.64%)
Preferred Professional Ins Co	$146,931	0.29%	$127,478	$339,101	266.01%
Coverys Specialty Ins Co	$142,503	0.28%	$323,977	$101,120	31.21%
StarStone Specialty Ins Co	$139,572	0.27%	$69,057	$77,781	112.63%
Arch Specialty Ins Co	$130,928	0.26%	$129,431	($39,509)	(30.53%)
Allied World Ins Co	$122,544	0.24%	$124,787	$7,217	5.78%
Kinsale Ins Co	$112,520	0.22%	$96,170	$22,231	23.12%
Capitol Specialty Ins Corp	$109,848	0.21%	$84,504	$39,232	46.43%
Lone Star Alliance RRG	$107,821	0.21%	$37,193	$2,265	6.09%
Ace Amer Ins Co	$98,786	0.19%	$98,966	$232,802	235.23%
American Alt Ins Corp	$93,267	0.18%	$93,327	$2,423	2.60%
Pharmacists Mut Ins Co	$91,890	0.18%	$92,204	$2,410	2.61%
Church Mut Ins Co	$83,861	0.16%	$73,528	$66,414	90.32%
The Doctors Co RRG a Recip Exch	$79,675	0.16%	$125,515	$185,098	147.47%
The Cincinnati Specialty Underwriter	$60,268	0.12%	$41,530	$13,172	31.72%
ProAssurance Ind Co Inc	$57,443	0.11%	$56,319	($74,554)	(132.38%)
Steadfast Ins Co	$56,531	0.11%	$52,125	$38,557	73.97%
MAG Mut Ins Co	$51,755	0.10%	$12,903	$0	0.00%
Liberty Surplus Ins Corp	$47,792	0.09%	$51,306	$36,310	70.77%
Lexington Ins Co	$45,000	0.09%	$44,957	($91,054)	(202.54%)
United Specialty Ins Co	$40,153	0.08%	$34,153	($11,000)	(32.21%)
Continental Ins Co	$39,504	0.08%	$9,666	$1,180	12.21%
Medical Security Ins Co	$38,440	0.08%	$25,943	$16,347	63.01%
State Farm Fire & Cas Co	$33,749	0.07%	$30,700	$1,164	3.79%
Great Divide Ins Co	$25,743	0.05%	$25,480	$7,638	29.98%
The Cincinnati Cas Co	$22,378	0.04%	$21,445	$9,686	45.17%
Allied Professionals Ins Co RRG	$20,953	0.04%	$19,893	$72,118	362.53%
Fortress Ins Co	$20,535	0.04%	$17,620	$1,561	8.86%
The Cincinnati Ind Co	$18,410	0.04%	$17,528	($1,408)	(8.03%)
Berkshire Hathaway Specialty Ins Co	$17,989	0.04%	$14,666	$6,772	46.17%
Green Hills Ins Co RRG	$15,814	0.03%	$13,657	$2,387	17.48%
Continental Cas Co	$15,701	0.03%	$15,668	$356,730	2276.81%
Western World Ins Co	$13,476	0.03%	$43,938	($32,250)	(73.40%)
American Assoc Of Othodontists RRG	$11,936	0.02%	$12,202	$193	1.58%
Allied World Surplus Lines Ins Co	$11,250	0.02%	$188,630	$265,297	140.64%
NORCAL Specialty Ins Co	$9,674	0.02%	$9,686	$5,370	55.44%
National Guardian RRG Inc	$4,510	0.01%	$4,510	($477,317)	(10583.53%)
Academic Medical Professionals Ins E	$2,421	0.00%	$3,538	($4,453)	(125.86%)
Hudson Ins Co	$1,240	0.00%	$1,270	($499)	(39.29%)
Beazley Ins Co Inc	$521	0.00%	$75,614	($117,016)	(154.75%)
Affiliates Ins Recip a RRG	$202	0.00%	$202	$163	80.69%

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
Berkley Assur Co	$0	0.00%	$0	($565)	0.00%
MedChoice RRG Inc	$0	0.00%	$0	$5,436	0.00%
Zurich Amer Ins Co Of IL	$0	0.00%	$0	($715)	0.00%
Travelers Ind Co	$0	0.00%	$0	$36	0.00%
St Paul Mercury Ins Co	$0	0.00%	$0	($183)	0.00%
Houston Specialty Ins Co	$0	0.00%	$5,786	$0	0.00%
Allied World Assur Co US Inc	$0	0.00%	$0	($52,257)	0.00%
Southwest Physicians RRG Inc	$0	0.00%	$0	($9,657)	0.00%
Nationwide Mut Ins Co	$0	0.00%	$0	$152	0.00%
Gulf Underwriters Ins Co	$0	0.00%	$0	$2	0.00%
American Home Assur Co	$0	0.00%	$0	$3,028	0.00%
Granite State Ins Co	$0	0.00%	$0	($3,731)	0.00%
Princeton Excess & Surplus Lines Ins	$0	0.00%	$0	($550)	0.00%
National Fire Ins Co Of Hartford	$0	0.00%	$0	$11,681	0.00%
Executive Risk Ind Inc	$0	0.00%	$0	($2,825)	0.00%
Hudson Specialty Ins Co	$0	0.00%	$0	($135)	0.00%
Care RRG Inc	$0	0.00%	$0	$4,474	0.00%
St Paul Fire & Marine Ins Co	$0	0.00%	$0	$5,936	0.00%
Physicians Specialty Ltd RRG	$0	0.00%	$0	$13,448	0.00%
Everest Natl Ins Co	$0	0.00%	$0	($1,033)	0.00%
Westport Ins Corp	$0	0.00%	$0	($209)	0.00%
MT Hawley Ins Co	$0	0.00%	$7,095	$75,244	1060.52%
Catlin Specialty Ins Co	$0	0.00%	$0	($5,000)	0.00%
AXIS Surplus Ins Co	$0	0.00%	$94,030	($30,619)	(32.56%)
Ace Fire Underwriters Ins Co	$0	0.00%	$0	$456	0.00%
Executive Risk Specialty Ins Co	$0	0.00%	$0	($5)	0.00%
United States Fidelity & Guar Co	$0	0.00%	$0	$1	0.00%
Nautilus Ins Co	$0	0.00%	$0	$2,856,388	0.00%
Medicus Ins Co	$0	0.00%	$0	($244,768)	0.00%
Atlantic Specialty Ins Co	$0	0.00%	$0	($3,730)	0.00%
Indian Harbor Ins Co	$0	0.00%	$0	($4,659)	0.00%
Everest Ind Ins Co	$0	0.00%	$0	$4,268	0.00%
Interstate Fire & Cas Co	$0	0.00%	$0	($102,510)	0.00%
Allied World Specialty Ins Co	$0	0.00%	$0	($26,473)	0.00%
Zurich Amer Ins Co	$0	0.00%	$0	($9)	0.00%
Nationwide Mut Fire Ins Co	$0	0.00%	$0	$15	0.00%
Fair American Select Ins Co	($499,941)	(0.98%)	$110,232	$117,915	106.97%
Total	$51,148,381	100.00%	$52,553,930	$33,087,885	62.96%

Exhibit 2: Detailed view of insurers on a licensed premium basis for 2019

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
West Virginia Mut Ins Co	$16,012,845	49.96%	$16,240,577	$9,910,192	61.02%
Norcal Mut Ins Co	$4,008,569	12.51%	$3,943,964	$3,314,011	84.03%
Medical Protective Co	$3,559,019	11.11%	$3,570,189	$1,308,438	36.65%
American Cas Co Of Reading PA	$1,048,958	3.27%	$1,032,658	$329,751	31.93%
Community Hospital RRG	$1,013,831	3.16%	$1,013,831	($3,385,251)	(333.91%)
Ophthalmic Mut Ins Co RRG	$706,373	2.20%	$725,796	$258,391	35.60%
Aspen Amer Ins Co	$633,294	1.98%	$606,380	$96,569	15.93%
American Excess Ins Exch RRG	$630,800	1.97%	$630,800	$2,781,244	440.91%
Doctors Co An Interins Exch	$629,783	1.97%	$697,572	$1,549,187	222.08%
ProAssurance Ins Co of Amer	$468,514	1.46%	$493,400	$1,040,203	210.82%
Oms Natl Ins Co Rrg	$395,003	1.23%	$374,427	$160,528	42.87%
The Cincinnati Ins Co	$359,515	1.12%	$385,787	$238,500	61.82%
Fair Amer Ins & Reins Co	$305,481	0.95%	$315,842	$22,569	7.15%
NCMIC Ins Co	$280,432	0.88%	$281,220	$424,987	151.12%
Liberty Ins Underwriters Inc	$257,627	0.80%	$280,420	$4,691	1.67%
Health Care Industry Liab Recip Ins	$212,978	0.66%	$1,907,438	$1,074,154	56.31%
Cherokee Guar Co Inc a RRG	$188,680	0.59%	$188,680	($26,653)	(14.13%)
Preferred Physicians Medical RRG a M	$163,380	0.51%	$163,683	($14,130)	(8.63%)
Preferred Professional Ins Co	$146,931	0.46%	$127,478	$339,101	266.01%
Allied World Ins Co	$122,544	0.38%	$124,787	$7,217	5.78%
Lone Star Alliance RRG	$107,821	0.34%	$37,193	$2,265	6.09%
Ace Amer Ins Co	$98,786	0.31%	$98,966	$232,802	235.23%
American Alt Ins Corp	$93,267	0.29%	$93,327	$2,423	2.60%
Pharmacists Mut Ins Co	$91,890	0.29%	$92,204	$2,410	2.61%
Church Mut Ins Co	$83,861	0.26%	$73,528	$66,414	90.32%
The Doctors Co RRG a Recip Exch	$79,675	0.25%	$125,515	$185,098	147.47%
ProAssurance Ind Co Inc	$57,443	0.18%	$56,319	($74,554)	(132.38%)
MAG Mut Ins Co	$51,755	0.16%	$12,903	$0	0.00%
Continental Ins Co	$39,504	0.12%	$9,666	$1,180	12.21%
State Farm Fire & Cas Co	$33,749	0.11%	$30,700	$1,164	3.79%
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National Guardian RRG Inc	$4,510	0.01%	$4,510	($477,317)	(10583.53%)

Company Name	Written Premium	Market Share	Earned Premium	Losses Incurred	Pure Loss Ratio
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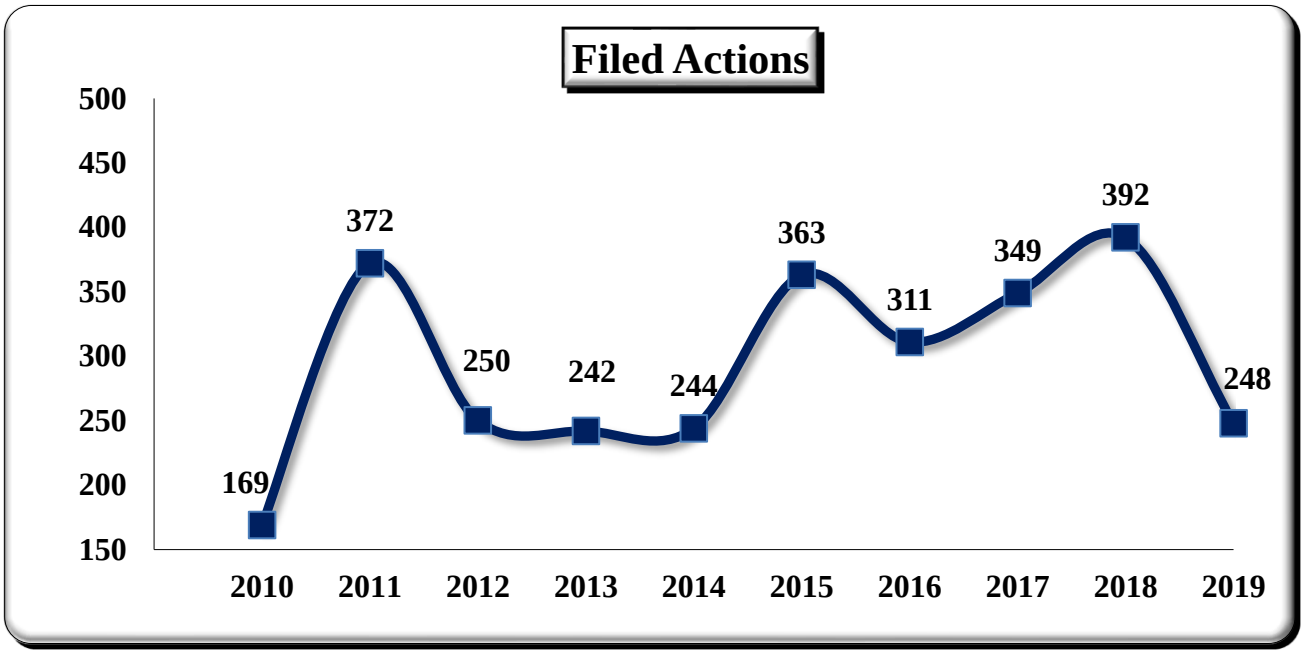
Hudson Ins Co	$1,240	0.00%	$1,270	($499)	(39.29%)
Beazley Ins Co Inc	$521	0.00%	$75,614	($117,016)	(154.75%)
Affiliates Ins Recip a RRG	$202	0.00%	$202	$163	80.69%
Allied World Specialty Ins Co	$0	0.00%	$0	($26,473)	0.00%
Zurich Amer Ins Co	$0	0.00%	$0	($9)	0.00%
Everest Natl Ins Co	$0	0.00%	$0	($1,033)	0.00%
National Fire Ins Co Of Hartford	$0	0.00%	$0	$11,681	0.00%
Granite State Ins Co	$0	0.00%	$0	($3,731)	0.00%
American Home Assur Co	$0	0.00%	$0	$3,028	0.00%
Nationwide Mut Ins Co	$0	0.00%	$0	$152	0.00%
United States Fidelity & Guar Co	$0	0.00%	$0	$1	0.00%
Ace Fire Underwriters Ins Co	$0	0.00%	$0	$456	0.00%
St Paul Mercury Ins Co	$0	0.00%	$0	($183)	0.00%
Atlantic Specialty Ins Co	$0	0.00%	$0	($3,730)	0.00%
Travelers Ind Co	$0	0.00%	$0	$36	0.00%
Physicians Specialty Ltd RRG	$0	0.00%	$0	$13,448	0.00%
Medicus Ins Co	$0	0.00%	$0	($244,768)	0.00%
Zurich Amer Ins Co Of IL	$0	0.00%	$0	($715)	0.00%
St Paul Fire & Marine Ins Co	$0	0.00%	$0	$5,936	0.00%
MedChoice RRG Inc	$0	0.00%	$0	$5,436	0.00%
Westport Ins Corp	$0	0.00%	$0	($209)	0.00%
Care RRG Inc	$0	0.00%	$0	$4,474	0.00%
Nationwide Mut Fire Ins Co	$0	0.00%	$0	$15	0.00%
Executive Risk Ind Inc	$0	0.00%	$0	($2,825)	0.00%
Total	$32,048,725	100.00%	$33,966,341	$19,470,250	57.32%

Medical Liability Fund Data

Effective 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. BRIM collects the data and provides to the WVOIC monthly. The data can be examined to establish the total number of actions filed in West Virginia per year and as well the total number of actions filed per county of venue. The table and graph below display ten years of filed medical professional liability actions.

Year	Filed Actions
2010	169
2011	372
2012	250
2013	242
2014	244
2015	363
2016	311
2017	349
2018	392
2019	248



Filed Actions by County

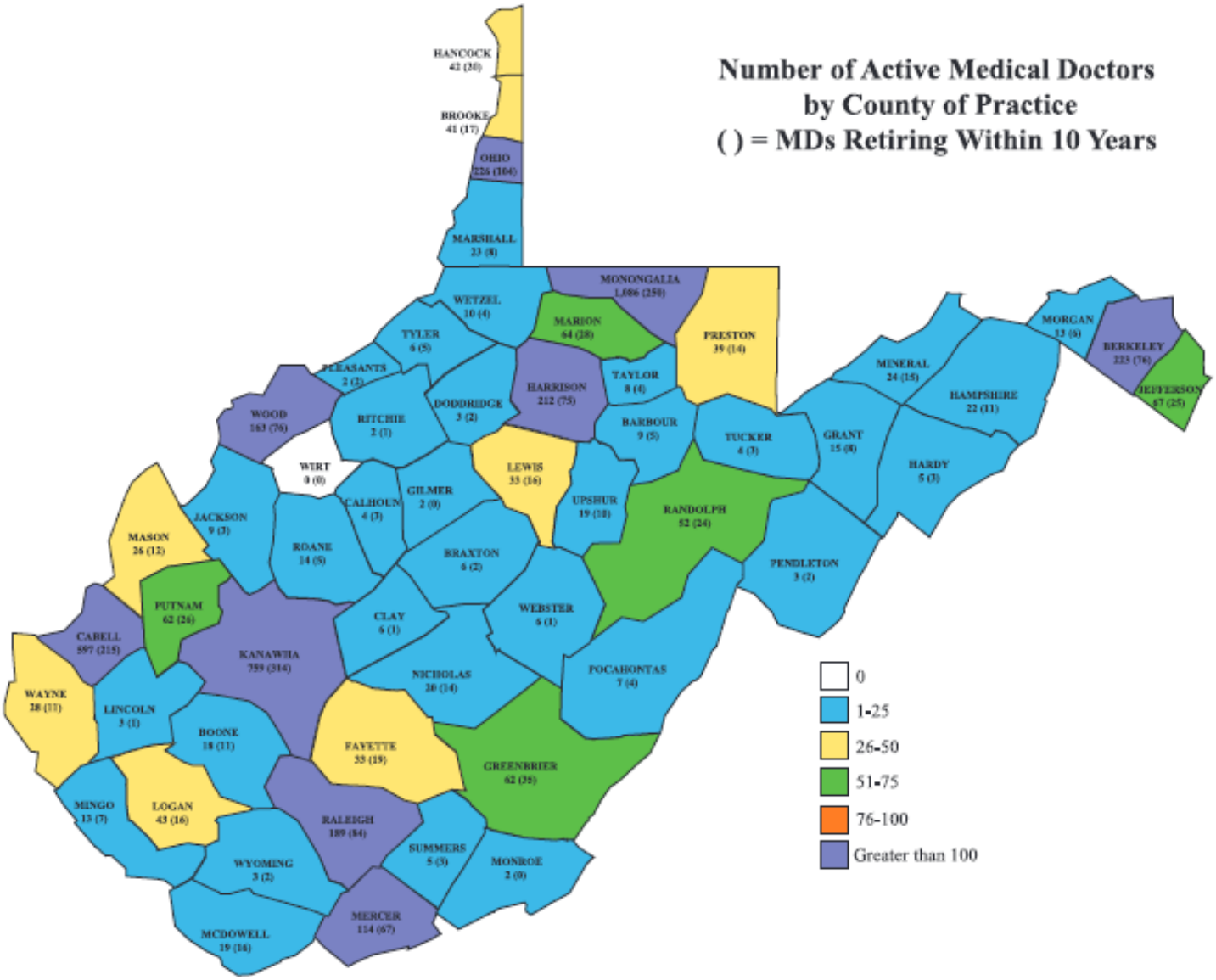
County	2019 Filed Actions
Barbour	0
Berkeley	10
Boone	3
Braxton	0
Brooke	4
Cabell	26
Calhoun	0
Clay	0
Doddridge	0
Fayette	10
Gilmer	0
Grant	0
Greenbrier	2
Hampshire	0
Hancock	1
Hardy	0
Harrison	7
Jackson	0
Jefferson	0
Kanawha	48
Lewis	2
Lincoln	0
Logan	7
Marion	4
Marshall	31
Mason	1
McDowell	4
Mercer	14

County	2019 Filed Actions
Mineral	1
Mingo	1
Monongalia	21
Monroe	0
Morgan	1
Nicholas	0
Ohio	7
Pendleton	0
Pleasants	0
Pocahontas	0
Preston	0
Putnam	6
Raleigh	15
Randolph	8
Ritchie	0
Roane	0
Summers	1
Taylor	2
Tucker	0
Tyler	1
Upshur	1
Wayne	5
Webster	0
Wetzel	0
Wirt	0
Wood	4
Wyoming	0
Total	248

The 2019 actions decreased 36.7% from the 2018 actions. The WVOIC receives aggregate liability data from BRIM so underlying information is not available for analysis to determine the cause of the decrease but again, this is a volatile and small based market, so fluctuations as shown above are not unexpected.

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	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Actively Licensed Physicians (M.D.)	5,857	5,962	6,020	6,282	6,636	6,533	6,780	6,945	7,060	7,207
Actively Licensed Podiatrists (D.P.M.)	111	101	103	100	101	111	110	120	116	126
Actively Licensed Physicians Practicing in WV	3,864	3,946	4,111	4,231	4,327	4,177	4,276	4,212	4,386	4,466
Physician Assistants (P.A.)	658	671	732	781	821	791	891	846	974	956

Looking at only licensed physicians that report as actively practicing in West Virginia, the 2019 physician count is the highest it has been in the last ten (10) years.