GuyCarpenter

MEDICAL PROFESSIONAL LIABILITY INSURANCE & REINSURANCE MARKET UPDATE

Second Quarter 2021

A business of Marsh McLennan

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Medical Professional Liability Insurance Market Update

Executive Summary

Loss Reserves. In 2020, reserves for prior accident years saw adverse development of $93M, the first time in over a decade that MPL did not have favorable reserve development.

Rates. Primary rates are increasing in all MPL segments, with Conning forecasting a 5.0% YOY increase in premiums for 2021.

Market Share. MPL specialist carriers have witnessed a decline in market share, driven in part by the rise of hospital employment of physicians.

Mergers & Acquisitions. Activity continues, with fallout of carriers who failed to attain scale and profitability during the protracted soft market.

Jury Verdicts. There were a record number of jury verdicts greater than $10 Million in 2017 – 2019, however 2020 saw only three verdicts greater than $10M.

Frequency/Severity Trends. Although claims frequency remained flat in 2020, severity is on the rise, with social inflation being a driver of increased excess layer severity.

The MPL insurance industry was unprofitable in 2020, with a projected combined ratio of 117.5%. This was the seventh consecutive year of underwriting losses for the segment

Executive Summary

The Impact of COVID-19

The potential effect of COVID-19 on the MPL industry is unknown:

- Premiums. Although premiums are on the rise, the pandemic has caused carriers to offer premium rollbacks for suspensions of coverage or reduction in procedures.
- Claims. Anecdotally, frequency has declined during COVID-19. The impact on severity is not clear, since trials, mediations and settlement conferences have been delayed by the pandemic. Nursing home/long term care is the only MPL class so far to be significantly impacted by COVID-19 claims.
- Immunities. The federal government and several states have enacted liability protections for healthcare providers.
- "Halo Effect." Much of the public believes healthcare providers are heroes and may have a mitigating effect on jury awards.
- The Calm Before the Storm? Once COVID-19 is behind us, we believe the industry will be engaged in an epic battle with the plaintiff's bar over COVID-19 claims.

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Medical Professional Liability Reinsurance Market Update

U.S. MPL Reinsurance Market at January 1, 2021

Executive Summary

Pricing

- Reinsurance pricing **up 5% to 10% on average** for MPL programs (all classes)
- **+10% to +20% on loss impacted accounts**
- Primary rate increases and reduction in scheduled credit usage helped offset reinsurance rate increases

Market Behavior

- COVID-19 viewed as an **"on-going catastrophe event"** by reinsurers
- Continued push for CD/Pandemic exclusions and/or sub-limits in certain classes
- **Balance of power shifting** from reinsurance underwriters to actuaries

Capacity

- Still ample capacity in the market, but declining market interest in certain classes (e.g., LTC, hospitals)
- **Reinsurer diversification critical:**
  - Higher margin requirements for new markets
  - Reinsurers prioritized renewals over new business opportunities

Terms and Conditions

- **Non-concurrent terms** present on a minority of treaties:
  - Based on differing views of **CD/Pandemic exclusions**
- **"Batch"** and **sexual abuse/molestation** coverages heavily scrutinized
- Majority of hospital programs placed without a COVID/pandemic exclusion

2020 firming market conditions persisted at January 1, 2021

U.S. MPL Reinsurance Market at January 1, 2021

General Market Commentary

Submission quality and data integrity are critical. Reinsurers are quick to decline to programs if they found the submission information lacking.

A majority of reinsurance placements were completed at FOTs, which forced the reinsurer’s hand for commitment. A minority of reinsurance programs had to be reordered.

Some markets were willing to commit only very late in the placement process and were looking for terms to improve as the anniversary date approached.

Total authorizations equaled 100% (with very little over-subscription); a small minority of placements were closed out where authorizations equaled less than 100% (and the client elected to keep a reinsurance co-participation).

Silent Cyber – Lloyd’s exclusion mandate at 7/1/2021 unless Cyber is enumerated as a covered class.

Worldwide MPL reinsurance capacity remains consistent at market equilibrium terms and conditions.

U.S. MPL Reinsurance Market at January 1, 2021

Reinsurance Rate Change

MPL Line	Rate Change: Non-Loss Impacted	Rate Change: Loss Impacted	Comments
Long Term Care	+15% to +20%	+25% or more	• Overall contraction in capacity • MPL LOB most impacted by COVID-19
Hospitals	+5% to +10%	+10% to +20%+	• Notable uptick in the frequency of severity of claims nationwide • Increasing loss trends having a significant impact
Other Healthcare Facilities	+5%	+10%	• Increasing loss trends having a meaningful impact
Physicians/Allied Healthcare	0% to +5%	+7.5% to +15%+	• Rate change dependent on primary underwriting action

- Primary rate increases helped to mitigate the pricing increases noted above.
- Less quoting markets for many lines of business other than Physicians.
- Some long-time MPL reinsurance writers re-trenching and exiting certain lines (i.e. SCOR, Partner)
- Hannover Re and select domestic reinsurers (e.g. Trans Re, Sompo, Ren Re) are consistent sources of capacity.
- Lloyd’s diminished appetite for MPL business continues.

U.S. MPL Reinsurance Market at January 1, 2021

COVID-19 – Restrictions and Exclusions

MPL Line	Exclusion	Sub-limit	Comments
Long Term Care	Yes	Yes	• Full CD/COVID exclusion for stand-alone LTC facilities • In some instances, sub-limited coverage for LTC exposures associated with hospital policies
Hospitals	No	In some cases	• Reinsurers required a sublimit equal to one or two times the reinsurance limit in some instances
Other Healthcare Facilities	No	No	• Placements completed without any restrictions
Physicians/Allied Healthcare	No	No	• Placements completed without any restrictions

- Historical loss experience can impact the magnitude of potential COVID-19 restrictions.
- It is difficult to garner market consensus on COVID-19 exclusionary wording, although the market relaxed its hard stance on exclusions at January 1, 2021.
- Lloyd’s is the most inflexible market for COVID exclusions, with most reinsurers requiring the more restrictive LMA verbiage for designated classes.

This is an excerpt from our full report. For more information, please reach out to a member of the
MPL Segment tam

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