



Department of Consumer & Business Services: Fact sheet on medical malpractice insurance

How many physicians practice in Oregon?

Oregon Health and Science University (OHSU) reported in 2004 that there were 8,292 active physicians in Oregon. OHSU gets licensing data from the Oregon Board of Medical Examiners and then verifies that each physician has an active Oregon practice. Some examples of licensed physicians excluded from this count are those engaged in military service or overseas mission work, or physicians who practice in an adjacent state but hold an Oregon license for consulting purposes.

Who insures Oregon physicians for professional liability?

Two entities dominate the Oregon market: Northwest Physicians Mutual Insurance Company (NPMIC) and the Oregon Medical Association Risk Purchasing Group. The OMA group buys coverage through Continental Casualty Company (Continental uses the trade name CNA). Both entities are organized solely for the benefit of the physicians who participate in them.

NPMIC and CNA respectively insure 2,006 and 2,259 physicians for a total of 4,265; this represents nearly 84 percent of the 5,081 physicians insured through the admitted market in Oregon. The other physicians in the admitted market are insured by The Doctors' Company (299), Physicians Insurance (228), National Union (92), GE MedPro (60), Preferred Professional (111), and Ophthalmic Mutual (3).

Active physicians in Oregon who do not have coverage through one of the companies listed above could be insured through their employer, such as a clinic or hospital policy; they could be insured by a surplus lines insurer; or they could have no insurance (professional liability insurance is not mandatory).

Surplus lines insurers are insurers that are not admitted in Oregon – meaning they do not have certificates of authority to sell insurance in this state, but they can still insure physicians who cannot get coverage in the regular, admitted market.

Are premium rates for professional medical liability insurance set by the DCBS Insurance Division?

No, but under Oregon law rate changes by admitted insurers are subject to Insurance Division review. The rate filings insurers submit to the Insurance Division must have actuarial support and must comply with all statutes, rules, and Insurance Division bulletins.

Medical professional liability rate changes of greater than 15 percent – up or down – require approval by the division before the insurer can use the new rate. Changes of less than 15 percent can be put into effect without waiting for Insurance Division approval.

Regardless of how large or small the change, each admitted insurer has to show that its rates are appropriate given how much it expects to pay in claims and administrative costs, how much it expects to earn in investment income, and what if any profit it should reasonably expect to make. Insurers also have to charge enough to maintain appropriate reserve and surplus funds to protect them (and their policyholders) from unanticipated losses.

If a rate filing an insurer submits to the Insurance Division does not meet the above requirements, or violates Oregon law, the division will require the insurer to make changes or provide additional actuarial supporting information and demonstrate compliance with the law.

The Insurance Division does not have the authority to deny a rate change based on policyholders' real or perceived hardship in the face of increased rates. A rate denial can only be based on inadequate actuarial support for the rate or on failure to comply with Oregon law.

How have rates changed in this market?

The recent rate history of the two largest professional liability insurers for physicians and surgeons, NPMIC and CNA, is shown in the table below. The increases shown are the averages for all insured physicians. Individual policyholders may have seen greater or lesser changes depending on specialty, loss history, and policy limits.

Rate changes filed with the Insurance Division, as a percentage increase from the rate charged the prior year

Year	NPMIC	CNA
1999	8.85%	0.00%
2000	4.00%	0.00%
2001	25.00%	16.00%
2002	32.80% and 19.70%*	63.70%
2003	18.70%	37.00%
2004	15.00%	14.60%

*In 2002, NPMIC increased its rate on two separate occasions. The second increase is shown as a percentage increase over the first increase.

Medical professional liability insurance premium table, 1999-2003

Of the \$106 million in medical professional liability premiums written (billed) in the Oregon market in 2003, the Insurance Division reviewed rates that generated approximately \$72 million. This included \$48 million from direct insurers and \$24 million through CNA on behalf of the OMA risk-purchasing group. The remaining \$34 million is attributed to surplus lines insurers that are not subject to the division's rate regulation.

The \$106 million includes premiums billed to doctors, hospitals, and clinics, but does not include the costs of medical organizations that self-insure, such as Kaiser Permanente or OHSU. The experience for the two largest writers of medical professional liability insurance for physicians and surgeons is shown below, drawn from company annual statements filed with the National Association of Insurance Commissioners.

Northwest Physicians Mutual Insurance Company				
Year	Direct Premiums Written	Direct Premiums Earned	Direct Losses Incurred	Direct Loss Ratio
1999	11,406,248	10,577,241	11,419,452	107.96%
2000	12,243,380	11,736,564	14,351,187	122.28%
2001	13,629,208	13,327,904	32,133,212	241.10%
2002	23,286,219	18,453,418	16,409,121	88.92%
2003	27,744,184	25,485,203	15,969,776	62.66%

Continental Casualty Company, OMA Risk Purchasing Group				
Year	Direct Premiums Written	Direct Premiums Earned	Direct Losses Incurred	Direct Loss Ratio
1999	9,556,745	11,466,072	-10,058,274*	-87.72%*
2000	10,070,307	10,282,396	4,606,359	44.80%
2001	12,442,950	20,153,770	24,362,618	120.88%
2002	21,170,683	16,323,688	20,373,027	124.81%
2003	23,681,137	23,388,616	18,640,998	79.70%

*In 1999, CNA shows negative numbers for its direct losses incurred and its direct loss ratio because the company lowered its reserves from prior years, more than offsetting its incurred losses for that year.

Premium written measures total premium billed to policyholders during the calendar year. This is used primarily as an indicator of market share. Earned premium measures that portion of premiums charged that applies to actual coverage in force during the calendar year. A given policyholder's premium will count as premium written for the calendar year in which it was billed, but all or part of that amount may be counted as premium earned in the following calendar year, depending on the period over which coverage was actually provided under the policy.

Losses incurred are claims paid during the year, including payments during the year on claims submitted in prior years. Losses incurred also reflect a company's adjustments to its reserves to provide for future claims.

The loss ratio is calculated by dividing losses incurred by earned premium, so a loss ratio of 100 percent or greater means that losses incurred equaled or exceeded premiums earned, with no margin for insurer expenses. From a financial standpoint, insurers therefore seek to achieve a lower ratio, and commonly use loss ratios as a standard of comparison between companies.

What is the difference between occurrence and claims-made policies?

During the fall of 2003, CNA began converting its occurrence policies to claims-made policies. This is important because the conversion changed the terms of coverage and initially lowered policy premiums.

Occurrence policies provide coverage for professional liability claims that occur while the policy is in force, regardless of when the claim is reported. Due to the extended time of coverage, occurrence policies are more expensive initially than claims-made policies.

Claims-made policies provide coverage for claims that both occur and are reported while the policy is in force. In medical professional liability cases, there is often a lag time of several years between treatment and filing of a claim. Because of this, premiums for claims-made policies are lower in the early years of a policy, then increase as the policy matures. At the fifth year, a claims-made policy is considered mature and the premium is equivalent to an occurrence policy. Claims reported after the policy is canceled would not be covered unless the physician purchases additional coverage known as tail coverage.

How is premium structured in claims made policies?

The following example shows how the premium for a claims-made policy would increase over time: An average Oregon obstetrician with annual policy limits of \$1 million per occurrence / \$3 million aggregate could expect to pay \$22,000 for the first year of a claims-made policy, \$34,000 in the second year and \$61,000 for coverage when the policy matures in the fifth year.

What do various specialties pay for liability insurance?

Based on rates filed with the Insurance Division as of May 1, 2004, CNA and NWPMIC charge the following range of annual premiums for policies with limits of \$1 million / \$3 million. For purposes of comparison, this reflects the rate of a mature claims-made policy that is equivalent in cost to an occurrence policy.

Internal medicine	\$7-9,000
Family practice	\$9-11,000
Family practice w/OB	\$19-37,000
Emergency medicine	\$17-19,000
General surgery	\$33-41,000
Obstetrics	\$61-70,000
Neurosurgery	\$63-72,000

These estimates do not reflect either credits or surcharges that a physician may receive based on his or her specific loss history.

Isn't there a new medical professional liability insurance program for rural physicians?

In 2003, the Legislature approved Governor Kulongoski's proposal to use the State Accident Insurance Fund (SAIF) to administer a reduced-cost reinsurance program for insurers offering medical professional liability insurance to rural physicians. The program reimburses insurers for a portion of the cost of their policyholders' coverage. Insurers then pass that reimbursement along to the policyholders. Reimbursement is tiered by physician specialty, so that there is a higher rate of reimbursement for specialties that have been especially hard-hit by recent premium increases.

SAIF funds the program and then receives a corresponding credit against the annual workers' compensation premium assessment it pays to the Department of Business and Consumer Services. The credit offsets program costs so premiums paid by SAIF's workers' compensation policyholders are not diverted. SAIF's total credit is limited to an average of no more than \$10 million per year.

This program was intended to help address the immediate crisis in medical professional liability insurance costs where it was most acute, in rural communities. The program sunsets after 2007.

Reimbursement program highlights as of October 1, 2004:

- 1,063 rural physicians participating
- Over \$3 million distributed to physicians. SAIF projects year-end distribution for 2004 at \$4.5 million.
- Medical specialty count and total reimbursement:
 - (a) obstetricians (57), \$669,880;
 - (b) family practice physicians that also offer obstetrics services (68) \$424,135;
 - (c) all other physicians (938), \$1,926,922.

Where can I find more information about the medical professional liability insurance market?

The 2003 legislation that created the rural reinsurance (reimbursement) program also included a provision requiring an actuarial study of the Oregon market. That study was recently completed, and is available from legislative staff by calling 503-986-1474. The study includes a comprehensive bibliography with more sources of information on this topic.

In addition, the National Association of Insurance Commissioners recently completed a study of medical malpractice market conditions nationwide. It is online at www.naic.org/research.