

3 Vital Questions to Address When Looking at the Severity of Medical Professional Liability Claims

Severity of claims seems to be growing for medical professional liability. Here are three things health care professionals need to be thinking about in order to prepare.

By: [Pinnacle Actuarial Resources, Inc.](#) | October 2020

The medical profession is a complex network of care, with approximately 59 million health care workers worldwide. Their jobs are vital. Their knowledge and understanding of health and well-being is what drives our civilization forward. People depend on their care.

That is why it is imperative for these doctors, nurses and other providers to remain insured in the event something goes awry.

Medical professional liability insurance (MPLI) helps those within the medical profession protect themselves, and the hospitals and facilities they work for, from potential E&O, malpractice or similar liability claims alleging wrongdoing on the part of the provider.

“The coverage is a practical, if not legal requirement, of course,” said Erick Mortenson, consulting actuary at Pinnacle Actuarial Resources. “But there is a lot of nuance to it, too, depending on where a physician or provider works — think large hospital versus independent practice. That makes it really important for providers seeking medical professional liability to review what they need.”

This, he said, is especially true now as claims severity for medical professional liability may be on the rise.

“The rise in severities that we’re looking at now could result in higher losses for companies moving forward. That, again, makes it prudent to review coverages in place,” he said.



Here are three questions that the health care industry and its insurers should be reviewing in order to get ahead of a potential rise in severity of MPLI claims.

1) What will cause a rise in the severity of medical professional liability claims?



**Erick Mortenson,
Consulting Actuary,
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An MPLI claim is associated with negligence resulting in bodily injury, medical expenses or property damage, as well as the cost of defending lawsuits related to such claims.

The biggest factor currently driving severity for medical professional liability claims is social inflation.

“You hear this buzzword: social inflation,” Mortenson said. “It’s related to this idea that there seem to be much larger verdicts passing in favor of plaintiffs in recent years.” Additionally, recent trends show that while there has been a drop in the percent of cases going to trial over the last two decades, those trial verdicts tend to be larger.

These “nuclear verdicts,” as they are often called, can reach into the millions of dollars and are the result of a motivated plaintiffs’ bar driving an increase in litigation, relying on broadened definitions of liability and playing into shifting societal views on the concept of justice.

“There has been an ‘anti-corporate’ sentiment growing among juries,” Mortenson said.

Another trend to watch is the possibility of higher policy limits leading to larger payouts: “Health care is a quickly changing industry. In the last two decades or so, there has been a trend of individual physicians moving into hospital groups,” Mortenson explained.

“When they move to a group, the physician is likely going to be covered by a higher policy limit. That can act as a motivator for trial lawyers to bring these cases to court and aim for a larger verdict.”

But hospital groups are not alone; in addition, 2019 data has shown that individual providers, too, have seen a spike in large verdicts.

2) If medical professional liability claim severity does grow, what will happen to the insurance companies?

Insurance companies rely on historical data and patterns to predict and project ultimate losses. They use this data to plan pricing years in advance and collect premium based on these numbers.

So, if there is a spike in medical professional claims severity right now, historical data will not reflect this new environment.

“If that severity trend increases right now, the projections of ultimate losses based off historical patterns will be too low,” said Mortenson.

“MPL financials have been aided by reserve redundancies. They’ve over-projected their reserves. But if claims severity is higher, those redundancies will go away, and insurance companies will find they are projecting reserves that are too low.”

The long-term implications of a spike in severity could have a negative effect for reinsurance pricing.

“A lot of medical malpractice insurers buy excess of loss reinsurance,” Mortenson explained. The pricing of the excess of loss reinsurance relies on the claims severity trend assumption. Excess of loss reinsurance pricing is very sensitive to the severity trend assumption. If severity goes up, so too will the cost of reinsurance.

“That may push some insurers to retain more risk or have to find a way to deal with additional pricing pressure from reinsurance costs,” he said.

3) How can insurance companies and their insureds prepare for a potential increase in medical professional liability claim severity?

The good news: Industry surplus is in good shape.

“The surplus position, right now, is pretty good, so that’s an initial buffer,” he said. “Going forward, I believe the realm of predictive modeling and using advanced data analytics to catch claims severity patterns will be key.”

He gave the example of medical facilities using predictive modeling to reduce medical errors. The more a facility understands about where its past medical errors happened, the better it can equip itself to prevent them from occurring again, essentially stopping a medical professional liability claim from ever happening.

“This predictive capability is gaining traction in the industry,” said Mortenson.

“This is already proven in the auto industry, where a lot of companies have invested resources in advanced data analytics. I think predictive modeling in MPL will continue to gain traction moving forward. I expect to see it recognized as an essential tool for MPL insurers in the next decade.”

Finding a Partner That Can Provide the Answers You Need

When it comes to addressing medical professional liability claim severity, insurers and their insureds need to

have a good understanding of what to expect.

Knowing the factors driving severity and the impact those factors will have on insurance is step one. Finding ways to prepare is as easy as partnering with the right MPL professionals.

“Pinnacle has that medical professional liability expertise,” Mortenson said. “It also has deep knowledge rooted in predictive analytics and capturing data.”

Pinnacle is founded on understanding data and information and using it to find solutions to even the most difficult of risks. The company’s actuaries are not only dedicated to identifying the financial consequences of risk to a business, but also to helping each business make the best decisions based on their findings that lead them to success.

“Managing medical professional liability costs is critical for health care providers to improve care and drive positive outcomes,” Mortenson said.

“Knowing the risks and understanding what they are telling us is how Pinnacle continues to provide insurers with reliable recommendations during changing times.”

To learn more, visit: www.pinnacleactuaries.com.

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