

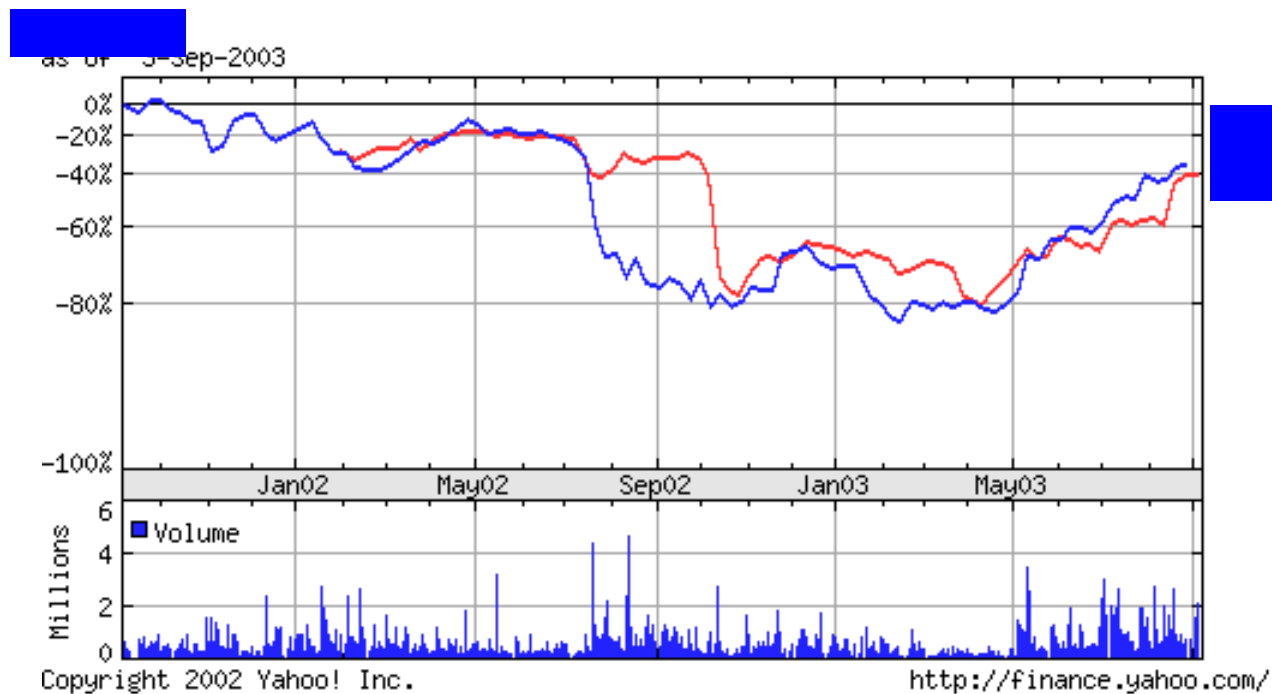
2003 CAS ANNUAL MEETING

Nursing Home Professional Liability Insurance Crisis – An Update

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Long Term Care Professional & General Liability

Houston, we have a problem



Long Term Care Professional and General Liability

- **AON LTC Database**
 - **Primarily Multi-Facility Providers**
 - 16 Large Multi-State
 - 6 Regionals (2 or 3 state presence)
 - 55 Single State
 - **Primarily For-Profit**
 - **420,000 Licensed SNF Beds and 60,000 ALF/Indep. beds Countrywide**

Long Term Care Professional & General Liability

State	Exposure (Beds)	% of Beds in State
Countrywide	480,000	26%
Florida	45,000	54%
Texas	33,000	26%
Mississippi	6,600	38%
California	34,000	24%
Arkansas	9,500	29%
Alabama	19,000	75%
All Other	335,000	24%

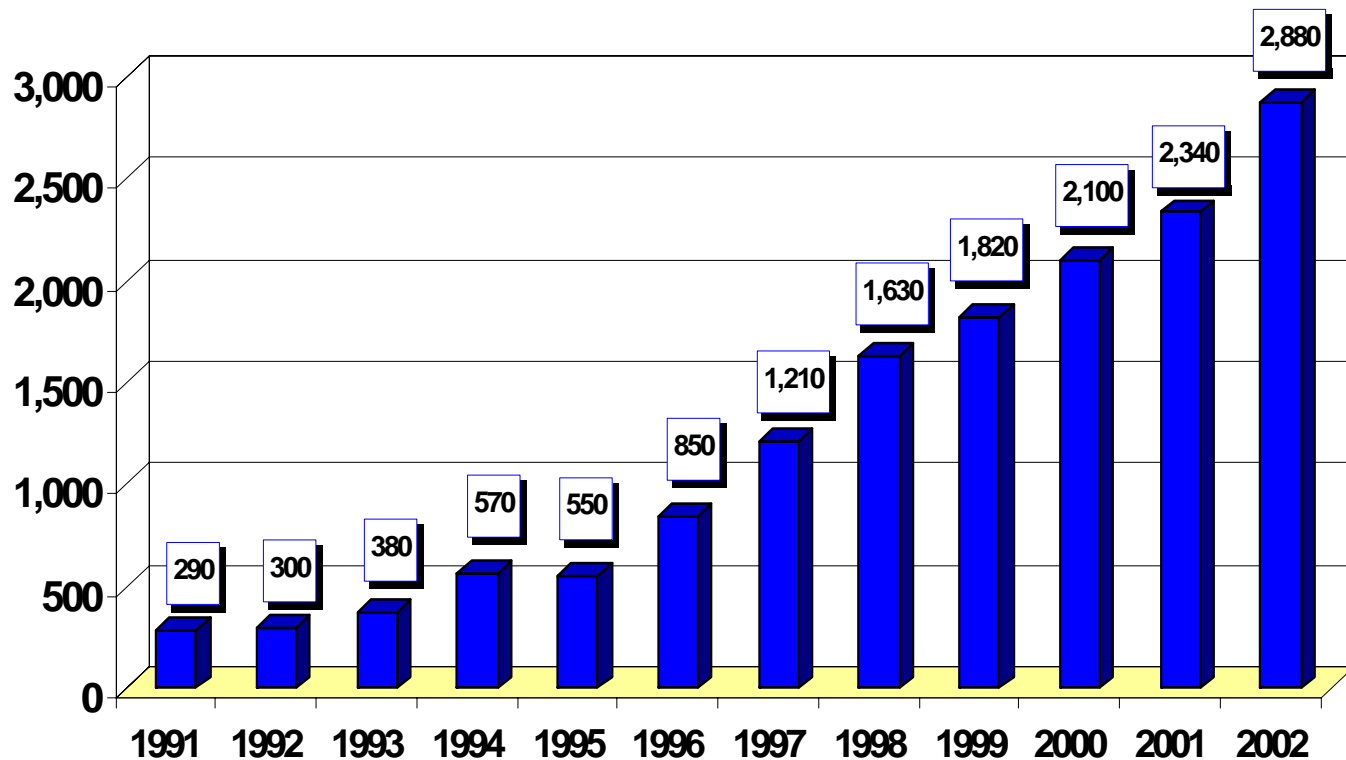
Long Term Care Professional and General Liability

- **Key Observations of Changes from Prior Studies**
 - Frequency higher than expected
 - Continuing crisis
 - Previously understated claim count dev.
 - Offsetting effect to severity
 - Flattening trend lines in “aged” states, particularly Florida
 - **Exodus of Deep pocket providers**
 - **Size of awards leveling off**
 - Newly emerging litigious states

Long Term Care Professional and General Liability

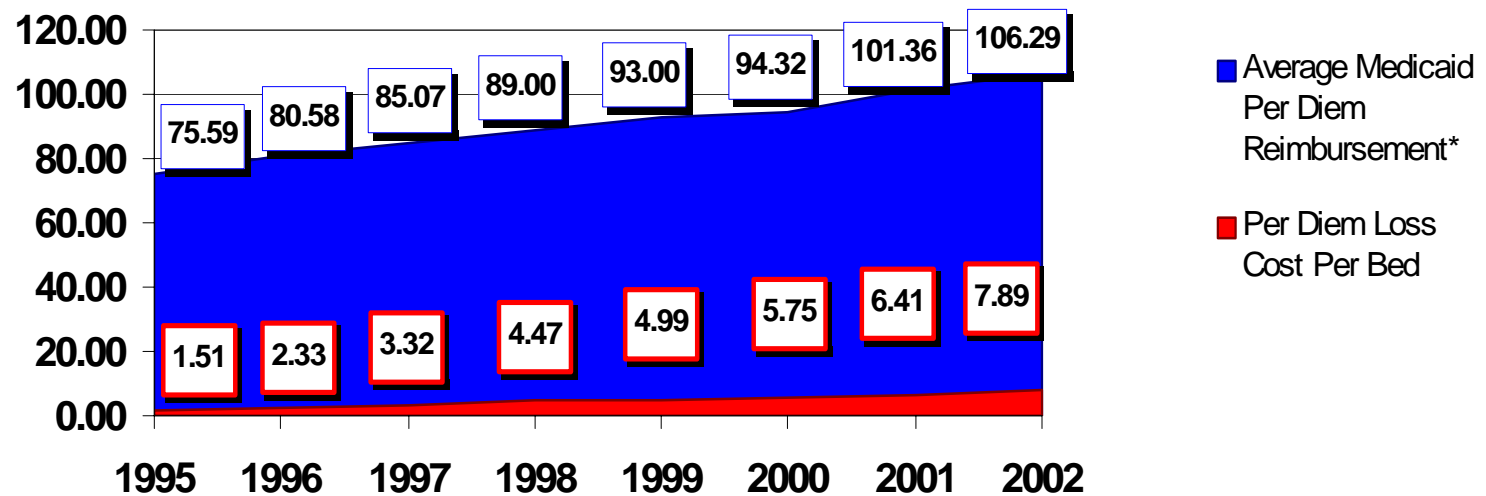
Loss Cost per Occupied Bed

Countrywide



Long Term Care Professional and General Liability

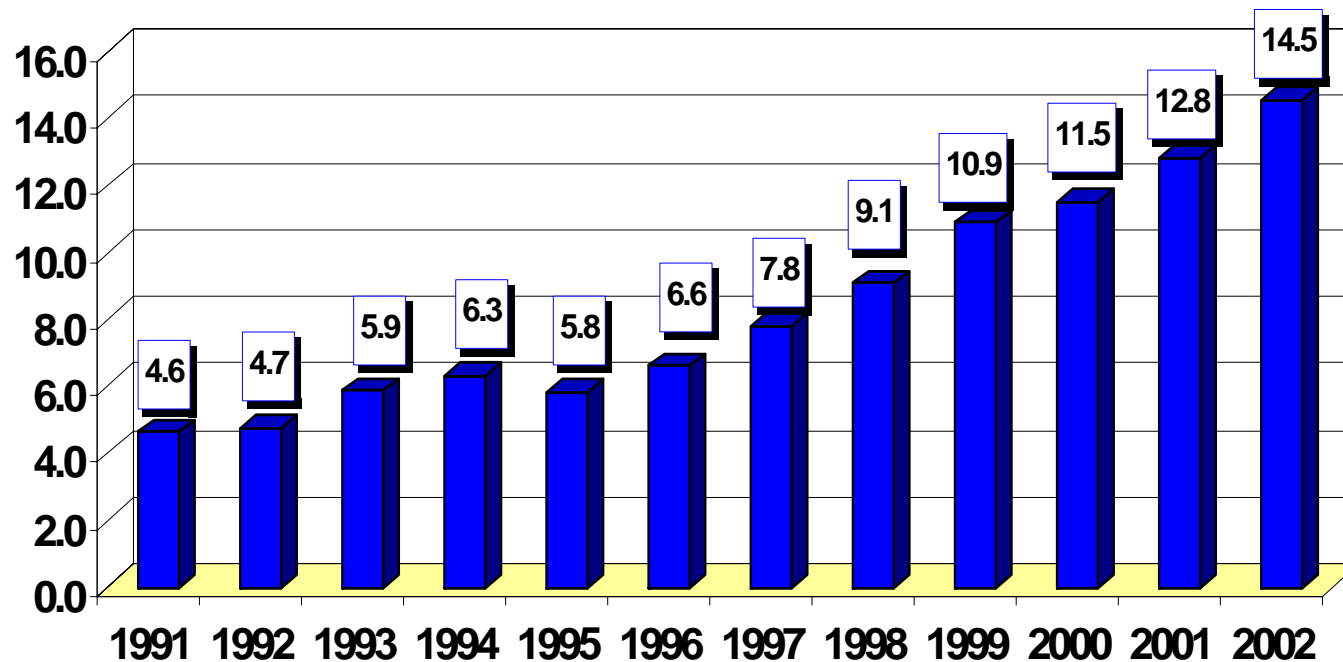
Countrywide Per Diem Loss Cost Versus Medicaid Reimbursement



*2001 & 2002 Projected

Long Term Care Professional and General Liability

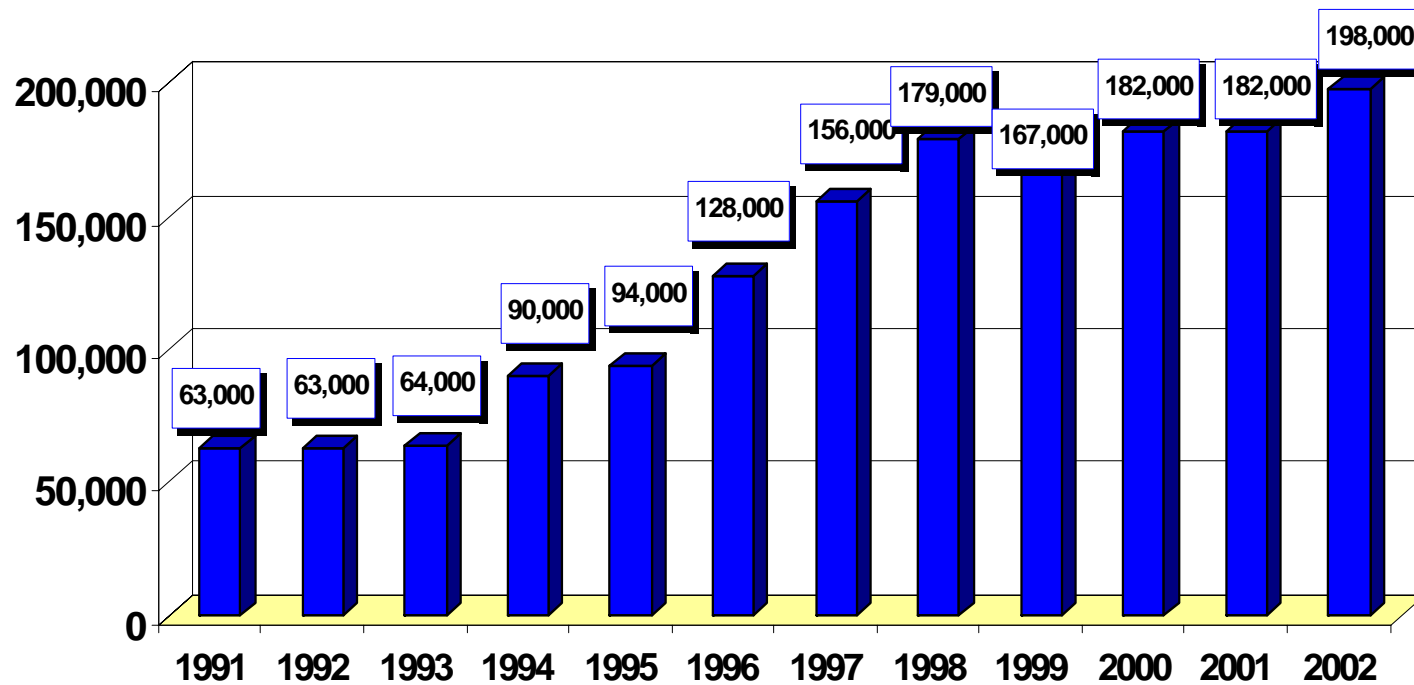
Annual Number of Claims per 1,000 Occupied Beds
Countrywide



Long Term Care Professional and General Liability

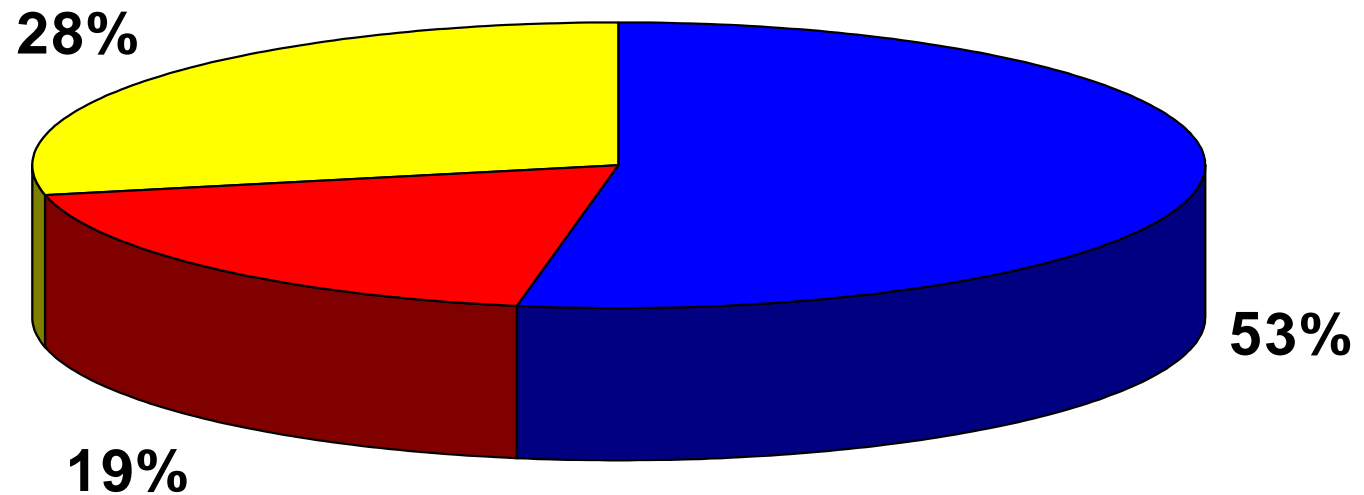
Severity per Non-zero Claim

Countrywide



Long Term Care Professional and General Liability

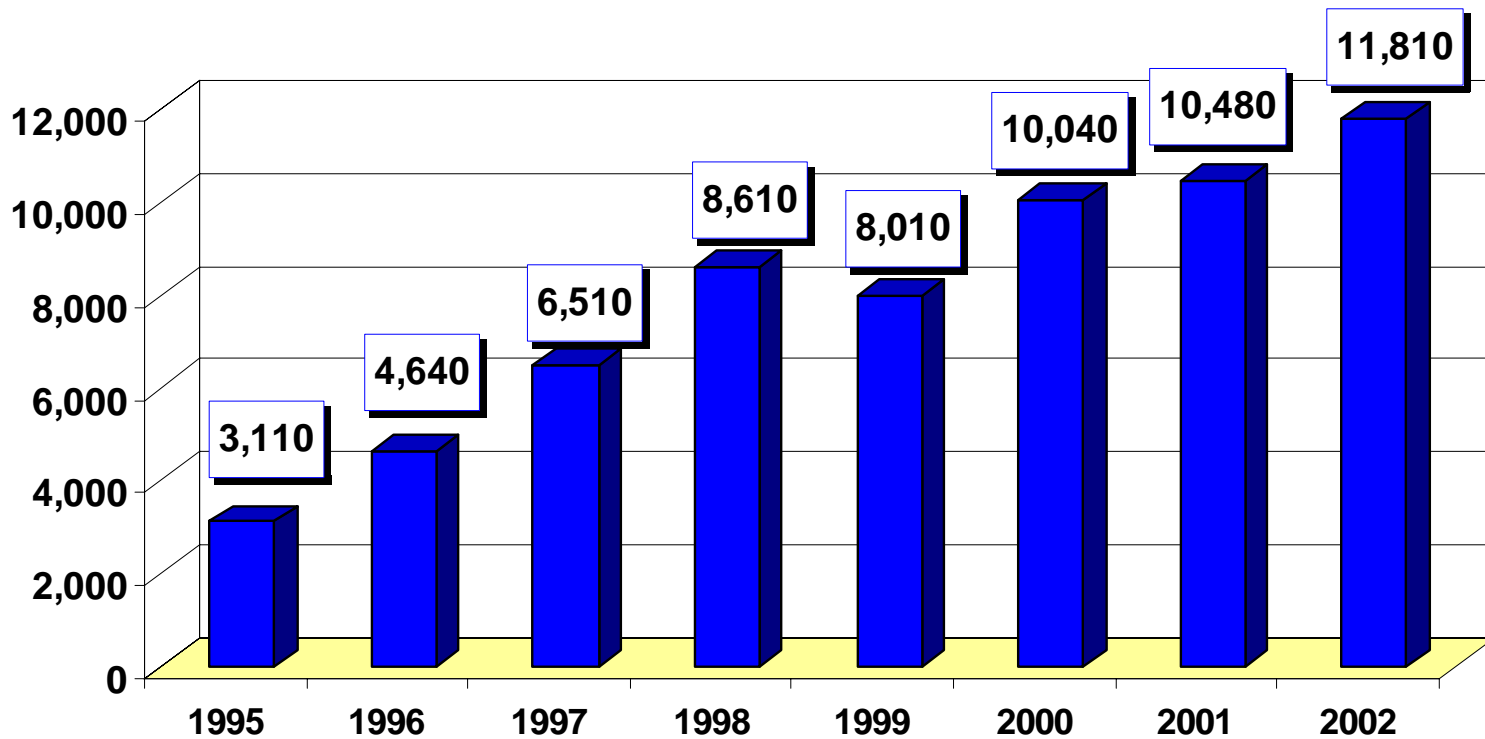
Distribution of Compensation



- Patient and/or Family Compensation
- Defense Costs (Defense Attorneys & Investigation)
- Plaintiff Attorney Fees

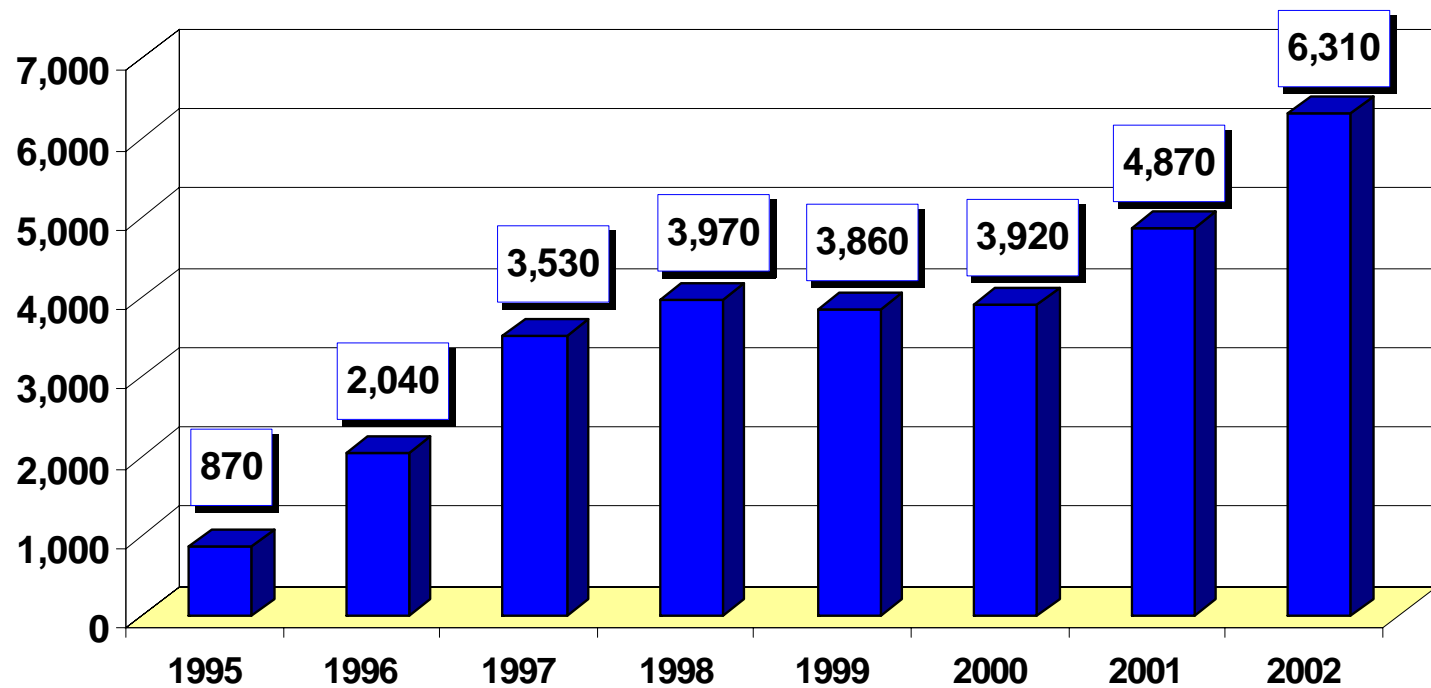
Long Term Care Professional and General Liability

Florida Loss Cost per Occupied Bed



Long Term Care Professional and General Liability

Texas Loss Cost per Occupied Bed



Long Term Care Professional & General Liability

- Most frequent allegations
 - Decubitus Ulcers (\$213M) - 3rd in frequency
 - Negligent Care (\$112M) - 2nd in frequency
 - Slip/Fall (\$93M) - 1st in frequency
 - Lack of Care (\$87M)
 - Abuse/Assault (\$47M)
 - Multiple Causes (\$34M)
 - Dehydration/Malnutrition (\$19M)
 - Elopement/Wandering (\$14M)
 - Choke/Aspiration (\$9M)
 - Transfer/Lifting (\$9M)
 - Burns (\$7M)
 - Mis-Medication (\$5M)

Long Term Care Professional & General Liability

- The problem
 - A mismatch between the level of care expected by society and the quality of care that can be reasonably delivered under the current funding structure.

Long Term Care Professional & General Liability

- Solutions
 - More and better staffing (requires funding)
 - Limits on damages (must max losses between \$250K to \$1M to have any impact)
 - Limits on use of survey data as evidence of gross negligence
 - Change in family expectations

Long Term Care Professional & General Liability

- Texas Tort Reform – HB 4 eff. 9/1/03
 - \$250,000 cap on non-economic
 - NH and ALF defined as HC institution
 - \$250,000 applies per institution
 - Constitutional amendment passed
 - NH came under state punitive cap of \$750,000
 - \$1.5M total limit wrongful death case
 - HPL/Physician Liab. filed changes: –12%
 - LTC impact should be even more

Long Term Care Professional & General Liability

- Mississippi Tort Reform (2002)
 - Non-economic cap of \$500,000 per incident
 - Punitive Damages cap indexed to size of company, starting at 4% of net asset value.

Long Term Care Professional & General Liability

- Florida Tort Reform (2001 S.B. 1202)
 - Stronger Negligence Std.
 - Punitive Damage caps (3 tiers up to \$4M or 4 x compensatory)
- Florida Tort Reform (2003 S.B. 2-D)
 - Non-economic damages cap
 - \$500,000 for physicians
 - \$750,000 for hospitals
 - Emergency room cases \$150,000
 - Other nonphysician providers \$750,000 per claimant; \$1.5M all claimants.

Long Term Care Professional & General Liability

- Ohio Tort Reform (2003 S. 281)
 - Non-economic cap 250,000 or 3 x econ.
 - Max cap of \$350,000 per plaintiff or \$500,000 per occurrence
 - Exceptions allow \$500,000/\$1M caps
- West Virginia (2003 H.B. 2122)
 - Non-economic caps
 - \$250,000 per occurrence
 - \$500,000 per occurrence for
 - Wrongful death
 - Deformity
 - Loss of limb or bodily function
 - Inflation adjustment to \$1M

Long Term Care Professional & General Liability

- Observed Trends of LTC Providers
 - Continued exodus from litigious states
 - Paying down of legacy liabilities
 - More aggressive litigation strategies
 - Mock trials
 - Arbitration agreements
 - Increased staffing
 - Re-defining expectations for families
 - Improvements to facilities
 - Focus on patient care