

Current Issues and Trends in Medical Malpractice

Casualty Loss Reserve Seminar
Session LOB1
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Erik A. Johnson
Aon Global Risk Consulting
Raleigh, NC

Current “Issues and Trends” in “Medical Malpractice”

- Medical Malpractice
 - Hospital Professional Liability
 - Physician Professional Liability
 - Long Term Care Professional Liability
- Issues and Trends
 - Trends: Data based trends in frequency and severity of indemnity and expense costs
 - Issues: What is driving the trends? How are healthcare providers managing the med mal exposure?

Hospital Professional Liability – Background

Hospitals are the “old pros” of self insurance and large retentions

- Many systems established self insurance vehicles 10, 15, even 25 years ago. Hospital CFO’s are familiar with operation of captives, trust funds, or simply maintaining (very) high retention levels.
- Hospitals have seen the effects of self insurance “underwriting results” on their financials and seek to make effective investments into improving these results.

Recent initiatives of the last 5-10 years

- Tort Reform initiatives
- Investing in defense strategies (ALAE)
- Patient Safety Initiatives

Financial officers are sophisticated and wary of “cycles” of reserve increases and decreases. They are increasingly concerned with making “flip-flop” entries – reducing a reserve one period only to increase the next.

A new issue: How to estimate the cost of “Never Events”? Direct and Indirect cost?

Aon/ASHRM 2007 HPL Benchmarking Study

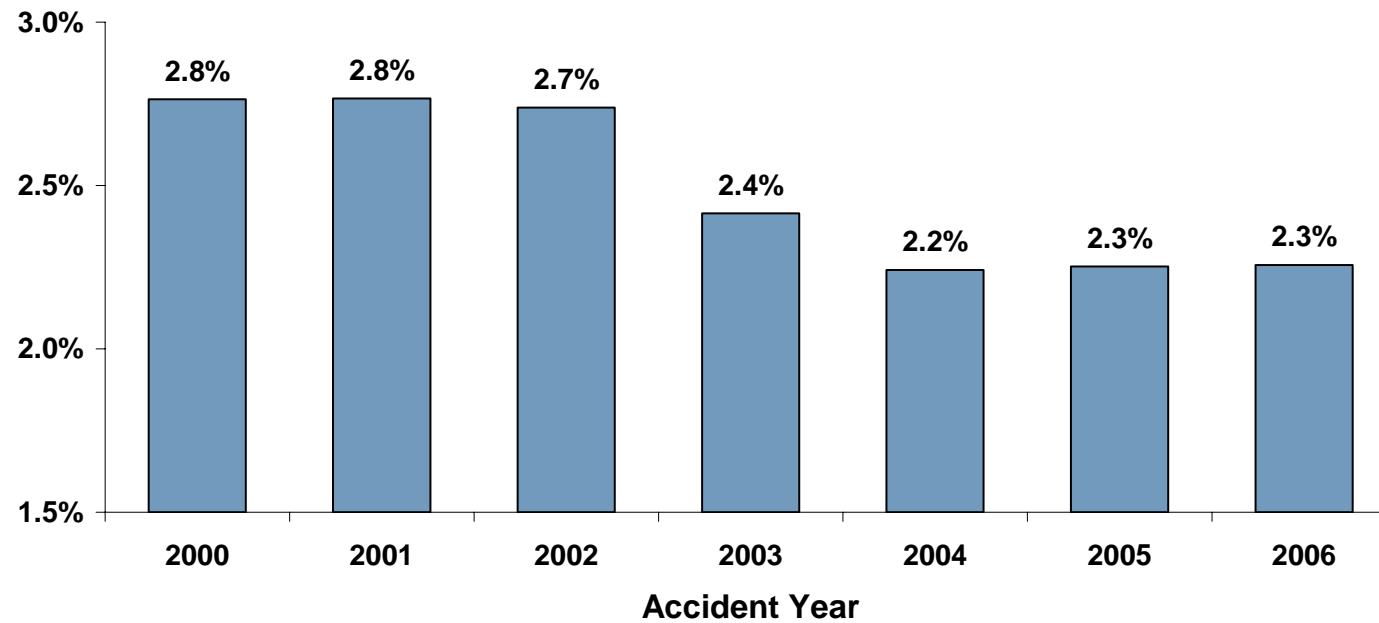
- Underlying Data: 65,689 non-zero claims; approximately \$7.7b in reported losses; over 1,000 facilities
- Most participants are self-insurers
- 8th annual study
- Actuarial analysis of Frequency, Severity, and Loss Cost trends countrywide and in specific states
- Claim Severity is limited to \$2M per occurrence
- Claim Frequency is based on “non-zero” claim count
- Exposures are “Bed Equivalents”

Key Findings of 2007 Benchmarking

- Loss costs for the upcoming year were at the “lowest levels” in the history of our study. Projections of loss costs for prior years continue to be retrospectively reduced. (\$3,600 per bed equivalent for AY 2008).
- The frequency of claims continues to be “non-increasing”.
- The severity of claims (at the \$2M limit) is increasing at a 3% annual rate. This is the lowest severity trend we have projected in the history of the report. (But note the ALAE and Indemnity are not in synch).
- Patient safety initiatives are linked to reductions in the number of claims in specific hospital departments.
- Facilities that are recognized for their patient safety initiatives exhibit lower professional liability loss costs.

HPL Claim Frequency

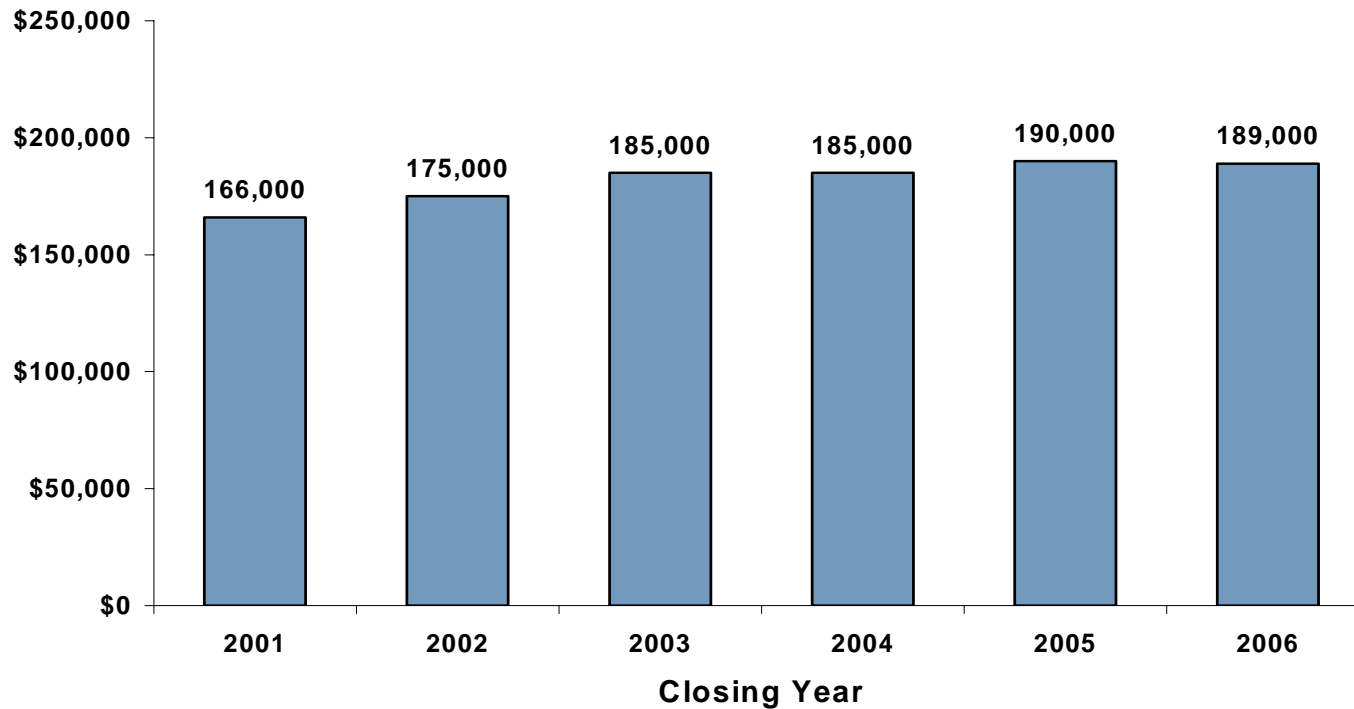
Hospital Professional Liability Benchmark
Aon Database
Historical Frequency Per Acute Care Bed Equivalent



HPL Claim Severity Trend (w Indemnity)

Hospital Professional Liability Benchmark Analysis Closed Claim Analysis

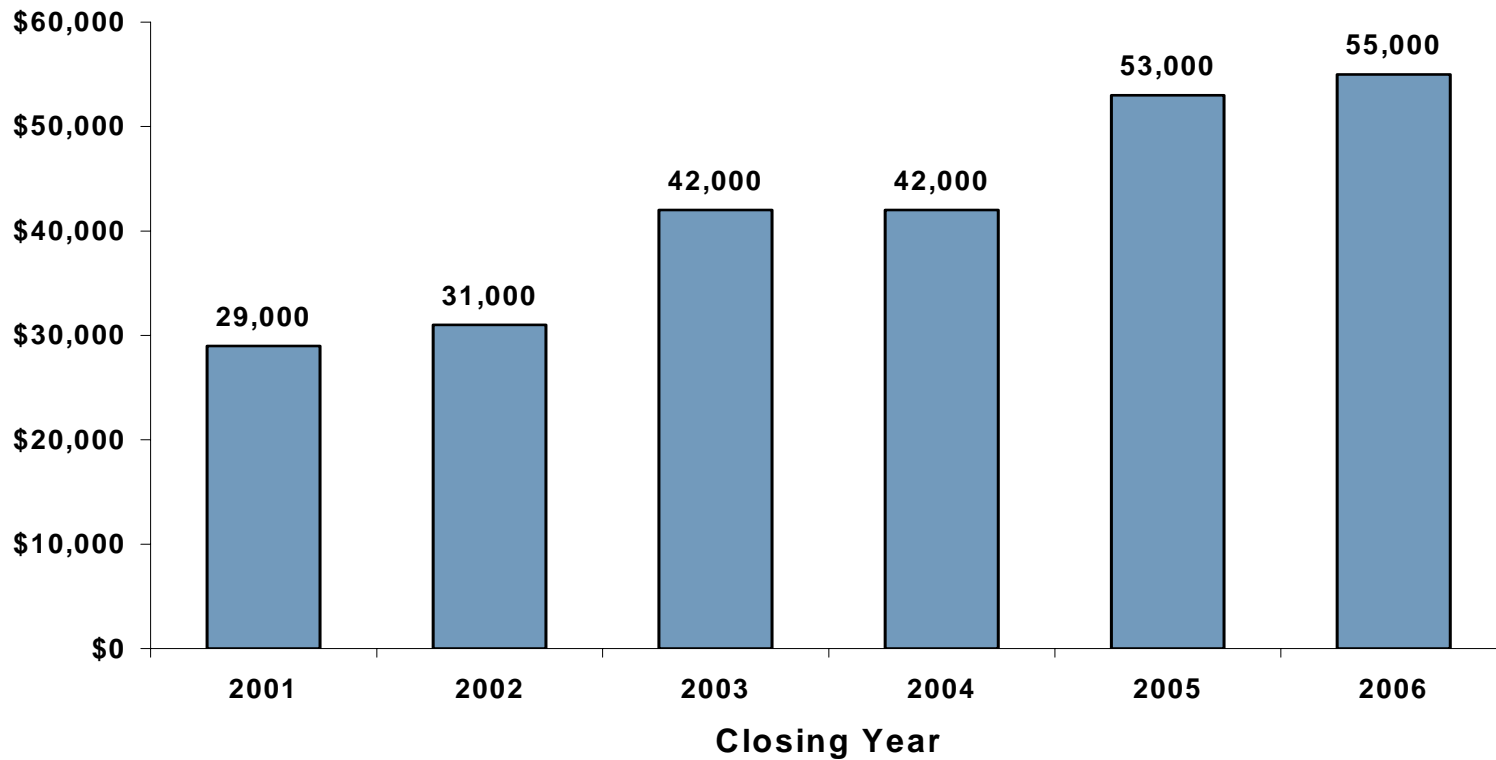
Average Paid Indemnity on Claims with Indemnity Payments
Limited to \$2M per Occurrence



HPL Claim ALAE for claims w/Indemnity

Hospital Professional Liability Benchmark Analysis
Closed Claim Analysis

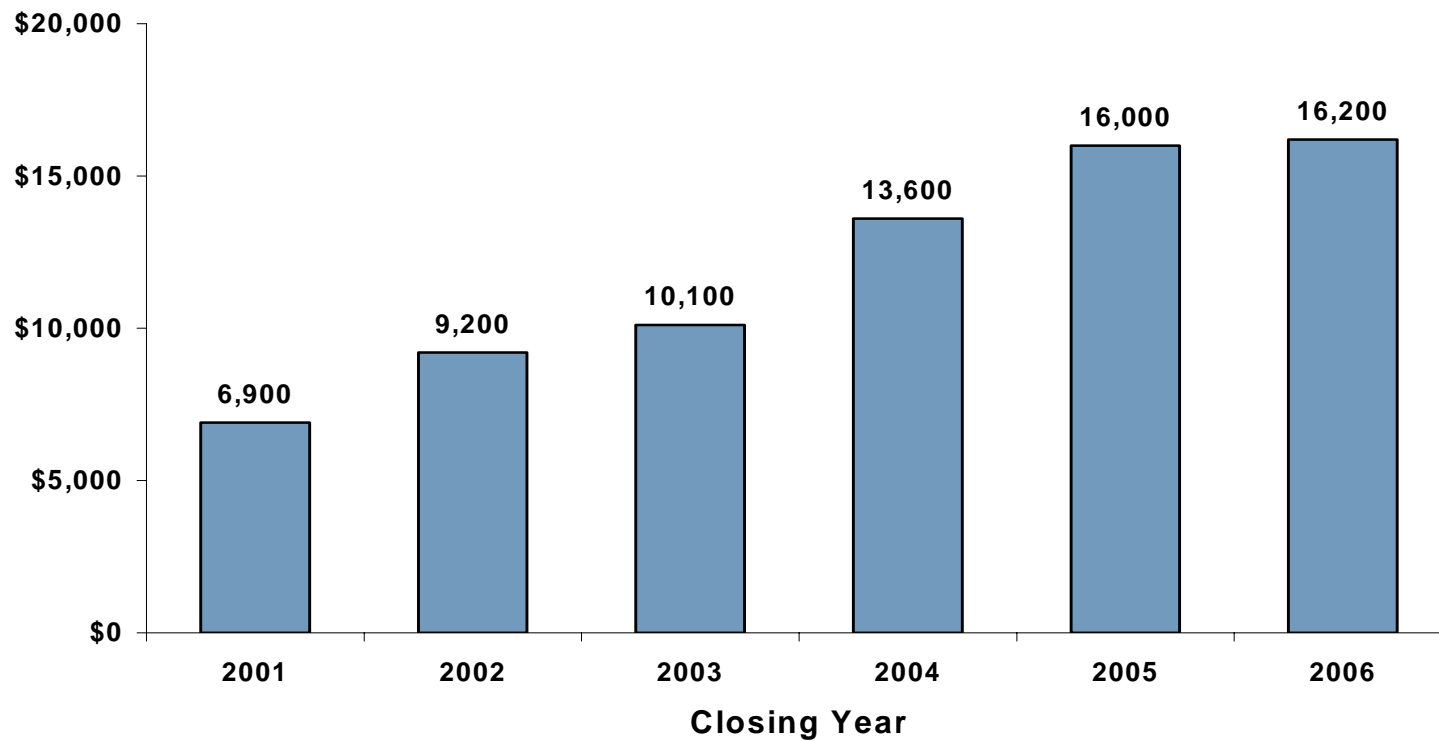
Average Paid Expense on Claims with Indemnity Payments



HPL Claim ALAE for claims w/out Indemnity

Hospital Professional Liability Benchmark Analysis Closed Claim Analysis

Average Paid Expense on Expense Only Claims



Hospital Professional Liability – Quality of Care Initiatives

There does appear to be a link between a hospital’s quality of care recognitions and its professional liability results. The recognized facilities in our database had a negative loss cost differential when compared to the non-recognized (adjusted for geography)

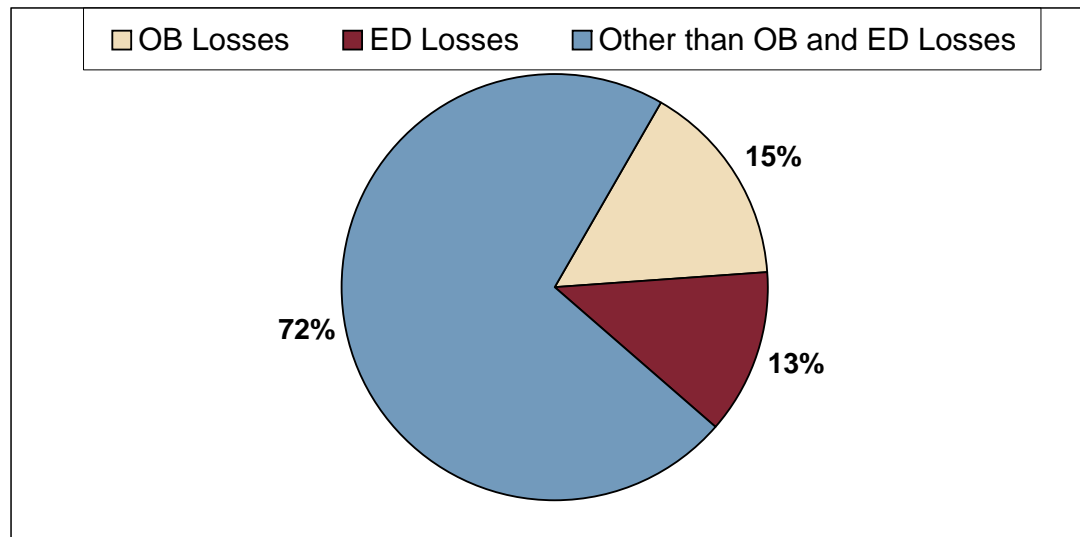
Hospital Professional Liability Benchmark
 Aon Database
 Patient Safety Differentials
 Adjusted for Territorial Relativities

Recognition	# of Facilities	Loss Cost Differential
Thomson 100 Top Hospitals	11	-18%
HealthGrades Distinguished Hospital Award-Clinical Excellence	57	-16%
Magnet Recognition Program	27	-5%
JCAHO	539	-5%
5 Million Lives Campaign	380	-4%
Leap Frog Hospital Quality and Safety Survey	229	-2%

Areas of Emphasis – OB and ED

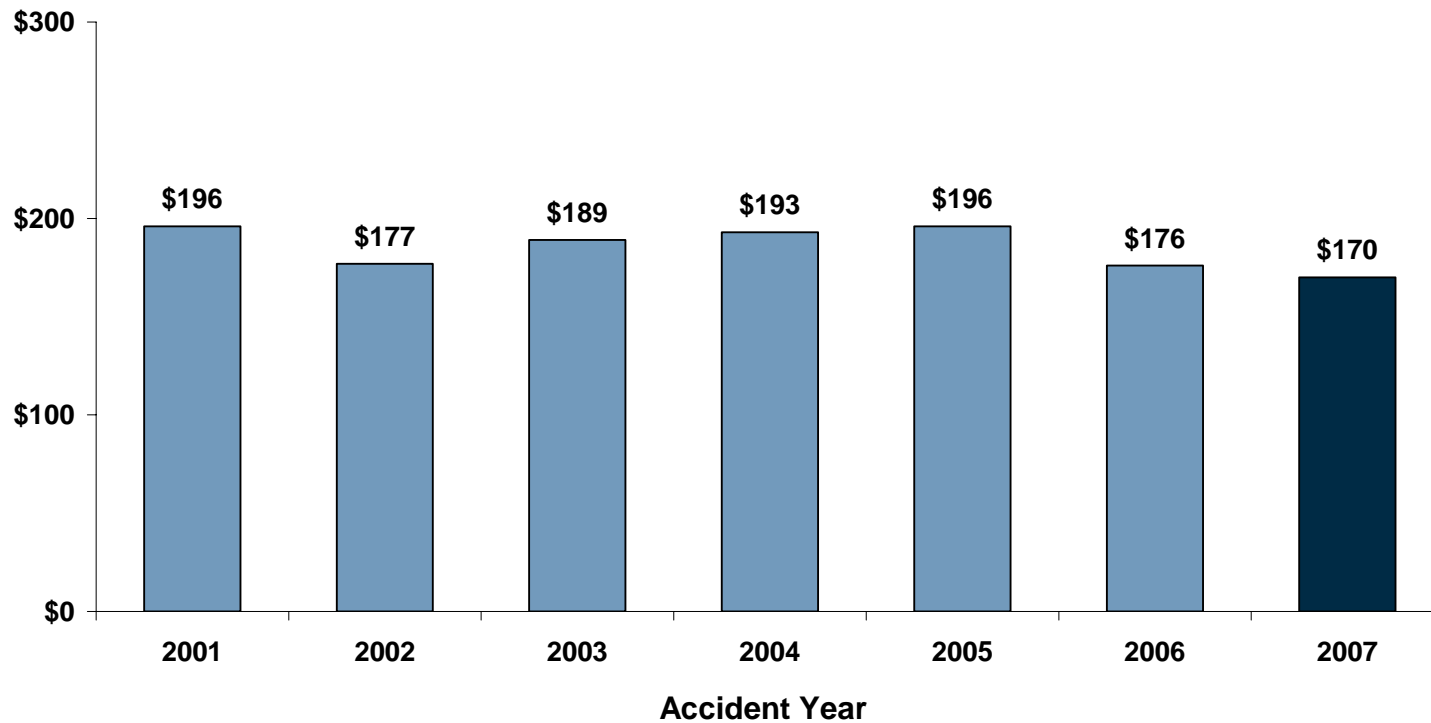
The Labor & Delivery Unit (OB) and Emergency Department are hotspots for claims. These areas lend themselves well to further analysis as exposures and claim data can usually be isolated.

**Hospital Professional Liability Benchmark
OB and ED Losses as a Percentage of Total Database
Losses Limited to \$2 Million per Occurrence**



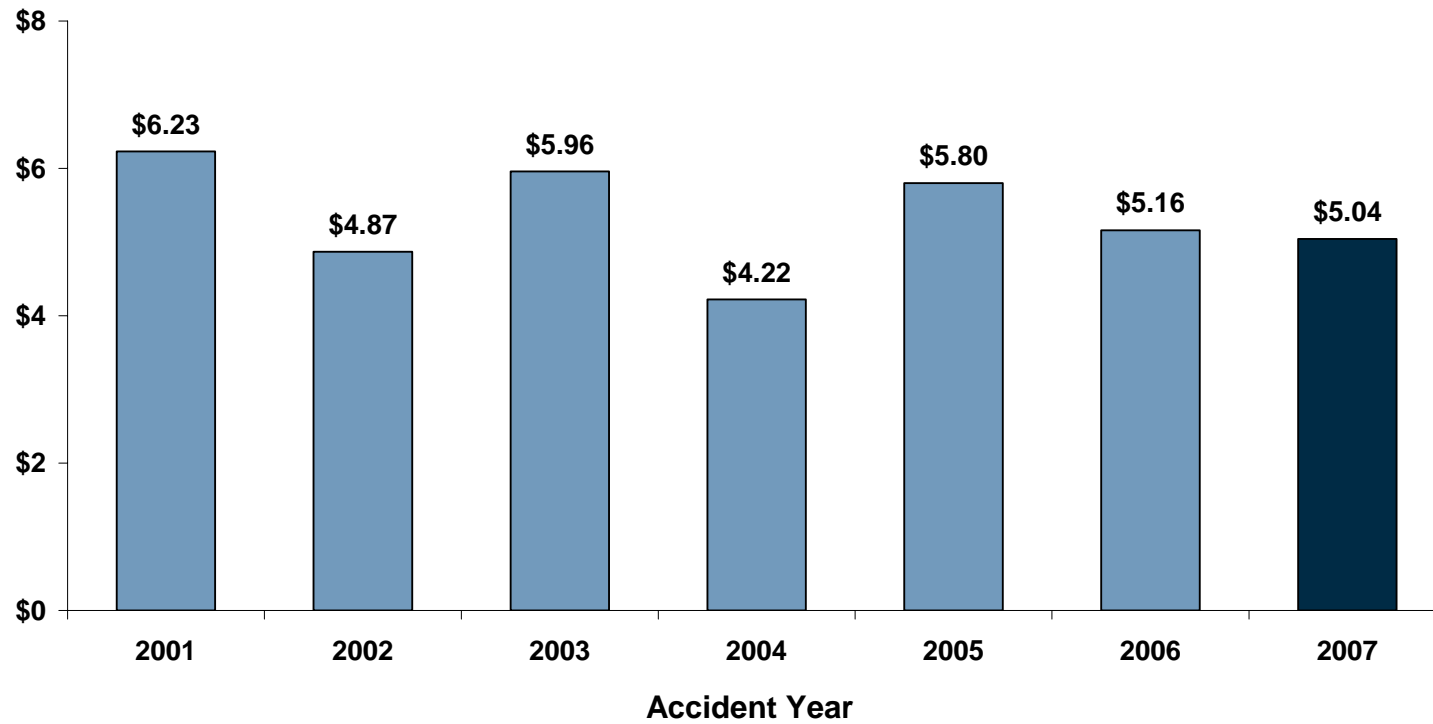
Hospital Professional Liability Cost Per Birth

Hospital Professional Liability Benchmark
OB Analysis
Loss Cost Per Birth



Hospital Liability Cost Per ED visit

Hospital Professional Liability Benchmark
ED Analysis
Loss Cost Per ED Visit

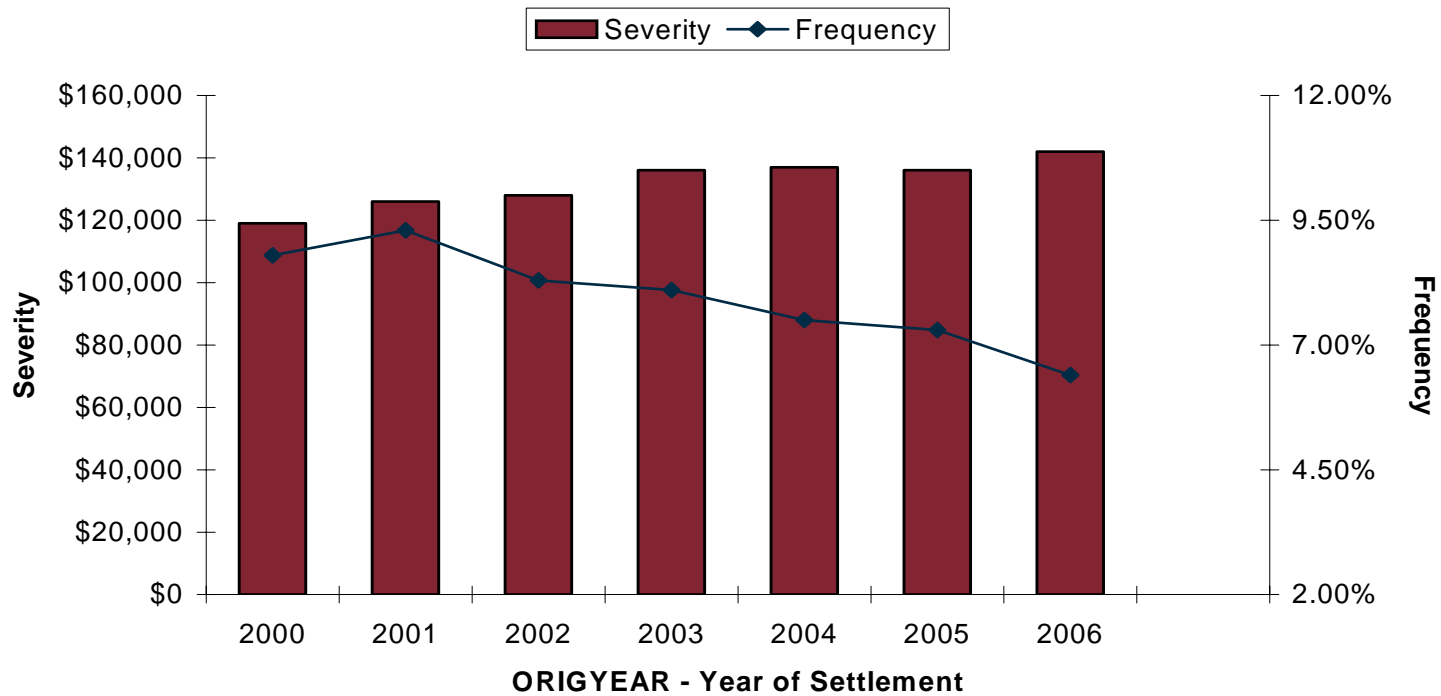


Physician Professional Liability – Industry Issues

- Commercial Premium relief continues in many jurisdictions
- More mutual companies and state funds declare dividends
- The state fund returns have raised political issues
- Many hospitals consider directly employing physicians (esp high risk specialties) and including them in their professional liability program
 - A recruiting tool to bring in specialists
 - A way of influencing the quality of care and risk management practices
 - In light of recent commercial results, a perceived cost savings
- *A whole new underwriting ballgame (insuring a portfolio of physicians as opposed to a hospital system)*

Physicians Professional Liability Frequency/Severity

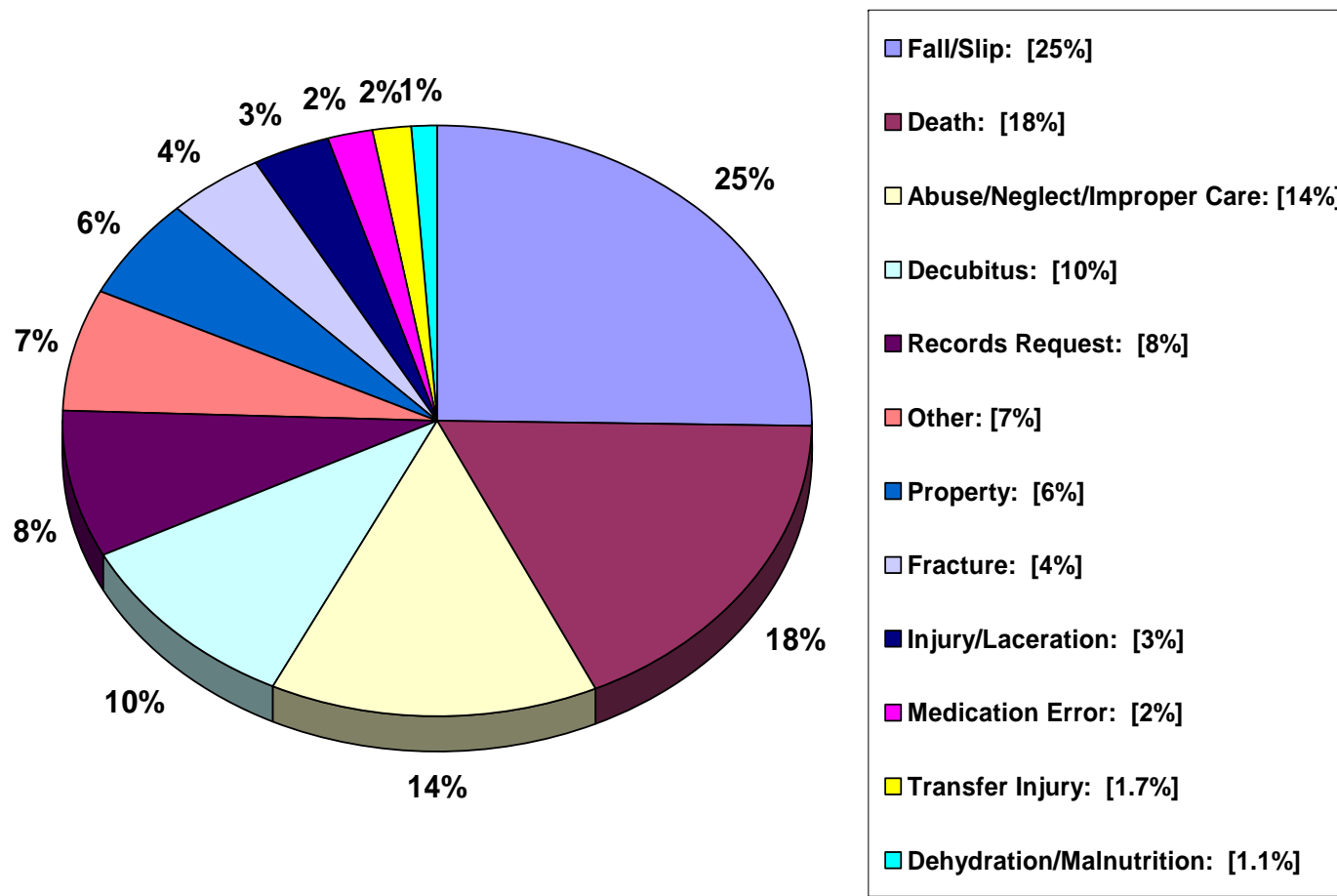
Aon Analysis of National Practitioner Data Bank Public Use Data File
Severity per Claim / Frequency per Class 1 Equivalent
Countrywide



Long Term Care Professional Liability – Industry Issues

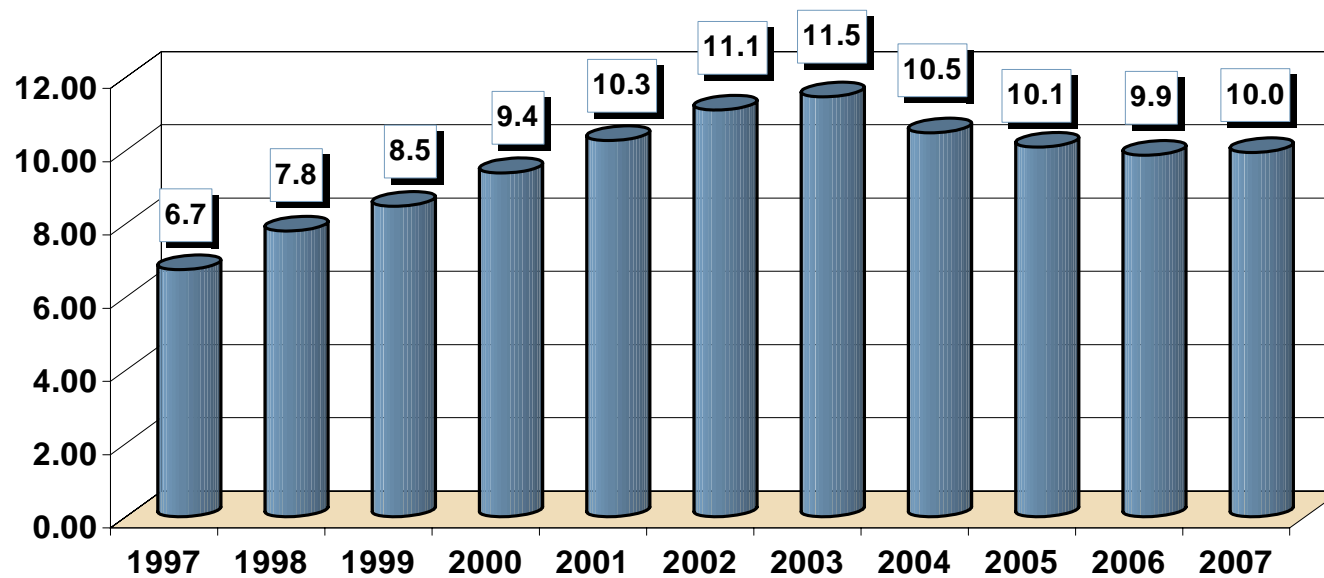
- A more varied landscape of participants – from very large chains with 500+ facilities to the “mom and pop” operations. Sophisticated self insurance with over \$1B reserves to never heard of professional liability insurance.
- 84% of skilled nursing beds are funded by Medicare or Medicaid – a significant portion of professional liability insurance or self insurance costs are funded by tax dollars.
- Over the past 10 years, Long Term Care Liability trends have been very dramatic. On a countrywide basis, claim frequency and claim severity have stabilized.
- There is a very high level of regional variability. Loss costs for some states are multiples of countrywide.
- Commercial insurance products becoming increasingly available. Systems have more options regarding their reliance on self insurance.
- In certain venues, some facilities opt procure minimal or even no insurance to avoid being a “target”.
- Strategies for controlling or reducing liability costs include:
 - Implementing Arbitration agreements
 - Investing in legal defense
 - Investing in quality of care, family education, staffing ratios

LTC is a different exposure (Claim Counts)



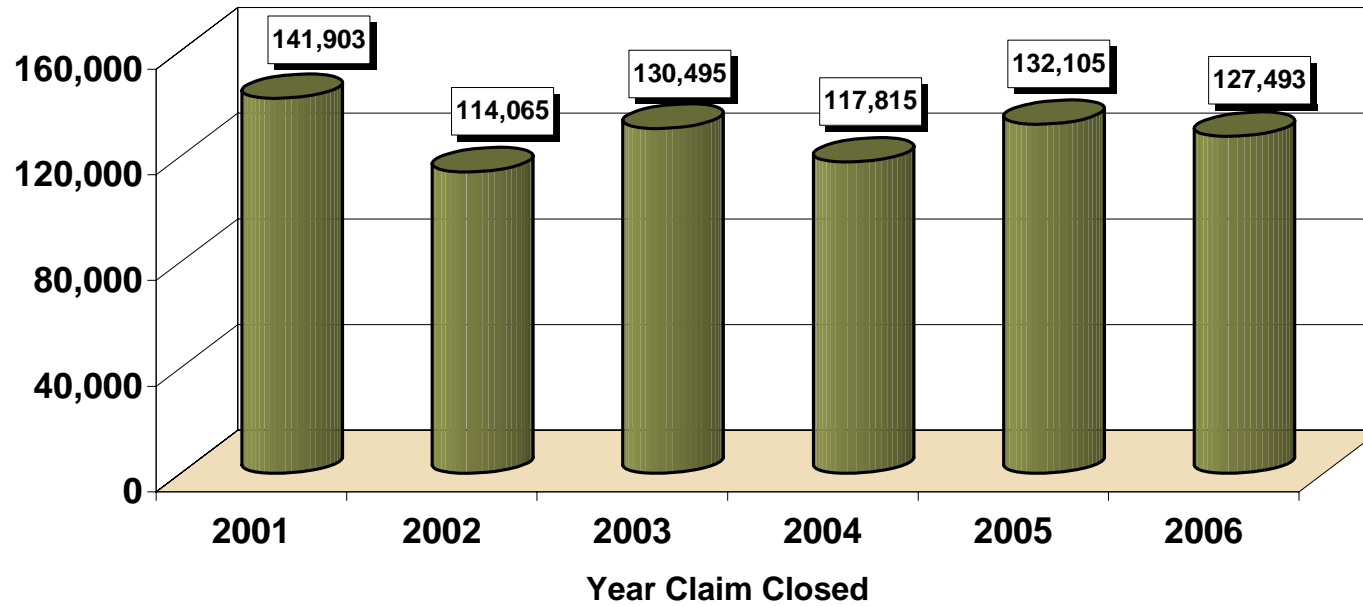
LTC Frequency of Claims (Accident Year)

Long Term Care
Professional and General Liability
Annual Number of Claims per 1,000 Occupied Beds
Countrywide



LTC Paid Indemnity by Year of Settlement

Average Indemnity Paid



LTC Paid ALAE by Year of Settlement

Average ALAE (Defense) Paid

