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Medical Professional Liability: Where Do We Go From Here




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2012 Seminar on Reinsurance
Boston
June 4-5, 2012


And... Tax, Consulting, Corporate Finance

What Helped to Get us Where we Are Now?


- **Drivers of declining frequency**
 - Media Coverage
 - Physicians' struggle (e.g., struggling to survive, "want to apologize", care deeply, etc.)
 - Patient safety, EMR, reimbursements, tort reform, web sites
 - Patient safety organizations getting the message out
 - "Physicians and hospitals care"
 - "Physicians and hospitals want to make things better"
 - "Physicians and hospitals want to do the right thing"
 - IHI's 5 Million Lives Campaign, Leapfrog, NPSF, etc.



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What Helped to Get us Where we Are Now?

Drivers of declining frequency

- Tort reform
- Apology movement
 - COPIC's 3Rs program
 - SorryWorks!
- CPOE/EMR
- Risk management programs
 - Specialty specific (e.g., MORE ^{OB})
 - On-line education
 - Mandatory training
 - Simulator training



What Helped to Get us Where we Are Now?

Advancements in Patient Safety

- IHI saving lives campaign
- PA Patient Safety Authority
- Joint Commission Sentinel Event Alerts
- Anesthesiology Patient Safety Foundation
- Checklists
 - Atul Gawande
 - Johns Hopkins
 - WHO Surgical Checklist



Getting Better All the Time: The Decade-long Improvement in Patient Safety

PART ONE IN A FOUR-PART SERIES

In the past decade, tremendous innovation and passion have been focused on improving patient safety. As an actuary, I've been excited to watch the sheer diversity of risk management programs and environmental, health, and safety initiatives. The big news is how well these programs have worked.

As an actuary who specializes in medical professional liability (MPL) coverage, I've observed a significant decline in claims since the turn of the twenty-first century. For some companies, claim frequency has dropped by almost half in the last ten years—an astonishing decline.

But actuaries, senior executives, and Kevin M. Stinson, ACA, MAIA, is a Principal with Deloitte Consulting LLP in Hartford. He leads the medical professional liability and claim predictive modeling practices, and is an official spokesperson for the American Academy of Actuaries in Washington.



risk professionals struggle even today to articulate all the drivers of the decline. That said, it is common knowledge that a plethora of factors has led to the overall decline in claim frequency. In Part One of this article, I describe the fruitful work done by the apology movement and the "caring liver" campaigns.

Starting at a macro level, I believe that national and local media have helped people appreciate just how hard their

doctors have had to struggle, just to survive. We've all seen, up close, the painful doctor review in helping their patients, thereby reminding all of us about their deep concern for our well-being. At the same time, patient safety organizations, medical associations, and hospitals have done a tremendous job in getting the word out about how hard physicians and hospitals have worked to make healthcare a safer experience.

Another key factor, of course, is tort reform. Granted, claim frequency has declined in states that haven't had tort reform, along with those that have. But there is little doubt that tort reform campaigns have helped to shed light on the challenge physicians have been facing all across the country—financial and otherwise.

There is nothing like the sight of doctors marching on your state capital, some stating about how much physician reimbursements have declined, and many stories of countless across the country where there is zero access to Ob/Gyn, to

make people appreciate the daily struggles of physicians.

And the list of employers that have had a measurable impact on patient safety goes on: electronic medical records, computerized physician order entry, risk management programs, mandatory check lists, Joint

Commission national safety goals, insights gained from data sharing projects, patient safety alerts, enhanced educational training, and so on.

A complete discussion of every item on this list would fill an entire book. In this series, though, I highlight for you a few examples of advancements in patient safety, which have helped shape a sea change in U.S. healthcare.

Continued on page 16

Frequency Decline, Combined with Hard Market at the Turn of the Century led to Positive Reserve Development We are Seeing Today

Development to Net Earned Premium

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
Doctors Company, An Interinsurance Exchange	-18.7%	-26.9%	-21.5%	-15.4%	-12.7%
Medical Professional Mutual Insurance Company	-53.2%	-36.6%	-53.6%	-44.9%	-26.4%
Medical Protective Company	-47.2%	-34.6%	-17.4%	-11.2%	-2.5%
ProAssurance Indemnity Company, Inc.	-56.8%	-48.3%	-54.7%	-51.1%	-39.0%
NORCAL Mutual Insurance Company	-10.4%	-36.1%	-45.4%	-46.3%	-23.3%
Medical Liability Mutual Insurance Company	-12.2%	-31.0%	-39.8%	-29.7%	-25.3%
MAG Mutual Insurance Company	-41.2%	-26.9%	-32.8%	-42.5%	-24.9%
ISMIE Mutual Insurance Company	-26.5%	-14.6%	-14.7%	-13.0%	-15.3%
Mutual Insurance Company of Arizona	-57.6%	-47.9%	-20.8%	-52.7%	-36.1%
ProAssurance Casualty Company	-71.6%	-66.9%	-49.2%	-37.0%	12.8%
State Volunteer Mutual Insurance Company	-41.4%	-26.7%	-13.0%	-6.6%	-9.3%
Medical Mutual Liability Insurance Society of Maryland	-28.1%	-43.7%	-46.1%	-35.6%	-41.8%
First Professionals Insurance Company, Inc.	-4.4%	-13.9%	-13.4%	-10.4%	-14.6%
American Physicians Assurance Corporation	1.3%	-78.2%	-29.5%	-24.6%	-26.6%
MMIC Insurance, Inc.	-29.4%	-25.7%	-34.4%	-25.7%	-11.0%
Medical Mutual Insurance Company of North Carolina	-35.9%	-36.0%	-24.8%	-29.4%	-17.5%
PMSLIC Insurance Company	-10.4%	-36.0%	-45.4%	-46.3%	-23.3%
Connecticut Medical Insurance Company	-89.5%	-112.8%	-115.1%	-102.9%	-29.6%
NCMIC Insurance Company	-25.7%	-28.2%	-23.7%	-19.4%	-38.8%
Medical Insurance Exchange of California	-22.6%	0.0%	-8.8%	-44.6%	-42.8%
Total	-31.9%	-34.3%	-32.2%	-29.3%	-20.7%



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Frequency Decline, Combined with Hard Market at the Turn of the Century led to Positive Reserve Development We are Seeing Today

Development to Prior Year Reserves

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
Doctors Company, An Interinsurance Exchange	-10.5%	-14.9%	-13.7%	-8.9%
Medical Professional Mutual Insurance Company	-12.2%	-8.5%	-12.0%	-9.8%
Medical Protective Company	-11.6%	-9.6%	-5.5%	-4.3%
ProAssurance Indemnity Company, Inc.	-17.1%	-11.1%	-12.1%	-11.9%
NORCAL Mutual Insurance Company	-4.9%	-13.0%	-16.1%	-15.5%
Medical Liability Mutual Insurance Company	-1.9%	-4.8%	-6.0%	-4.7%
MAG Mutual Insurance Company	-14.8%	-10.2%	-11.3%	-15.6%
ISMIE Mutual Insurance Company	-6.9%	-3.8%	-3.7%	-3.6%
Mutual Insurance Company of Arizona	-18.8%	-16.8%	-7.6%	-20.4%
ProAssurance Casualty Company	-21.7%	-13.3%	-8.9%	-6.2%
State Volunteer Mutual Insurance Company	-9.4%	-10.9%	-6.4%	-3.5%
Medical Mutual Liability Insurance Society of Maryland	-13.8%	-18.5%	-18.9%	-15.2%
First Professionals Insurance Company, Inc.	-1.9%	-5.4%	-4.7%	-4.0%
American Physicians Assurance Corporation	0.2%	-16.8%	-6.5%	-6.0%
MMIC Insurance, Inc.	-14.1%	-11.7%	-16.5%	-12.1%
Medical Mutual Insurance Company of North Carolina	-16.7%	-18.2%	-13.2%	-16.3%
PMSLIC Insurance Company	-4.9%	-13.0%	-16.1%	-15.5%
Connecticut Medical Insurance Company	-17.4%	-20.2%	-18.5%	-17.0%
NCMIC Insurance Company	-11.1%	-12.1%	-9.7%	-7.9%
Medical Insurance Exchange of California	-10.6%	0.0%	-4.3%	-20.2%
Total	-9.0%	-9.5%	-9.0%	-8.3%



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What Might be Changing?

- **Flat frequency → Bottom is past us... next stop is up**
- **Severity trend → Increase... especially with a return to the inflation levels of last decade as some predict**
- **Interest rates → Increase... helping boost the historically low investment returns of today and the ratio of Investment Income to NEP**
- **Some physician practices that become part of Hospital ACO efforts may unwind these transactions... but not enough to stem top line erosion**

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What Might be Changing?

- **Expense ratios will continue to rise until rates harden and policyholder exodus stabilizes from PPACA**
- **End of the soft market... although we are still a ways away, possibly latter half of this decade**
 - 2011 MD&As
 - "The decrease in direct written premiums is indicative of the current soft market conditions."
 - "... expects continued pricing declines over the next few years after which time pricing should firm with modest price increases projected."
 - Companies referenced rate decreases (some used adjectives like "significant") and lower policyholder retention.
 - SNL article titled "Mo. insurer blasts 'actuarially unsound' competition as pressure builds on its premium writings."

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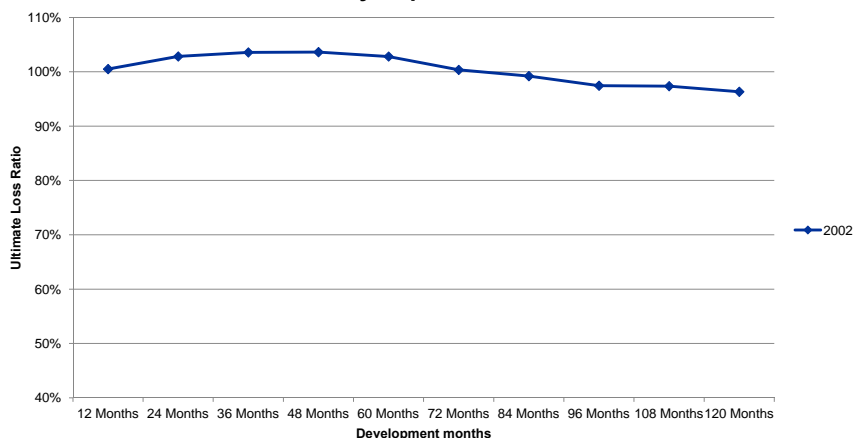
What Might be Changing?

- **Given the current “run rate” of favorable reserve releases, could start to disappear after 3 more years**
 - 2011 MD&As
 - “The increases in reserves for both 2011 and 2010 is the result of higher expected loss ratios on business written in these years than on several immediately preceding years.”
 - “The higher report year loss ratio was due to reduced premium rates.”
 - The amount of favorable reserve development has decreased for some companies.
 - Declining premium drove current year loss ratios higher, with some experiencing double digit increases.



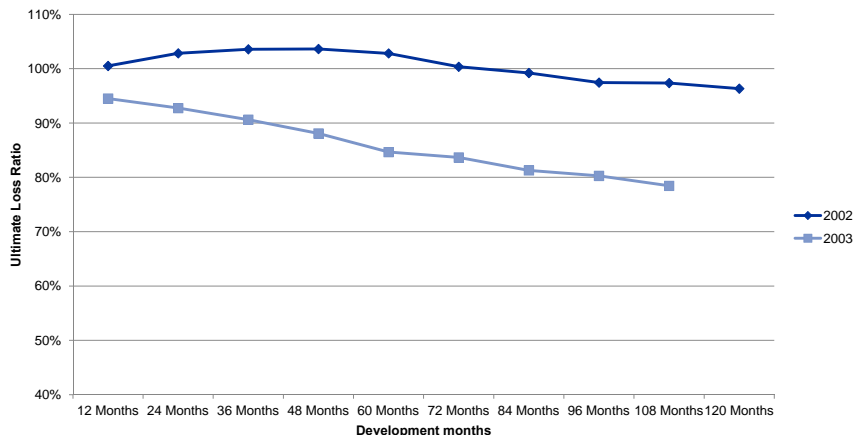
Claims Made Schedule P Ultimate Loss and ALAE Development

19 MPL Companies Ultimate Loss Ratio Development by Report Year



Claims Made Schedule P Ultimate Loss and ALAE Development

19 MPL Companies Ultimate Loss Ratio Development by Report Year

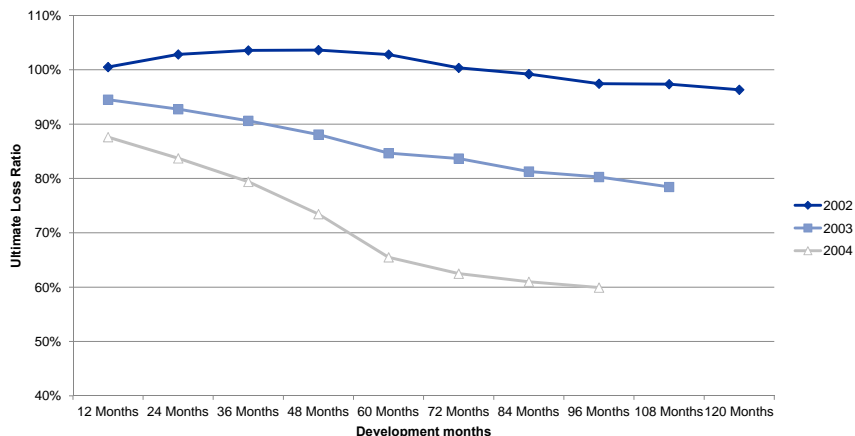


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19 MPL Companies Ultimate Loss Ratio Development by Report Year

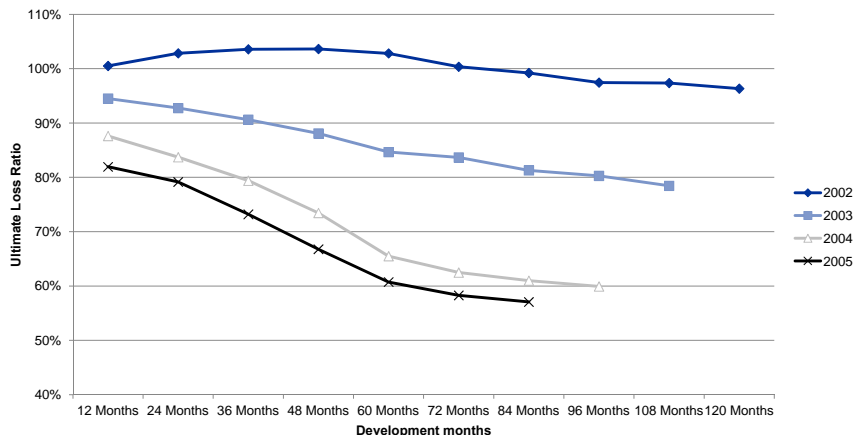


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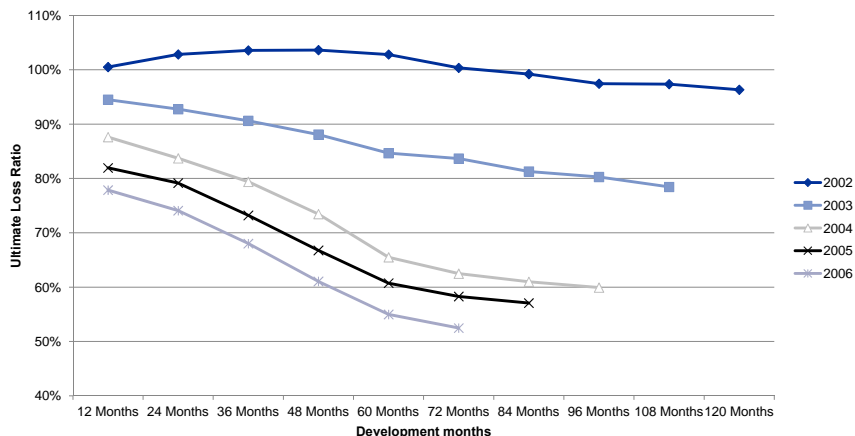


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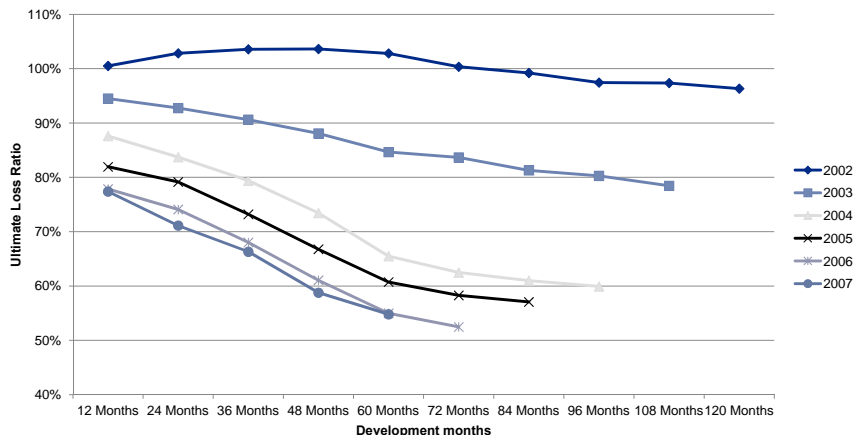


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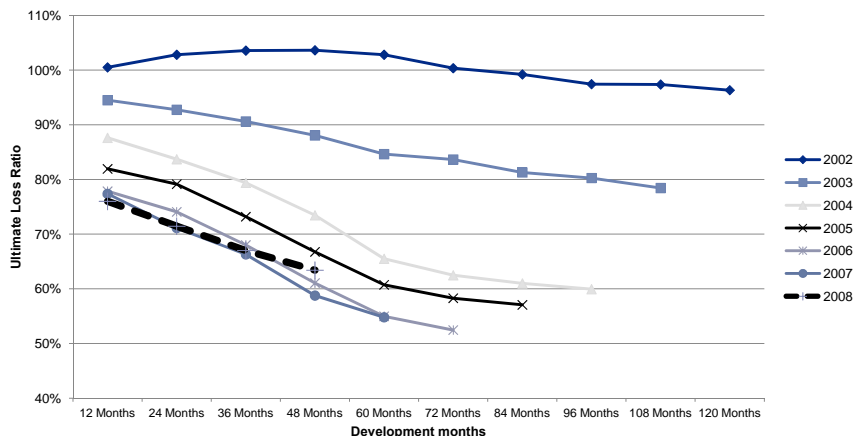


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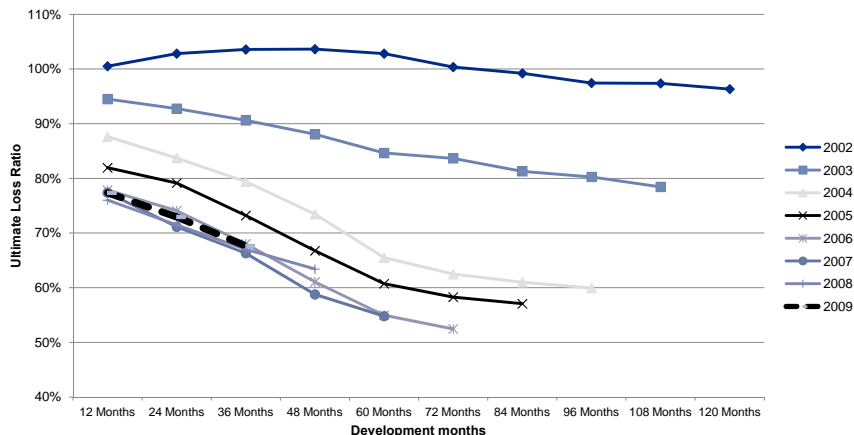


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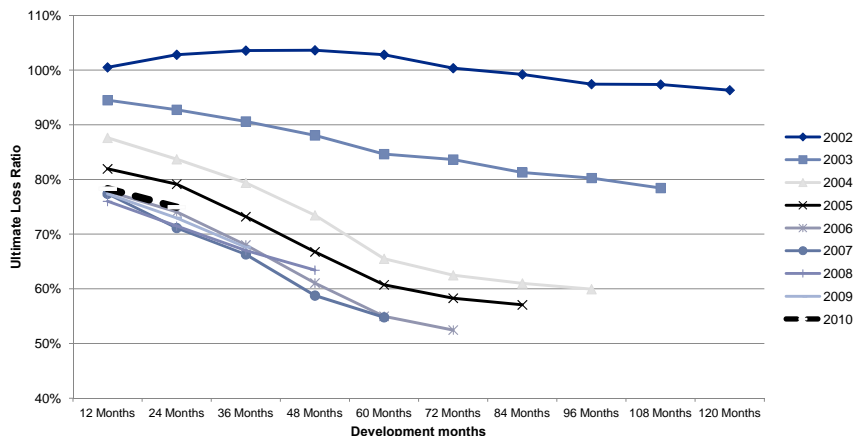


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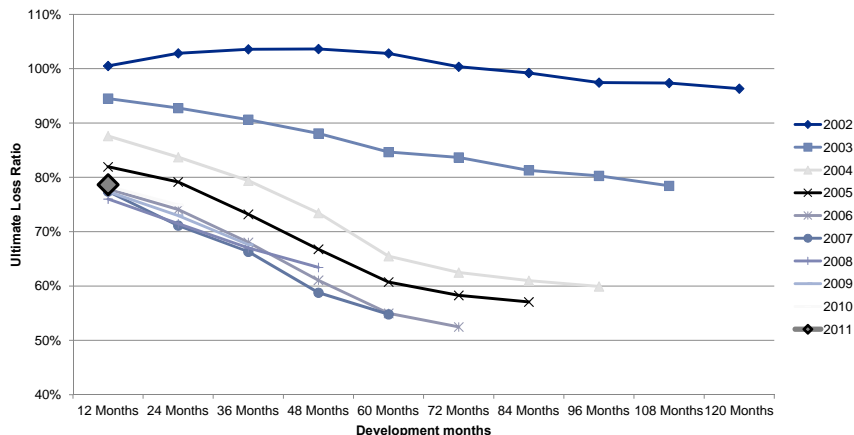


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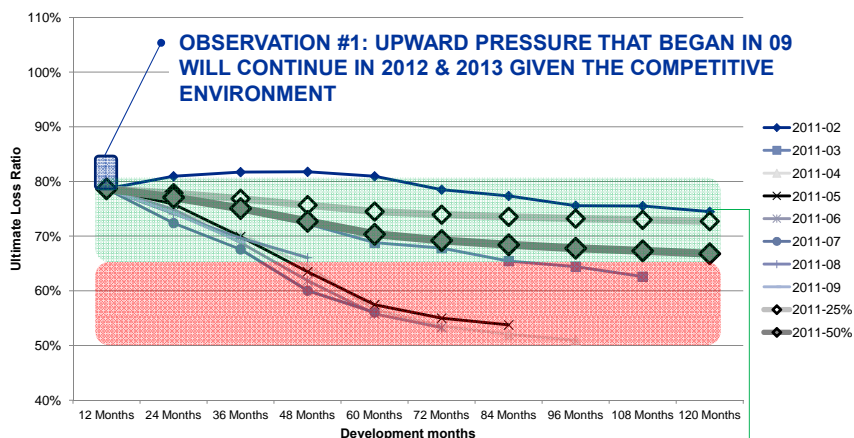


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Claims Made Schedule P Ultimate Loss and ALAE Development

19 MPL Companies Ultimate Loss & ALAE Ratio Possibilities?



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Speaker Bio

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- Past chairperson, Casualty Practice Council Medical Professional Liability (MPL) Subcommittee
- Official spokesperson for the American Academy of Actuaries in Washington
- Advisory board member and chairman of the annual MPL ExecuSummit
- Expert witness support, rate hearing assistance and testimony for insurance departments and MPL insurers
- National Partner Sponsor of the Human Capital Analyst (HCA) Program, and Dean of the HCA National School
- Speaker, trainer and regular contributor to Contingencies Magazine, Physician Insurer Magazine and other publications on MPL and other industry issues
 - To date, Mr. Bingham has published over 50 articles/papers and has spoken at more than 50 conferences/seminars



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