Making Your Healthcare Organization More Insurable: Medical Professional Liability Claim Trends and Risk Mitigation Strategies

Parker, Smith & Feek's recent webinar, "How to Make Your Healthcare Organization More Insurable," featured valuable insights from account executives and healthcare risk management experts Noel Murata and Danielle Donovan. Murata and Donovan shed light on how today's hard market conditions are impacting medical professional liability claim trends and how insurance carriers are responding.

Market Outlook

Murata highlighted a noteworthy shift in indemnity payments during Q1 and Q2 of 2023, with a notable increase reaching approximately $775 million, according to data from Medical Liability Monitor. This increase followed a decline during the pandemic when court cases were being put on hold.

> **"Now that things are up and running, we're starting to see not only severity come back up, but [also] the amount and frequency of claims starting to increase just to clear through that dead period we have there in the court cases,"** she said.

Murata stressed that substantial indemnity payments from carriers are expected to persist over the next couple of years. This trend of increasing severity in claims has been significantly affecting insurance carriers and, in turn, the rates they are charging.

Insurance carriers judge their financial stability based on a *combined ratio*, a measure of profitability typically expressed as a percentage. The value is determined by adding up incurred losses and expenses and then dividing the result by the earned premium.

> **"The higher your combined ratio, really anything over 100%, the less financially stable you are as a carrier,"** she emphasized. **"So that means you're paying out more in indemnity payments than you are receiving from a premium standpoint."**

According to Murata, this trend of higher combined ratios has been evident since 2016. Following steady increases averaging about 3% nationally in 2022 and 2023, a continuation of rate hikes is anticipated. These increases are seen as necessary to compensate for the elevated combined ratios and associated losses experienced by carriers. As such, businesses should be prepared for ongoing adjustments in the insurance premiums they are paying.

Murata said carriers are also tightening on certain classes in the excess insurance market, even limiting their ability to offer specific limits for particular classifications.

Claim Causes

Donovan provided insights into the predominant causes driving the anticipated trends in medical professional liability (MPL) claims.

Drawing from data provided by Candello, a national database of MPL claims built by CRICO (the MPL insurer of the Harvard medical community), the period spanning 2018 to 2022 witnessed cumulative incurred losses exceeding $10 billion from both hospital and physician group claims.

Donovan delved into the primary risk areas faced by healthcare organizations in recent years. She highlighted that OB-related treatment accounted for some of the highest severity yet lower frequency claims.

> **"One example of these nuclear verdicts, where you're seeing seven, eight, nine-figure verdicts coming through, is a newborn brain damage case from March of 2020 in Iowa, with an almost $100 million reward,"** she said. **"That's not uncommon, unfortunately, to see for these types of claims."**

On the other hand, surgical and medical treatment, along with diagnosis-related claims, constituted the majority of higher frequency and higher severity cases. Donovan referenced a notable misdiagnosis case in Pennsylvania in 2022, which settled for nearly $20 million, underscoring the significant financial implications of these types of claims.

Risk Mitigation Strategies

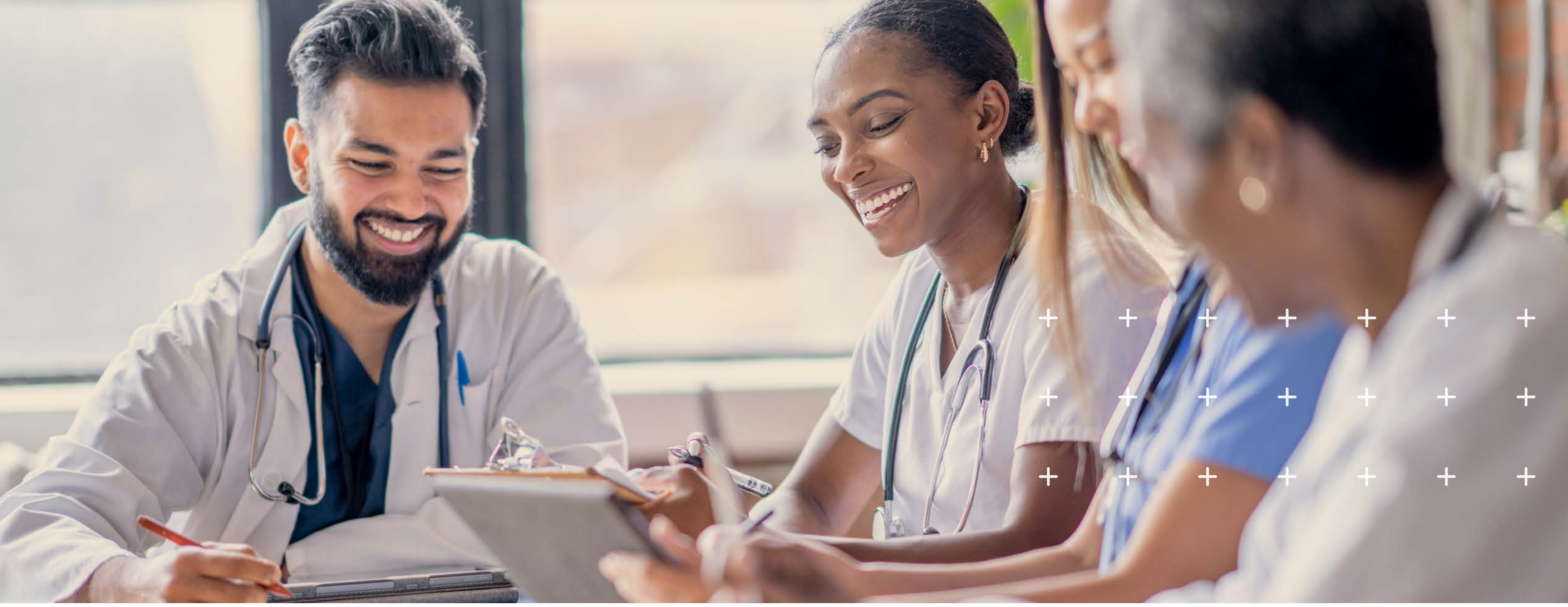
Donovan stressed the importance of healthcare organizations demonstrating to carriers that they are a good risk in today's challenging market. She said that beginning to prepare for the renewal process 90-120 days prior to renewal is an excellent way to start.

> **"Working with a good broker who is starting that pre-renewal conversation early is imperative,"** she emphasized. **"These conversations should encompass reviewing how your program is structured, what your current retention levels are, what your deductible is, and how your limit or program structure compares to others."**

Additionally, Donovan recommended direct (face-to-face or virtual) meetings with underwriters. These discussions should delve into program specifics, address questions, and highlight awards or achievements your organization has received, particularly those not publicly disclosed. Highlighting recent loss exposures and detailing mitigation efforts is also crucial.

> **"If you're a hospital, these underwriters are going to look at things like Leapfrog and Care Compare scores,"** she added. **"Think about things like reductions in your hospital-acquired infections, reductions in fall rates, and things that make you look favorable and like you are constantly working towards improvement."**

Donovan said that maintaining a good claims handling process and being prepared to discuss any large paid claims, policies and procedures implemented, and lessons learned from those claims are other great ways to show underwriters that you are an insurable organization.



According to Donovan, continuing to practice good risk management and safety practices and highlighting those to underwriters is yet another best practice. Collaborating with your carriers' risk consultants and going through an annual or biannual risk assessment is a great way to accomplish this.

> **"I think there was a lot of history of people being resistant to going through risk assessments on the carrier side due to the thought that this will be used against you,"** she said. **"But really, I think that has shifted over the last several years, and carriers are really looking at these risk assessments as your commitment to continuous improvements. Engaging with them gives you an opportunity to see not only where your areas of improvement are but also show that you're committed to patient safety and reducing overall medical harm, which will be favorable to you in a renewal."**

To learn more, watch the full webinar here. Contact an experienced broker for more information about how your healthcare organization can mitigate risks and get more favorable rates in these hard market conditions.

References

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