Maryland
Hospital Association

House Bill 1563 - Public Health - Maryland Infant Lifetime Care Trust Funded by HSCRC and Maryland Patient Safety Center Duties

Position: *Support*
March 9, 2020
House Judiciary Committee

MHA Position

Maryland's 61 nonprofit hospitals and health systems care for 5 million people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies.

The birth of a child is one of the most joyous moments in a family's life. However, in a small number of complex cases, an infant may require long-term medical care as a result of neurological injuries that occur at birth. These incidents are tragic and devastating for everyone involved.

That is why Maryland hospitals want to guarantee these vulnerable infants receive the care they need—for life. That is the goal of HB 1563, which would establish a fund paid for by hospitals to ensure families receive the resources to provide the care patients' personal physicians recommend.

This is a common-sense solution to rescue Maryland's medical liability climate.

While our state has half the number of medical liability claims as the national average, our payouts are double the national average.[1] In fact, payouts for claims above $10 million increased by 2,179% from 2016-2018 compared to the previous nine years.[2] As a result of these dramatic spikes in payouts, Maryland is now considered one of the four worst venues for medical malpractice in the country.

Maryland is seeing an exodus of reinsurers willing to write policies in our state. As outlined in the attached four letters[3], reinsurers who have remained in the market are requiring far greater risk retention (essentially a deductible), dramatically increasing premiums, and imposing extensive coverage exclusions and restrictions. Maryland hospitals operate under fixed global budgets and are then forced to consider reductions to programs, service lines, and/or staffing to address these rising costs.

Maryland hospitals support HB 1563, to provide comprehensive and as-needed relief to families who suffer an injury during childbirth and stabilize Maryland's medical liability climate. The Maryland Infant Lifetime Care Trust ensures families have guaranteed medical care prescribed

[1] Aon/ASHRM Hospital and Physician Professional Liability Benchmark Analysis, October 2018
[2] Willis Towers Watson analysis
[3] Guy Carpenter, SOMPO International, MCIC, and Slides Summarizing letter from Beazley Group

by their own physician throughout the course of the injured child's lifetime. This system better serves these families, who currently receive a lump-sum payment based on a jury's best estimate of the future medical needs of an injured child. The legislation simply changes the mechanism for how future medical expenses are paid.

There are no changes to the existing legal process—families can still hold providers accountable in court and attorneys still receive contingency fees.

This proposal better serves families while also taking a significant step to improve a medical liability climate under which hospitals struggle to access and maintain reinsurance. The new approach is right for families, right for infants, and right for Maryland.

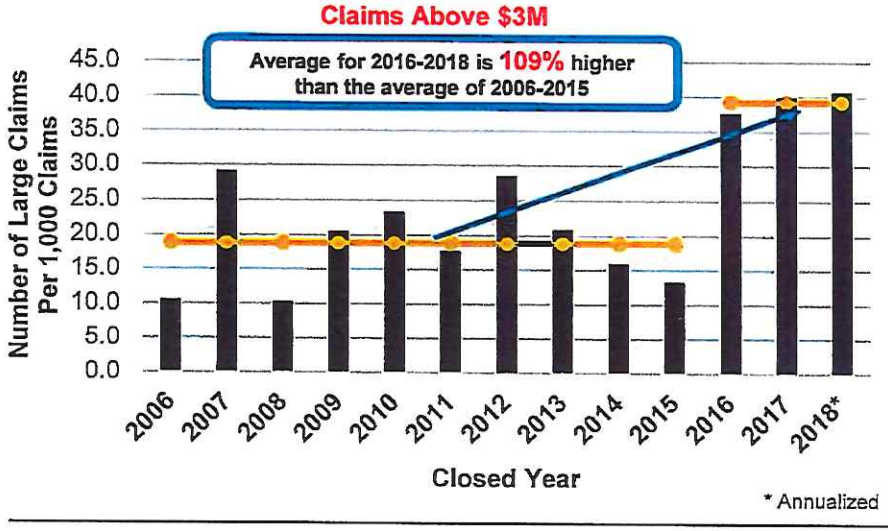
For these reasons, we urge a ***favorable*** report.

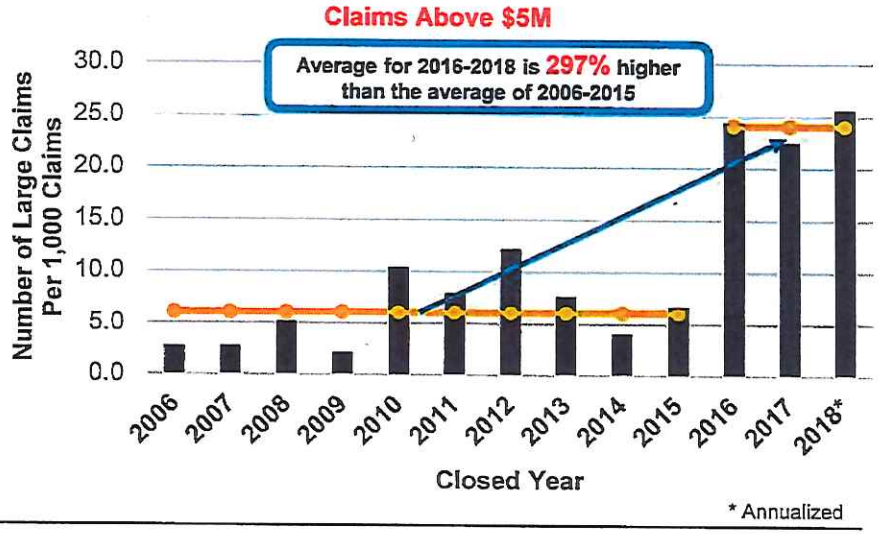
For more information, please contact:
Nicole Stallings
Nstallings@mhaonline.org

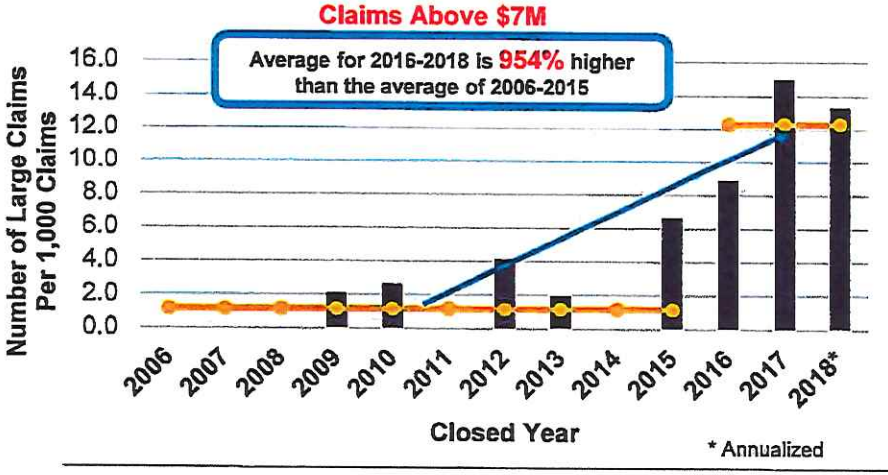
Attachments:

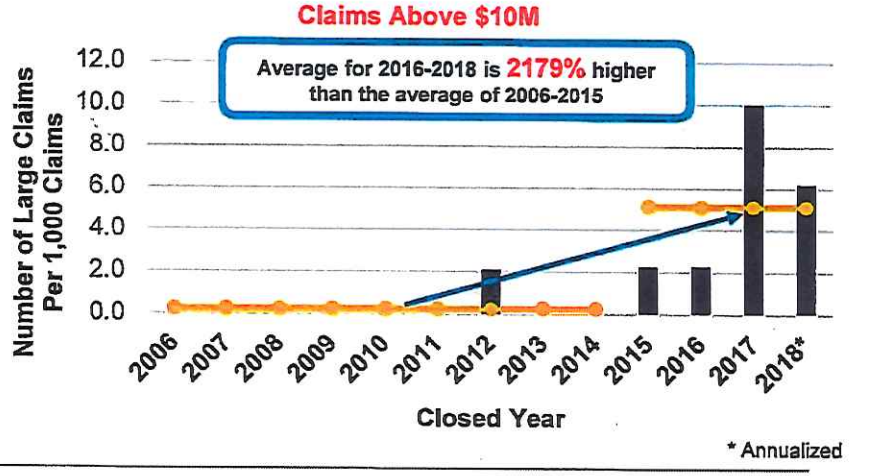
- Willis Towers Watson analysis
- Letters speaking to Maryland Reinsurance Market:
  - Guy Carpenter
  - MCIC
  - SOMPO International
  - Slides summarizing letter from Beazley Group
- New York Indemnity Fund Report
- Infant Lifetime Care Trust PowerPoint

Maryland closed claim data shows an even more dramatic spike and the same increase at higher layers









Willis Towers Watson

Guy Carpenter & Company Ltd
Tower Place
London EC3R 7BU
Tel: +44 (0)20 7357 1000
Fax:+44 (0)20 7357 2164
Brit Doc: DX 509 London EC3
www.guycarp.com

06 February 2020

To whom it may concern

Medical Malpractice Insurance coverage in Maryland

The recent spate of high value Medical Malpractice settlements and verdicts in Maryland - and in particular Baltimore City - is making the procurement of Insurance and Reinsurance protection extremely challenging.

Insurers and Reinsurers are withdrawing &/or are reducing the amount of limits (capacity) that they are willing to provide to Healthcare providers based in the State. Zurich Insurance have withdrawn and other significant US Domestic Insurance carriers namely Berkshire Hathaway , W R Berkley, C N A, and Chubb have either declined to participate on certain risks based in this jurisdiction or have markedly reduced capacity. The market for USA Medical Malpractice insurance is a global one; The Bermuda and London Insurance markets are important providers of capacity and major carriers such as Sompo, and AXA, have materially cut back the amount of capacity that they are willing to provide, London Insurers particularly based in Lloyd's have followed suit.

The insurers and reinsurers that are still willing to take on Baltimore based risks are requiring

- Far greater risk retention (Self insurance) by the Healthcare Providers
- Dramatically increased premiums
- The imposition of coverage exclusions and restrictions.

A recent settlement of $190 million and verdict of $229 million in Maryland has caused considerable concern within the specialist US Medical Malpractice insurance industry; these widely publicized values engender fear within the healthcare provider community that has the effect of driving up settlement values. These increased values in combination with $100 million plus verdicts make the provision of insurance in Maryland commercially unsustainable.

Yours Sincerely

Charles F Pearch
Managing Director

MCIC
VERMONT
A RECIPROCAL RISK RETENTION GROUP

Chris Smith
Chief Executive Officer

February 25, 2020

To whom it may concern,

I am writing on behalf of MCIC Vermont, a Vermont Risk Retention reciprocal, that insures Johns Hopkins Medicine for its medical malpractice risk. MCIC insures over 4,000 physicians and approximately 25,000 employees in the state of Maryland.

We believe it is imperative that the Maryland legislature pass some form of tort reform in the state to mitigate runaway medical malpractice costs. Baltimore, along with Cook County, Illinois, Philadelphia and Miami, is now one of the worst cities/counties in the U.S. for large medical malpractice lawsuits. This status is verified by Willis Towers Watson, the leading actuarial firm in the country.

These results are driving medical malpractice premiums to unsustainable levels and has most insurers considering not writing this business in Baltimore in the future. Several important insurance companies, including Berkshire Hathaway and CNA, have already declined to write in the city of Baltimore or have significantly reduced the amount of coverage they will provide. MCIC utilizes many of these companies for reinsurance purposes and without such insurance being available brings into question the viability of companies like ours.

Medical malpractice coverage is critical for large healthcare systems in Maryland to operate effectively. The potential risks to healthcare in the state are significant as certain healthcare services may become unsustainable from a cost perspective. In addition, these cost increases have made national news in many medical communities, which may also affect physicians' views of Maryland as a state in which to practice. Patient care could suffer significantly as a result.

We urge you to please pass significant tort reform as quickly as possible before these dramatically rising claim costs negatively impact provider services and patient care.

Sincerely,

Christopher D. Smith
Chief Executive Officer

Two Ravinia Drive, Suite 400, Atlanta, Georgia 30346

Tel: 770-551-5060 • Fax: 770-551-5061

SOMPO INTERNATIONAL

March 4, 2020

Susan Durbin Kinter
Vice President Claims, Litigation & Risk Management
Maryland Medicine Comprehensive Insurance Program
250 West Pratt Street
Suite 1200
Baltimore, MD 21201

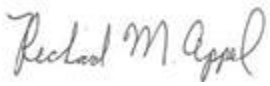
Re: Maryland Tort Reform

Dear Ms. Kinter,

Sompo International writes concerning the increasingly hostile legal environment in Maryland and the critical need for meaningful tort reform in the state. Sompo International is particularly concerned about the increasing severity of non-economic damage awards and the impact it has on (re)insurers ability to do business in the state going forward. Sompo International proffers its full endorsement of significant tort reform legislation to address this growing problem. We believe such legislation is necessary in order to stabilize the Maryland (re)insurance market and to stem the tide of (re)insurers pulling their business from the state.

Should you have any questions or need any additional information I may be reached at 212-209-6508 or rappel@sompo-intl.com. Thank you.

Sincerely,



Richard M. Appel
Senior Counsel

Sompo International
1221 Avenue of the Americas New York, NY 10020, U.S.
+1.212.209.6500

www.sompo-intl.com

MARYLAND'S LIABILITY CLIMATE: A HOSPITAL PROFESSIONAL LIABILITY (RE)INSURER PERSPECTIVE

From: Nat Cross <[redacted]>
Sent: Friday, February 7, 2020 11:52 AM
To: Smith, Larry L <[redacted]>
Cc: Leyko, Rachel A <[redacted]>
Subject: Beazley Healthcare - US Hospitals Focus Group - Current Perception of Maryland including Baltimore City and Baltimore County

Dear Larry,

You have asked me to provide an excess Hospital Professional Liability (re)insurer's perspective of Maryland including the City and County of Baltimore given local, as well as national, trends of increasing medical malpractice ("medmal") severity.

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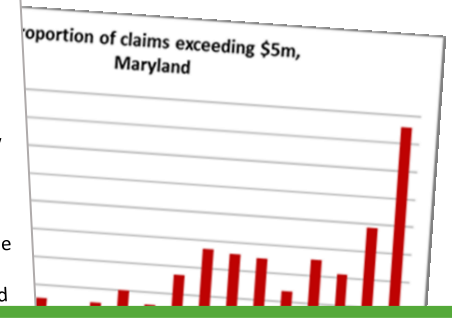

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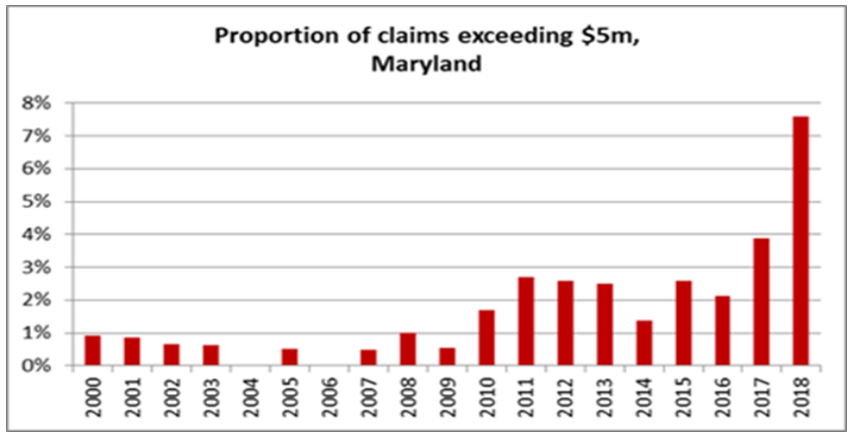
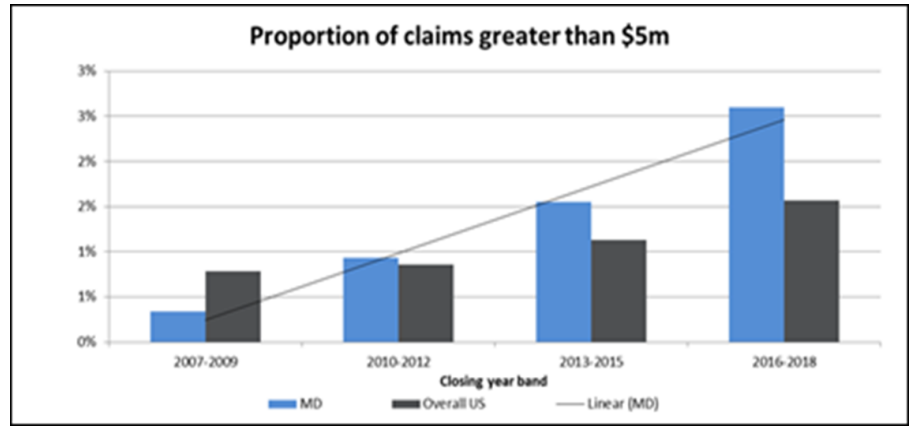
300% Increase in Claims over $5m



Maryland is outstripping the US nationwide



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By way of background, as you kn[ow] offices throughout the globe, em[ploying] writings we own two licensed U[K] European Insurer, BIDAC. In 201[9] $3b, $0.9b of which was writte[n] risk, and of which the Healthca[re] $235m of premium, substanti[al] East, and Australasia, and we [have] London, and European insura[nce]

Of this $235m, approximatel[y] This book has shrunk considerably (21%) from [its] Although this can be attributed to a number of different factors (inc[luding] consolidation brought about by the Affordable Care Act), **from my perspective the largest single determining factor has been the effect of increasing severity**, and the need to re-underwrite our portfolio (through amending programme structure and pricing) to protect the profitability of the portfolio. We believe that through our expert team of former medmal defence attorneys claims managers, and our deep analytical bench strength (founded upon our 800,000 HPL claim record HealthRate database), Beazley Healthcare was one of the entities to identify the worsening environment early on, a fact that you have been gracious enough to acknowledge. From a practical standpoint, however, it led our team to lose business, as our efforts to improve the terms on placements were undermined by other markets, ignorant of the worsening environment around them, who were prepared to match or often improve our expiring terms.

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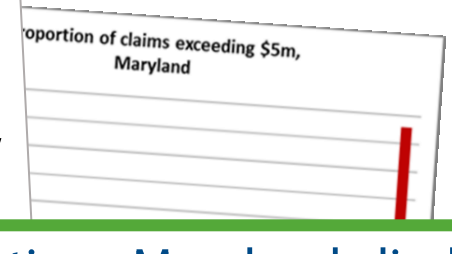

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the information that you require.

Maryland is a tort reform state… But over time, Maryland climbed the ladder, from the lowest [severity] category to the highest, **and now has the unfortunate accolade of being one of the 4 worst venues for medical malpractice in the nation alongside New York City, Philadelphia, and Cook County (Chicago).**

[O]ur analysis has further indicated that **outstanding safety and quality have no bearing whatsoever on the value or quantum (i.e. severity) of claims**. . . [I]t is not hard to envisage a scenario where Baltimore City / County **hospitals are unable to procure sufficient capacity – regardless of cost – for their needs.**

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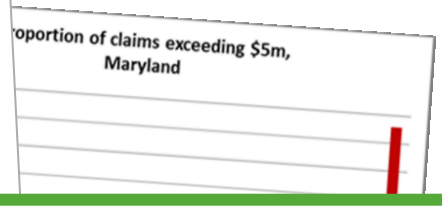

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I regret to inform you that we have now made the decision to include new risks with exposures in Baltimore City and County in this cohort (where Beazley is not writing policies).

Report on New York State Medical Indemnity Fund

June 12, 2017

New York State Medical Indemnity Fund
2017 Legislative Report

Purpose & Scope

Chapter 517 of the Laws of 2016, as modified by Chapter 4 of the Laws of 2017, provides that the New York State Department of Financial Services (DFS) shall issue "a report to the governor and the legislature on the financial condition of the state medical indemnity fund, the future solvency of such fund, and any issues relating to the operation of such fund that the superintendent, in his or her sole discretion, elects to include in such report." This report is provided by DFS pursuant to this provision. DFS, along with an independent actuary, has reviewed the state medical indemnity fund's (Fund) financial condition based on enrollment, claims paid, administration costs, comparable data from similar funds in other states, and other actuarially relevant factors.

Pinnacle Actuarial Resources, Inc. (Pinnacle) had been retained to provide quarterly assessments of the Fund's financial condition. Pinnacle's scope of work was enlarged to prepare an analysis to DFS for this report. This report "addresses the financial condition of the state medical indemnity fund, the future solvency of such fund, and any issues relating to the operation of such fund that the superintendent, in his or her sole discretion, elects to include in such report." This analysis is based on the Fund valued as of December 31, 2016.

Background

The Fund, created in 2011 under the Public Health Law, provides funding for future health care costs of children with birth-related neurological injuries. The Fund was created to provide a funding source for future health care costs associated with birth-related neurological injuries and reduce medical malpractice insurance premiums. Enrollees of the Fund have been plaintiffs in medical malpractice actions who have received either court-approved settlements or favorable judgments.

Under the statute, a "birth-related neurological injury" is "an injury to the brain or spinal cord of a live infant caused by the deprivation of oxygen or mechanical injury occurring in the course of labor, delivery or resuscitation, or by other medical services provided or not provided during the delivery admission." To be eligible, these injuries must result in a "permanent and substantial motor impairment" or a "developmental disability" or both.

Once enrolled, a qualified plaintiff will remain in the Fund for his or her lifetime. The Fund pays or reimburses the cost of qualifying health care services. "Qualifying health care costs" include future medical, hospital, surgical, custodial, home modifications, transportation to health care appointments, prescriptions, and similar costs related to the child's care. N.Y. Pub. Health L. § 2999-h. Qualifying health care costs are paid at the Medicaid reimbursement rate, and private physicians are paid at the usual and customary rate.

A third-party administrator makes enrollment and claim determinations using regulations promulgated by the Department of Health (DOH). Denials of enrollment are reviewable by a court and claims denials are handled by a DOH administrative law judge, which is subject to court

review. To date, there have been only 20 appeals of claims denials decided by a DOH administrative law judge during the Fund's history.

The Fund, which presently covers nearly 500 children, receives an annual appropriation in an amount of $52 million (N.Y. Pub. Health L. § 2999-i(5)). The funds come from Health Care Reform Act pools which are in turn funded by surcharges imposed on health care services. The Fund held approximately $162.2 million at the end of 2016 and made over 15,000 claims payments in 2016.

According to the Public Health Law, the Fund is designed to be funded by an appropriation from the state up to a limit. If the estimated amount of current liabilities in the Fund equals or exceeds 80% of the Fund's assets, then the Fund stops accepting new enrollments until a new deposit into the Fund is made to bring the liabilities back below the threshold. N.Y. Pub. Health L. § 2999-i(6). Fund enrollees are not impacted by a suspension in enrollment. Those liabilities will continue on unaffected by the suspension of enrollment.

In 2016, a number of changes were made to the Fund's governing statutes (the Recent Amendments). Specifically:

1. Since its creation in 2011, the Fund has applied solely to children born in a hospital. Under the Chapter 517 of the Laws of 2016, as modified by Chapter 4 of the Laws of 2017, (the "Recent Amendments"), that limitation has been abolished. N.Y. Pub. Health L. § 2999-h. Naturally, the effect of that change is to increase the total possible pool of children who may be eligible for the Fund. The greater the number of enrollees, it is reasonable to assume that there will be a higher cost to the Fund.

2. Additional qualified benefits were included as part of the Fund. The costs of "habilitation, respite, . . . [and] transportation for purpose of health care related appointments" are now included in qualified benefits. N.Y. Pub. Health L. § 2999-h. Again, the more benefits that are included, there is a greater likelihood of higher costs to the Fund.

3. Effective June 30, 2017 through December 31, 2019, the reimbursement rates will increase, and all services will be paid at the usual and customary rate. If no such rates are available, then qualifying health care costs will be paid at the greater of 130% of Medicaid or Medicare rates. Under the Recent Amendments, the usual and customary rate means "the eightieth percentile of all charges for the particular health care service performed by a provider in the same or similar specialty and provided in the same geographical area as reported in a benchmarking database maintained by a nonprofit organization specified by the superintendent of financial services" (N.Y. Pub. Health L. § 2999-j(4)). These changes substantially increase the costs to the Fund and will have the most significant impact on the financial condition of the Fund. The increased costs will be substantial, particularly if a decision is reached in 2019 to extend the period of increased reimbursement.

Financial Condition

Pinnacle provided estimates under the following scenarios:

1. Original Statute Without Giving Effect To Recent Amendments. It is projected that based on the original statute without giving effect to the Recent Amendments the present value of the Fund's total unfunded liability would have been approximately $461.1 million growing to $2.13 billion by 2027. In that case, the 80% threshold at which no additional children are admitted to the Fund without further financial appropriation over the expected $52 million per year from the state, would not have been reached in the next ten years.

2. Current Statute With The Recent Amendments With Sunset of Increased Reimbursement. Giving effect to the Recent Amendments, including the sunset of increased provider reimbursement at the end of 2019, it is projected that the present value of the Fund's total unfunded liability is now approximately $574.92 million. That unfunded amount would rise to $2.33 billion by 2027. The 80% threshold at which no additional children are admitted to the Fund without further financial appropriation over the expected $52 million per year from the state, will not be reached within the next ten years.

Data, Assumptions and Analysis

The data reviewed in preparation of this report includes detail by Fund enrollee, benefit category (i.e. nursing, medical, hospital, prescription drugs, etc.) and injury type. In this report some of the long term forecasts and industry benchmarks used in the analysis are based on data for the birth injury funds in Virginia and Florida, as well as medical professional liability insurers in the State of New York. When Fund data has been deemed to be actuarially credible, the assumptions incorporated actual Fund experience.

DFS staff, including actuaries, reviewed Pinnacle's work, including its data, methods and assumptions, and found them to be reasonable.

A. Number of Qualifying Participants

As of March 31, 2017, there were 455 enrollees in the Fund; because the work to prepare this Report was done prior to that date, it was assumed that there would be 460 living participants in the Fund at March 31, 2017.

Based on the experience of the Fund, it is estimated that on average there will be 4.5 enrollees accepted to the Fund per 10,000 live births in the state of New York. This frequency rate is substantially higher than the birth funds in Virginia and Florida and reflects differences in definitions of birth injuries and differences in eligibility determination between the states. This rate has been adjusted over time as actual, credible experience has emerged.

The Recent Amendments have created the possibility of an increase in the number of participants. The Recent Amendments opened the Fund to those not born in a hospital setting. Based on national data, approximately 1.5% of all live births occur outside of hospitals. It is therefore reasonable to assume that participation rates will increase by 1.5% annually as

compared to what would be expected without the Recent Amendments, though this may be higher given the potential added risks outside a hospital setting, or may be lower since high-risk births may be more likely to occur in a hospital.

B. Effect of Inflation

There is ample evidence that the cost of medical and related services in the United States has increased over time. Therefore, those increases must be taken into account in projecting out the future cost of services. That increase, or inflation, is tracked by the federal Bureau of Labor Statistics. The rate of increase in the cost of future benefits payments is assumed to be 3.5% annually in this report. The benefits covered include: medical, dental, surgical and hospital care; nursing and custodial care; medication; rehabilitation; medical equipment; home and vehicle modifications, and certain others. The rate of 3.5% was determined based on a review of the consumer price index from the Bureau of Labor Statistics and recalculating that index using the Fund's distribution of benefits. For purposes of this exercise, consumer price index categories were matched to each type of benefit provided by the Fund to better estimate the impact of inflation.

C. Discount Rate

In practice, presently the Fund makes promises to pay for medical care currently and well into the future. In order to have the money available in the future, the Fund invests the money that it has today so that there is enough money to pay out in the future. The income derived from those investments play a large role in the Fund's or an insurer's ability to make payments in the future.

An essential element of all birth injury funds in the United States is their ability to generate investment income on the funds available to pay benefits from the time these funds are available until the benefits are provided. In this report it is assumed that money paid today into the Fund will earn 2.5% over time. That earning is referred to as a "discount rate." The discount rate shows how much money will be worth in the future if invested today. The rate of 2.5% is an assumption used by some New York insurance carriers with similar types of obligations for the purpose of discounting loss and loss adjustment experience (the cost of handling claims) and setting prospective insurance rates. Available information indicates that actual returns on monies in the Fund have not been as high as 2.5%. To the extent the Pinnacle had previously utilized a 4% discount rate, it did so based on programs in other states. However, 2.5% is consistent with New York insurer practice and rules concerning investment and reserves. It is also more realistic given the lower Fund balance available for investment purposes.

Because enrollees today will have costs to be paid many years from now, the impact of a change in the investment earnings of the money set aside today for the payment of costs in the future can be substantial. A change of .5% in the discount rate assumption results in a change in investment income of less than $10 million until fiscal 2025, but the impact on the Fund balance is much more dramatic. For fiscal year 2017, a .5% drop in the discount rate changes the Fund's deficit by more than $130 million. By fiscal year 2026, this impact increases to more than $400 million.

D. Benefits Payments

Another element of the projections is how much and for long will payments have to be made. That depends on the number of qualifying participants and how long they will need care. Because care is provided for the life time of the enrollee those payments are tied to the lifespans of the enrollees, which may last a long time. Based on the Fund benefit payments to date and payment timing and mortality data from the Virginia medical benefit fund, it is estimated that, prior to the Recent Amendments, the average Fund enrollee will currently receive approximately $3.35 million in nominal (i.e. not subject to discounting as described above) benefits. Virginia's experience was also utilized to estimate the timing of these payments. This allowed an estimate of future benefit payments by fiscal year and to compute the present value of these payments based on the selected discount rate.

E. Fund Balance

The income statements are used to estimate the Fund balance at the end of each fiscal year. The fiscal year-end Fund Balance is computed as the initial Fund balance (i.e. the ending balance from the previous year), plus the expected annual funding contribution of $52 million and any investment income realized by the Fund during the year. Benefit payments and administrative expenses paid during the fiscal year are then subtracted producing the fiscal year end Fund balance.

The balance sheets estimate the Fund's surplus (positive) or unfunded liability (negative) at the end of each fiscal year by subtracting the present value of all future benefit payments of participants admitted to the Fund as of the end of that fiscal year, along with the estimated future administrative expenses needed to provide these benefits. The future benefit payments are based on the future benefit payments by enrollee entry quarter and payment quarter as described in developing the income statement. The difference between these future liabilities (benefits and expenses) and the current funds available to pay them is the unfunded liability.[1]

The Fund is required by law to suspend new enrollment when liabilities equal or exceed 80% of the Fund's assets. As stated above, assuming that the increase in reimbursement rates in the Recent Amendments lapses as stated in those amendments, that 80% threshold is not expected to be breached in the next ten years.

F. Increase in Reimbursement Rates

Pinnacle has estimated the increased costs attributable to these increased reimbursement rates based on various assumptions concerning the current procedural terminology (CPT) and other codes. Assumptions are necessary as there may not be an exact match between existing CPT codes used by Medicaid and the usual and customary costs as defined in the Recent Amendments and/or such costs may not be available in the benchmarking database that is to be

[1] Note that by using the present value of the future benefit payments, this estimate is already reflecting future investment income received by the Fund. While this is not consistent with statutory accounting, it is consistent with practice among relevant New York domiciled insurers and has been approved by the New York Department of Financial Services for presenting year-end financial statements.

utilized under the Recent Amendments. Therefore, the actual increase in costs in the future may be higher or lower than Pinnacle has estimated.

Based in part on the assumptions described, Pinnacle estimated that after giving effect to the Recent Amendments, average lifetime benefits are estimated to increase over 3.5 times or 250% due to the impact of increasing reimbursement rates from Medicaid rates to the 80th percentile of all amounts billed by providers for the particular health care service performed by a provider in the same or similar specialty and provided in the same geographical area as reflected in the FairHealth database. The impact of the increase in reimbursement was selected for each benefit category. This is important as some benefit categories, such as hospital and rehabilitation benefits, are expected to demonstrate larger than average increases while some other categories, such as home modifications, may experience no change.

G. Administrative Expenses

In 2017, the third-party administrator is currently charging the fund $809 per Fund participant per month. That number was used to develop the estimated levels of administrative expense in the various scenarios referenced in this report under the assumption that the legislation has no impact on the per participant per month cost to administer the Fund, all other things being equal.

Conclusion

Presently the Fund has unfunded future liabilities. Had the Recent Amendments not been enacted, that liability would have been approximately $461 million and would have been expected to increase to approximately $2.13 billion over the next ten years. After giving effect to the Recent Amendments the present value of the Fund's total unfunded liability is projected to be approximately $575 million and is expected to grow to approximately $2.33 billion over the next ten years. Under both scenarios, however, in the next ten years based on current law the Fund is not expected to exceed the threshold after which further enrollment is suspended. This liability projection assumes the Recent Amendments expire in 2020 as scheduled. Extending the Recent Amendments beyond 2020 could more than double the Fund's liabilities.

The Infant Lifetime Care Trust

Care for Infants. Justice for Families.

March 2020

ACOG The American College of Obstetricians and Gynecologists

Affiliate of American College of Nurse-Midwives

GBMC HEALTHCARE

Johns Hopkins Medicine

Kennedy Krieger Institute

Maryland Hospital Association

MNA Maryland Nurses Association

Maryland Patient Safety Center

MedChi The Maryland State Medical Society

MedStar Health

Mercy Medical Center

Mt. Washington Pediatric Hospital

Total Health Care You're Covered.

University of Maryland Medical System

THE ALLIANCE FOR INFANT LIFETIME CARE

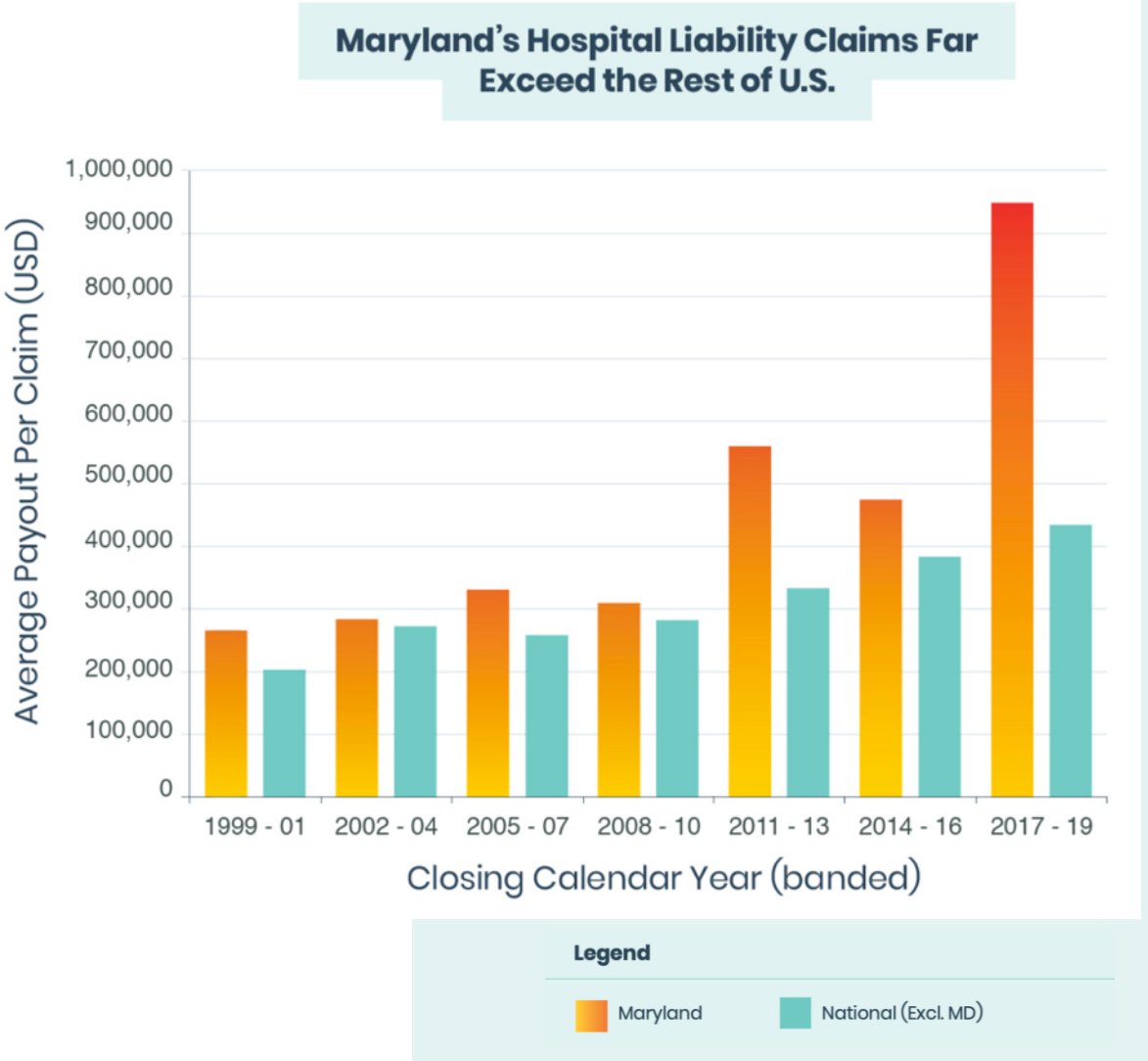
The Facts About Maryland's Medical Liability System

The current medical liability system is unsustainable

Today's system **fails to guarantee care** for the state's most vulnerable infants and leads to rising health care costs.

Claims associated with Maryland liability cases significantly and **consistently exceed national averages.**

Worse still, over the last 12 years, Maryland **claims increased by more than 300%,** while claims in all other states went up by 50%

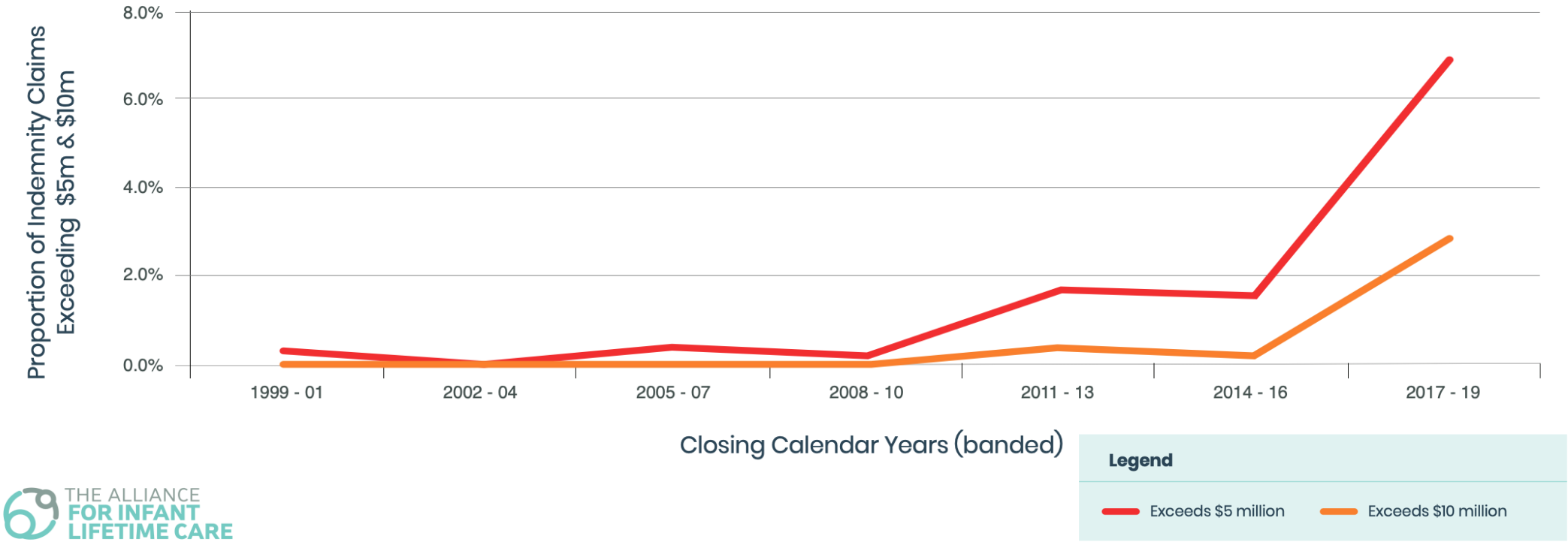


THE ALLIANCE FOR INFANT LIFETIME CARE

Rising claims are destabilizing the state's health care system

Claims exceeding $10 million appeared for the first time ten years ago and have risen sharply since.

Maryland has half the national average of medical liability claims, yet the state's payouts are double the national average.



Rising health care costs fall on all Marylanders

As hospitals face rising liability costs, they may have to shutter services, end community programs, or reduce maternity care throughout the state.

Four hospitals in Maryland have significantly reduced their obstetrics programs, and three counties in Maryland have only one OB/GYN to provide maternity care.

Three Maryland hospitals have ceased offering obstetric care since 2012, and similar closures in DC further threaten access for Marylanders.

A Common-Sense Solution

The Infant Lifetime Care Trust

To guarantee care and address a medical liability crisis, the Trust would cover the lifetime cost of care for infants who suffer a neurological injury at birth.

Families would still be able to hold hospitals and doctors accountable – their right to a jury trial would remain unchanged.

Maryland hospitals that deliver babies would pay an estimated $30 million annually to fund the Trust.

How the Trust Would Work

The Trust would cover medical and supportive care for anyone receiving a court approved settlement or verdict for a birth-related neurological injury.

Injured infants would have access to guaranteed lifetime care, instead of lump sum payments that may or may not be sufficient.

Patients' personal physicians would determine the care they need – and the Trust would be required to pay the costs of this care.

Holding Hospitals Accountable

Hospitals would still be held accountable in court if a mistake has been made, and may be liable for damages, plaintiff legal fees, and loss of income.

The Trust would be overseen by a state agency, and an administrative appeals process would address any disputes regarding payments.

A Single, Common-Sense Adjustment

DAMAGES	CURRENT SYSTEM	INFANT LIFETIME CARE TRUST
Future Medical Expenses	**Lump sum estimated by jury or settlement process; no guarantee that care will be covered for life.**	**The Infant Lifetime Care Trust guarantees coverage for lifetime care, as determined by patients' own physicians**
Non-Economic Damages (e.g. compensation for pain and suffering)	Lump sum (Determined by jury or settlement)	No change
Lost Earnings	Lump sum (Determined by jury or settlement)	No change
Past Medical Expenses	Lump sum (Determined by jury or settlement)	No change
Legal Fees	30–40% of lump sum (Determined by plaintiff and lawyer)	No change

The Infant Lifetime Care Trust's Six Guarantees

1. Guaranteed care for life
2. Guaranteed permanent solvency
3. Guaranteed physician-directed benefits
4. Guaranteed benefits whenever needed
5. Guaranteed long-term decreases in Medicaid spending
6. Guaranteed improvement in Maryland's ability to retain Ob-Gyns

THE ALLIANCE FOR INFANT LIFETIME CARE

Thank You