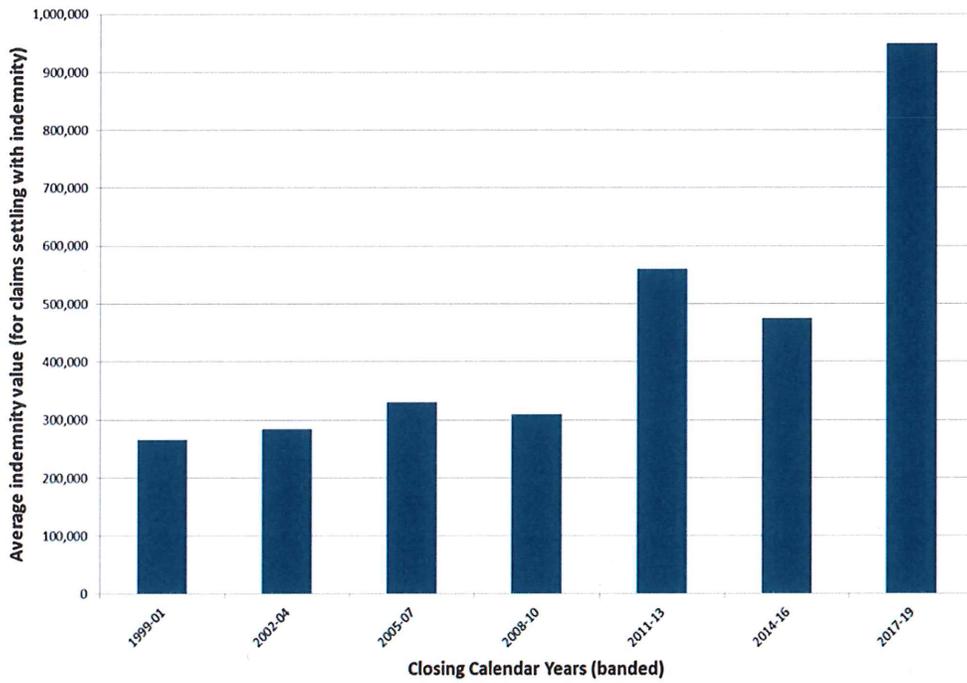


**SB 187: Civil Actions- Health Care Malpractice Claims (Life Care Act): Support
J. Kevin Carnell, CLO and Head of the Healthcare Practice for RCM&D
Impact of Life Care Plan jury verdicts on hospital medical malpractice insurance**

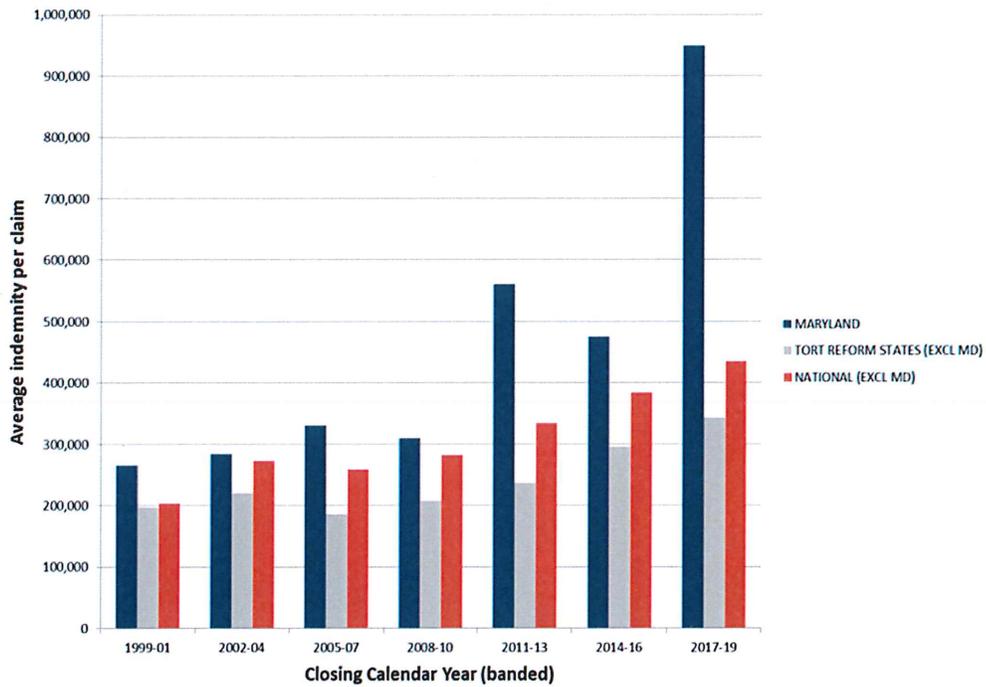
The impact to the state of Maryland, not just Baltimore City, has been dramatic and is unsustainable. Significant jury verdicts raise the value of cases and the cost to settle cases that do not go to trial because hospitals cannot risk taking a case to trial. As such, there has been a significant increase in the cost of medical malpractice claims which has raised the direct expenses of a hospital for its medical malpractice insurance premiums and the funding of the deductibles on the policies (the deductibles are referred to as self-insured retentions because they are so significant – multiple millions and in some cases more than ten million).

- **Several insurers no longer are willing to provide medical malpractice coverage to hospitals in Maryland.** The remaining carriers have significantly increased the premiums and deductibles. Deductibles have increased a minimum of one million dollars and in most cases, several million dollars (which could equate to doubling of the deductible). The cost to fund the deductible is more expensive than the premium so these changes are never insignificant.
- **Underwriters now consider Maryland to be a bad state for medical malpractice which is a change from several years ago.** In fact, Maryland is now often included on the list of what insurers consider to be the worst venues in the country.
- **Maryland is seeing a significant and unsustainable increase in claims severity (payouts).** Attached to my testimony are slides showing data from one of the largest hospital medical malpractice insurers in Maryland representing nearly 60% of Maryland hospital beds (and more than 40% of hospital beds nationally). Key findings:
 - Average cost of a claim over the last three years is double what it was for the prior three years
 - Average claim cost in Maryland is now double the rest of the nation in the most recent three years. These numbers reflect claims that have been settled, NOT claims still being negotiated (or cases being appealed such as the recent \$229 million jury verdict). It is very likely that the upward trend will continue as dramatically given the recent verdicts that include enormous awards for life care plans and the significant negotiated settlements that are directly related to those verdicts.
 - Trends by large claim amounts over the last twenty years, illustrating the most significant increase occurring over the last five years, particularly with claims over five and ten million dollars.
- **Significant variability in life care plans drives large claims.** Life care plans seem to have become the vehicle by which juries can express their sympathies for the plaintiff. Much like pain and suffering used to have jury awards that were considered unreasonable (until legislation was put in place), life care plans have sufficient variability in calculation and expert testimonies that juries can do whatever they want. **Underwriters have expressed that in the absence of some type of legislative reform, they believe the current trends will continue.** It is foreseeable that more insurers will stop writing medical malpractice insurance for hospitals in the state and probable that deductibles and premiums will continue to rise.

HPL claim trends in MD: average indemnity (banded years)



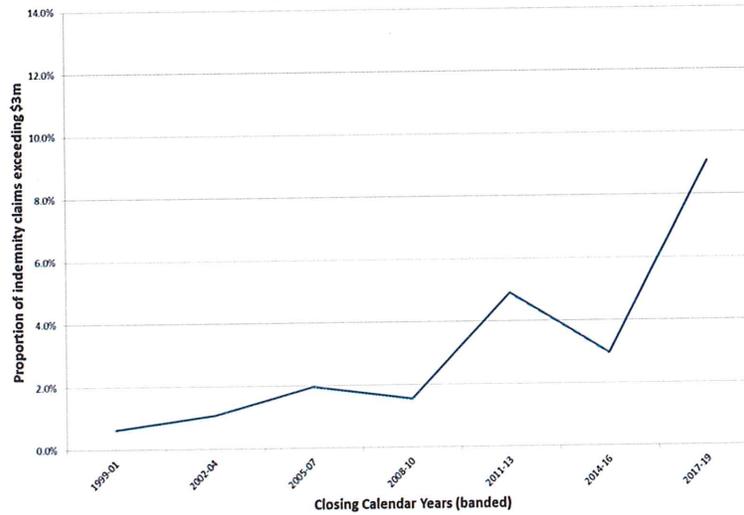
HPL claim trends in MD: comparison vs rest of US (indemnity)



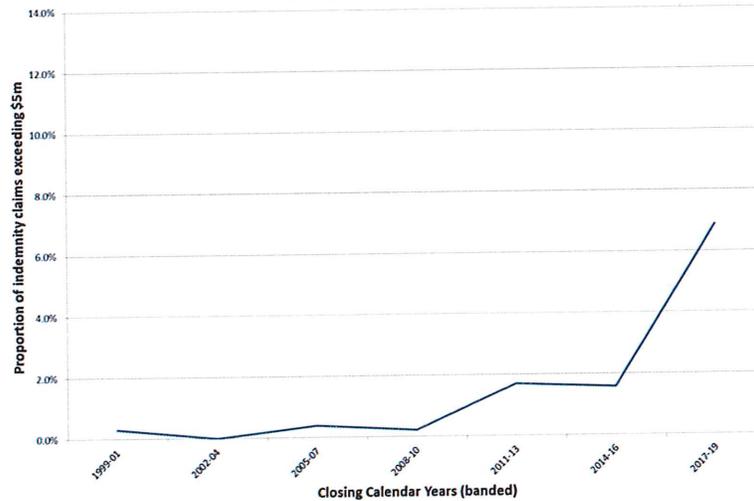
Source: Insurer Hospital Claims Database representing nearly 60% of Maryland hospital beds.

Note: Data does not include pending appeals or the jury award in *Byrom v. Johns Hopkins Bayview Medical Center*

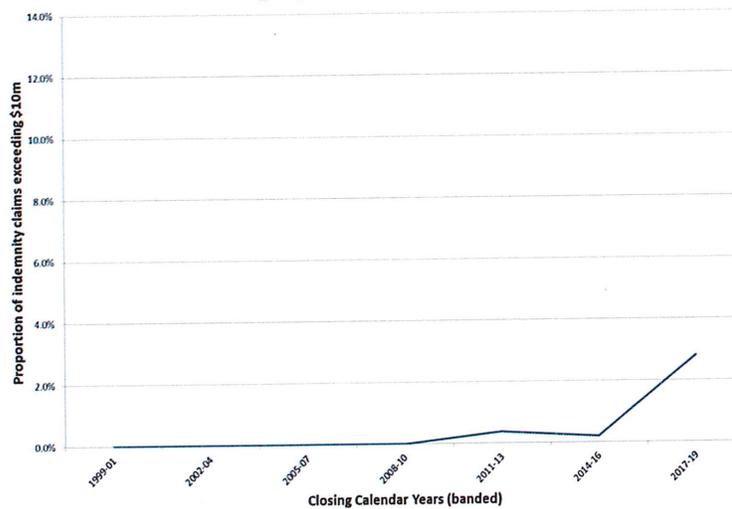
HPL claim trends in MD: proportion above \$3,000,000



HPL claim trends in MD: proportion above \$5,000,000



HPL claim trends in MD: proportion above \$10,000,000



Source: Insurer Hospital Claims Database representing nearly 60% of Maryland hospital beds.

Note: Data does not include pending appeals or the jury award in *Byrom v. Johns Hopkins Bayview Medical Center*