



DATE: June 30, 2021

TO: All Interested Parties

FROM: Jessica K. Altman  
Insurance Commissioner

SUBJECT: Additional Medical Malpractice Basic Insurance Capacity

Under Pennsylvania's Act 13 of 2002, the Medical Care Availability and Reduction of Error Act ('Fund' or 'MCARE'), basic primary professional liability insurance limits could potentially be increased in 2022 from \$500,000 to \$750,000 per claim. The increase is subject to an evaluation and analysis of the basic medical malpractice insurance coverage market capacity. A determination that additional capacity is not available would result in primary and Fund coverage limits for 2022 remaining in effect until such capacity is available in the future. The Department has previously undertaken reviews of the basic insurance coverage market capacity eight times. To date, none of the prior reviews resulted in a change in the Fund coverage levels.

In 2021, the Department engaged Deloitte Consulting LLP to perform a Medical Professional Liability Basic Insurance Capacity Study as of December 31, 2019. The study reviewed information from a data call by the Department and other sources. The study evaluated market share, leverage ratios and financial strength of medical professional liability insurers in Pennsylvania. Of particular note, the study found:

- The market share of Risk Retention Groups ("RRGs") and surplus lines insurers have grown substantially since 2010. At the same time, admitted insurers have experienced a material decline in market share.
- RRGs' net premium to surplus ratios have declined steadily since 2016.
- There has been a decrease in ACL ratios (the ratio of total adjusted capital to authorized control level risk-based capital) among admitted insurers since 2016.
- Companies with greater concentrations of their medical professional liability portfolio in Pennsylvania generally have lower ACL ratios and higher premium to surplus ratios than companies with more diversified national portfolios.

The Department solicited comments about this decision from all interested parties with a notice published in the Pennsylvania Bulletin on January 30, 2021. Only one entity responded to the request for comment.

In consideration of the statistical information underlying the medical malpractice insurance market in Pennsylvania and the uncertainty caused by the COVID-19 pandemic on certain segments of the market, it cannot be determined that additional basic insurance capacity is currently available for calendar year 2022. Accordingly, there will be no increase to the current basic primary limits for calendar years 2022 and 2023.

**Office of the Insurance Commissioner**