

**Maryland Insurance Administration's
2006 Report on the Availability and
Affordability of Health Care Medical
Professional Liability Insurance in
Maryland**



September 5, 2006

**Maryland Insurance Administration's 2006 Report on the
Availability and Affordability of Health Care
Medical Professional Liability Insurance**

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I. Preface

The Maryland Insurance Administration (“MIA”) was created as an independent state agency by the Maryland General Assembly in 1993. Among other things, the MIA is charged with:

- Monitoring the solvency of Maryland entities that engage in the business of insurance;
- Encouraging competition within the insurance industry;
- Protecting consumers from fraud, misrepresentation, and unfair trade practices;
- Ensuring that consumers are treated fairly and with respect;
- Combating insurance fraud; and
- Regulating the insurance industry.

Pursuant to SB 836 (2005), § 4-405 of the Insurance Article requires the Commissioner to report, in accordance with §2-1246 of the State Government Article, the Commissioner's findings as to the impact of Chapter 5 of the Acts of the 2004 Special Session of the General Assembly (HB 2) and Chapter 477 of the Acts of the General Assembly of 1994 on the availability of health care medical professional liability insurance in the State to the Legislative Policy Committee on or before September 1 of each year. This report reflects the information for calendar year 2006.

II. Availability

Title 11 of the Insurance Article sets forth the insurance rating laws for companies engaging in the business of insurance in the State of Maryland. Title 11, subtitle 2, specifically requires prior approval rate-making laws to certain lines of business; including, medical professional liability insurance. The primary purpose of prior approval rate-making is to protect the public welfare by regulating certain insurance rates and prohibiting their implementation and use until such time as the Commissioner finds that the proposed rates are not excessive, inadequate, or unfairly discriminatory. However, the intent of the law is not to prohibit or discourage reasonable competition among carriers offering this type of insurance within the State.

During Calendar Year 2005, there were 124 companies, including surplus lines and risk retention groups, licensed to and providing medical professional liability insurance for all types of healthcare providers in the State of Maryland.¹ Of the 124 companies, five (5) of these carriers are admitted insurers² providing coverage for Maryland physicians and surgeons and these five companies comprise approximately 63.03% of the market. *See* Exhibit A and A2.

As shown in Exhibit A and A2, The Medical Mutual Liability Insurance Society of Maryland ("Medical Mutual") continues to be the largest provider of professional liability insurance to physicians and surgeons in the State with a 45.62% share of the market in

¹ Surplus lines carriers and risk retention groups are subject to limited regulation by the State and the MIA does not have prior approval over the rates these carriers charge.

² Admitted insurers are subject to the full regulatory control given to the MIA by the State.

2005. Medical Mutual was created pursuant to Chapter 544, Section 1, Laws of Maryland in 1975 to respond to the limited market availability of such coverage prior to passage of tort reform measures by the General Assembly. Since 1975, Medical Mutual has grown to become the largest provider of this type of coverage for physicians and surgeons practicing in the State.

Despite the growth of Medical Mutual and its large market share, the MIA has continued to encourage competition in this line of business. In September 2005, the MIA received an application from a company that was seeking to enter Maryland's medical professional liability insurance market with hopes of writing non-assessable professional liability policies for physicians and surgeons in 2006. This new carrier, the Maryland Healthcare Providers Insurance Exchange (MDHPIX), was granted a Certificate of Authority as an admitted carrier and its rates and forms were approved effective May 15, 2006. This new carrier will insure physicians and surgeons, as well as other healthcare providers, such as, but not limited to, nurse midwives, Certified Registered Nurse Anesthetists (CRNAs), and nurse practitioners. As an admitted carrier, MDPHIX was eligible to participate in the Maryland Health Care Provider Rate Stabilization Fund and it elected to do and has requested monies on behalf of its insureds in accordance with Section 19-803(d)(1).

Another change in Maryland's medical professional liability marketplace surrounds the acquisition of NCRIC by the ProAssurance Group. As a result, ProAssurance made the business decision to limit NCRIC policies to the District of Columbia. Thus, NCRIC filed a plan of withdrawal in accordance with §27-603 with the MIA. This plan of

withdrawal was approved by the MIA in July of 2006 and effective September 1, 2006, NCRIC will not be accepting any new business from Maryland physicians or surgeons. Effective September 5, 2006, those physicians and surgeons who are insured by NCRIC will receive Notices of Nonrenewal; however, those insureds who would have been eligible for renewal will be given the opportunity to apply for insurance through another member of the ProAssurance Group, The Medical Assurance Company, Inc.. Thus, while NCRIC has withdrawn from the Maryland marketplace, it has been replaced by the Medical Assurance Company, Inc..

III. Affordability

As a result of rising premium costs for medical professional liability insurance and the impact it was having on patients' access to quality health care, the Maryland General Assembly was called into Special Session in December of 2004 and HB 2 was the result. HB 2 was corrected by additional legislation during the 2005 Session which resulted in SB 836. As a result of this legislation, the Maryland Health Care Rate Stabilization Fund was created and rising medical professional liability insurance rates charged by an admitted carrier were able to be subsidized, in part, by the State.³ The subsidy factor in calendar year 2006 was impacted by the unanticipated decision of Medical Mutual not to seek a rate increase for calendar year 2006.⁴ Nor has Medical Mutual sought a rate increase for calendar year 2007 which will again impact the subsidy factor for calendar year 2007. MDHPIX, the new carrier that entered the Maryland medical professional liability marketplace in May 2006, has submitted a request for funds from the Maryland Healthcare Rate Stabilization Fund.

Exhibits B through E display a comparison of medical professional liability premiums for four specialties: Emergency Medicine, Family Practice, and OB/GYN, and Neurosurgeons; and are broken out by insurer and by territory⁵. The premiums are base premiums for policy limits of \$1,000,000 per incident/ \$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

³ Pursuant to SB 836, the premium increase was limited to 5% in calendar year 2005 policies over what the physicians and surgeons had paid in 2004.

⁴ As a result, the subsidy factor for policies renewing in calendar year 2006 has been determined to be 25%.

⁵ Territory 1 consists of Baltimore City and Baltimore County, Territory 2 includes Anne Arundel, Howard, Montgomery and Prince George's Counties, and Territory 3 is the rest of the State.

Exhibits B1 - B3 compare the premiums for Emergency Medicine among the six admitted insurers by territory. Only one insurer does not have rates available for an Emergency Medicine physician; Preferred Professional Insurance Co..

Exhibits C1 - C3 compare the premiums for Family Practice among the six admitted insurers by territory. All six insurers have a rate for a Family Practitioner.

Exhibits D1 - D3 compare the premiums for OB/GYN physicians among the six admitted insurers by territory. All six insurers have a rate for an OB/GYN physician.

Exhibits E1 - E3 compare the premiums for Neurosurgeons among the six admitted insurers by territory. All six insurers have a rate for a Neurosurgeon.

Further, in accordance with HB 2 and the newly enacted Section 2-303.2 of the Insurance Article, the MIA has updated the Comparison Guide to Medical Professional Liability Insurance Rates, which will be on the MIA website and available in brochure form shortly. The October 2006 edition of this Comparison Guide will include the premiums being charged by the two new carriers, MDHPIX and The Medical Assurance Company, Inc.. The MIA will continue to update this Comparison Guide on an annual basis in order to assist consumers of medical professional liability insurance in being able to compare pricing among insurers.

IV. Past Reports on Availability and Affordability

The MIA's past reports on the availability and affordability of health care medical malpractice insurance in Maryland were completed and submitted to the Legislative Policy Committee in accordance with Chapter 639 of the Acts of 1986. Originally, Chapter 639 was to sunset on October 31, 1996, but legislation was introduced and passed in the 1996 Regular Session (SB 138) that extended the sunset date until October 31, 2001. Due to the 2001 sunset, the MIA issued its last report on the availability and affordability of health care medical malpractice insurance and submitted it to the Legislative Policy Committee in December of 2001. Additionally, Maryland Regulation COMAR 31.08.07, Medical Malpractice - Closed Claims Surveys, which provided a mechanism for insurers to report closed claims data to the MIA, was repealed effective October 27, 2003. Thus, there has been no mechanism in place for the MIA to collect, analyze and monitor the medical professional liability insurance market for some period of time.

In July of 2004, the National Association of Insurance Commissioners (“NAIC”) submitted its Medical Malpractice Insurance Report: A Study of Market Conditions and Potential Solutions to the Recent Crisis.⁶ The report noted that its analysis of the data was only as good as the data itself and that while the data showed, in broad terms, that there was a problem in the medical professional liability insurance marketplace, it was not sufficiently detailed to enable a detailed examination of where and to what extent

⁶ The Report was presented to the NAIC’s Property and Casualty (C) Committee and later adopted by the NAIC at the plenary meeting in September of 2004.

problems exist.⁷ The NAIC Report acknowledges that only closed claim data collected by individual states allows one to determine what drives losses, whether medical expense and economic damages, or non-economic and punitive damages, in that particular state and thus, by extension, what drives rates. The same need for detailed data was noted by the authors of a study of Texas medical malpractice claims from 1988 through 2002.⁸

With the enactment of SB836 (2005), the MIA has resumed its reports to the Legislative Policy Committee regarding the availability of health care medical professional liability insurance in the State. The first report was issued in November of 2005 and this is the second annual report. As the MIA has now begun collecting data surrounding medical malpractice claims, we hope to be able to monitor trends in the medical professional liability insurance marketplace. Once the data is collected, it should prove useful in reviewing the relationship between medical professional liability insurance rates and awards and settlements. However, this data will not be collected overnight and it will take some period of time to build the database upon which a thorough analysis can be based.

⁷ The problems within the medical professional liability insurance market are not just a problem in Maryland, but are a national problem.

⁸ Stability, Not Crisis: Medical malpractice Claims Outcomes in Texas, 1988-2002, Black, Bernard; Silver, Charles; Hyman, David A.; and Sage, William M. published in the Journal of Empirical Legal Studies, Volume 2, Issue 2, July, 2005.

V. New 2006 Regulation

In order to prepare annual reports in accordance with SB 836 (2005), the Commissioner adopted regulations on the submission of information described in §4-405 of the Insurance Article. The MIA now has a regulation in place that requires medical professional liability insurers to report claims data via an on-line survey which is to be completed on a quarterly schedule. Exhibit F is the new regulation, COMAR 31.08.10, Medical Professional Insurers Online Claim Survey Reporting Requirements, which became effective May 22, 2006.

With the implementation of the new regulation, insurers have submitted closed claims data which is expected to be helpful in reviewing and analyzing the relationship between medical professional liability insurance rates and awards and settlements. This data should enable the MIA to assess trends in the marketplace as they begin to develop and before they reach a crisis level.

VI. Closed Claim Data

To date, the data submitted by insurers in response to the new regulation are with respect to claims that were closed in 2005 and claims that were closed in the first two quarters of 2006. This report focuses on closed claims dealing with physicians and surgeons as reported by Medical Mutual, Preferred Professional Insurance Company (PPIC), NCRIC, Inc., and OHIC Insurance Company⁹. OHIC Insurance Company ceased writing new policies for physicians in Maryland effective March 1, 2004 and began withdrawing from the market and non-renewing policies effective March 1, 2005. However, since the company is still closing claims, it will continue to report closed claims in compliance with the new regulation.¹⁰

Using the closed claims data the MIA has collected to date, the following information can be provided:

- The Number of Claims by Speciality:
 - Emergency Medicine: 14
 - Family Practice: 20
 - Neurosurgeons: 5
 - OB/GYN: 38

⁹ As of the writing of this report, Medical Protective Company, The Doctors Company, and NCRIC were continuing to submit closed claims data. Such data will be reviewed and included in the next annual report.

¹⁰ This report does not comment on claims made against self-insured hospitals as these claims are not required to be reported to the MIA under §4-405 of the Insurance Article.

- The Number of Verdicts for the Plaintiff greater than \$1 Million¹¹:

One closed claim was reported in which an award was made by court verdict in favor of the plaintiff in the amount of \$5,026,297. This suit was filed in the Charles County Circuit Court.¹²

- The Number of Claims by Jurisdiction: See Exhibit G at the end of this report for a list by jurisdiction of the number of closed claims that were filed in court.
- The Number of Claims by Company: Those companies that reported closed claims as of the writing of this report include:
 - Medical Mutual: 356
 - NCRIC: 24
 - OHIC: 11
 - PPIC: 3

¹¹ For verdicts categorized as such, we looked at the jurisdictions where these verdicts occurred, as well as a breakdown of the amounts awarded for past medical expenses, future medical expenses, past lost wages, future lost wages, non-economic damages, and other damages claimed by the plaintiff.

¹²There was only one other closed claim reported that came close to an award of \$1million. A Baltimore City Circuit Court verdict was for the plaintiff in the amount of \$995,000.

VII. Deductibles

Pursuant to §19-114 of the Insurance Article, each insurer that issues or delivers a medical professional liability insurance policy in the State shall offer at a minimum, in addition to the basic policy, additional policies with deductibles in the following amounts: \$25,000, \$50,000; and \$100,000. Of the insurers in Maryland who offer these deductible amounts, there are few policyholders who have elected to purchase a medical professional liability insurance policy with any of these deductibles. To date the following insurers have provided the following data:

- Medical Mutual: 1 total – 1 policyholder elected to purchase a policy with a \$25,000 deductible effective 8/1/06.
- NCMIC Insurance Company¹³: , 2 total - 1 policyholder elected to purchase a policy with with a \$50,000 deductible and another policyholder elected a policy with a \$100,000 deductible.
- The Doctors Company: 0 total - No policyholders elected the deductibles.

¹³NCMIC Insurance Company is an insurer that provides medical professional liability coverage to chiropractors.

VIII. Summary

As of May 2006, Maryland's physicians and surgeons have six (6) admitted insurers¹⁴ from which to choose when considering their professional liability insurance needs.

Under the prior approval rate-making laws of Maryland, it does not appear that competition is prohibited or discouraged; nor that medical professional liability coverage is not available in the admitted market.

Maryland physicians and surgeons have choices with respect to coverages and pricing; six (6) admitted insurers, in addition to various surplus lines carriers and risk retention groups. The entry of a new carrier, MDHPIX, into the medical professional insurance market in May 2006 means that Maryland physicians will have yet another choice as they shop to obtain the best coverage for their dollars. Also, the ability of The Medical Assurance Company, Inc. to insure eligible policyholders as they are non-renewed under NCRIC's withdrawal plan will help to maintain the number of carriers in the State. Further, the affordability of medical professional liability insurance has been eased by the Rate Stabilization Fund and the monies provided by the State to assist physicians by providing a partial subsidy of their premium.

The Maryland Insurance Administration regulates the medical professional liability market by:

¹⁴ Please note that not all physicians and surgeons will be eligible for coverage with each of the six (6) carriers identified. Each company operates with separate and distinct underwriting guidelines which reflect the amount and type of risk they are willing to insure.

- Approving rates to ensure that they are not excessive, inadequate or unfairly discriminatory;
- Maintaining a Consumer Education and Advocacy Unit to assist consumers with understanding the insurance products that are available;
- Publishing a professional liability insurance premium comparison guides to assist healthcare providers in comparing premiums so they can make informed choices with regard to the coverages they may elect to purchase; and
- Collecting claims data to enable the MIA to review, analyze and assess the condition of the medical professional liability insurance market within the State.

IX. Exhibits

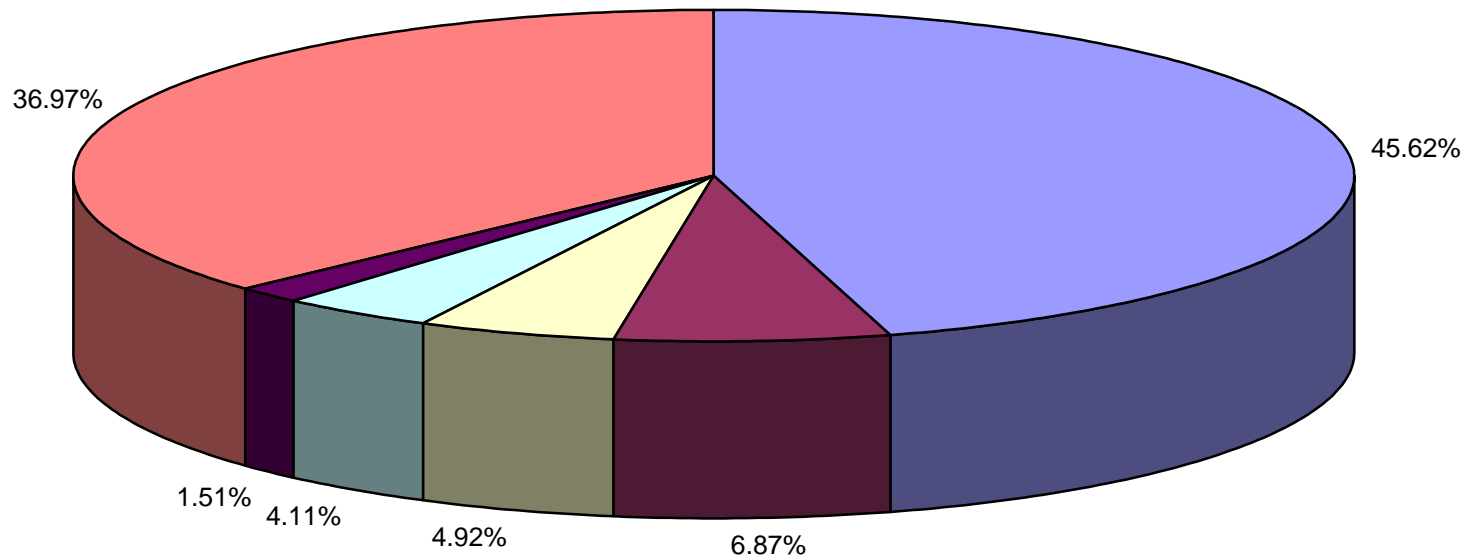
- Exhibit A: Distribution of Market Share of Medical Professional Liability Insurance in Maryland, Physicians and Surgeons, 2005**
- Exhibit A2: Market Share of Medical Professional Liability Insurance in Maryland, Physicians and Surgeons, 2005**
- Exhibit B1: Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine, Baltimore City and Baltimore County, Territory 1**
- Exhibit B2: Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine, Anne Arundel, Howard, Montgomery, and Prince George's Counties, Territory 2**
- Exhibit B3: Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine, Rest of State, Territory 3**
- Exhibit C1: Comparison of Annual Medical Professional Liability Premiums for Family Practice, Baltimore City and Baltimore County, Territory 1**
- Exhibit C2: Comparison of Annual Medical Professional Liability Premiums for Family Practice, Anne Arundel, Howard, Montgomery, and Prince George's Counties, Territory 2**
- Exhibit C3: Comparison of Annual Medical Professional Liability Premiums for Family Practice, Rest of State, Territory 3**
- Exhibit D1: Comparison of Annual Medical Professional Liability Premiums for OB/GYN, Baltimore City and Baltimore County, Territory 1**
- Exhibit D2: Comparison of Annual Medical Professional Liability Premiums for OB/GYN, Anne Arundel, Howard, Montgomery, and Prince George's Counties, Territory 2**
- Exhibit D3: Comparison of Annual Medical Professional Liability Premiums for OB/GYN, Rest of State, Territory 3**
- Exhibit E1: Comparison of Annual Medical Professional Liability Premiums for Neurosurgeons, Baltimore City and Baltimore County, Territory 1**
- Exhibit E2: Comparison of Annual Medical Professional Liability Premiums for Neurosurgeons, Anne Arundel, Howard, Montgomery, and Prince George's Counties, Territory 2**

Exhibit E3: Comparison of Annual Medical Professional Liability Premiums for Neurosurgeons, Rest of State, Territory 3

Exhibit F: Maryland Regulation COMAR 31.08.10: Medical Professional Insurers On-Line Claim Survey Reporting Requirements

Exhibit G: Number of Claims by Jurisdiction

Exhibit A
Distribution of Market Share of Medical Professional Liability Insurance in Maryland
Physicians and Surgeons
2005



Medical Mutual Liability Insurance Society of Maryland	Doctors Company
Medical Protective Company	NCRIC, Inc.
Preferred Professional Insurance Company	*All Other

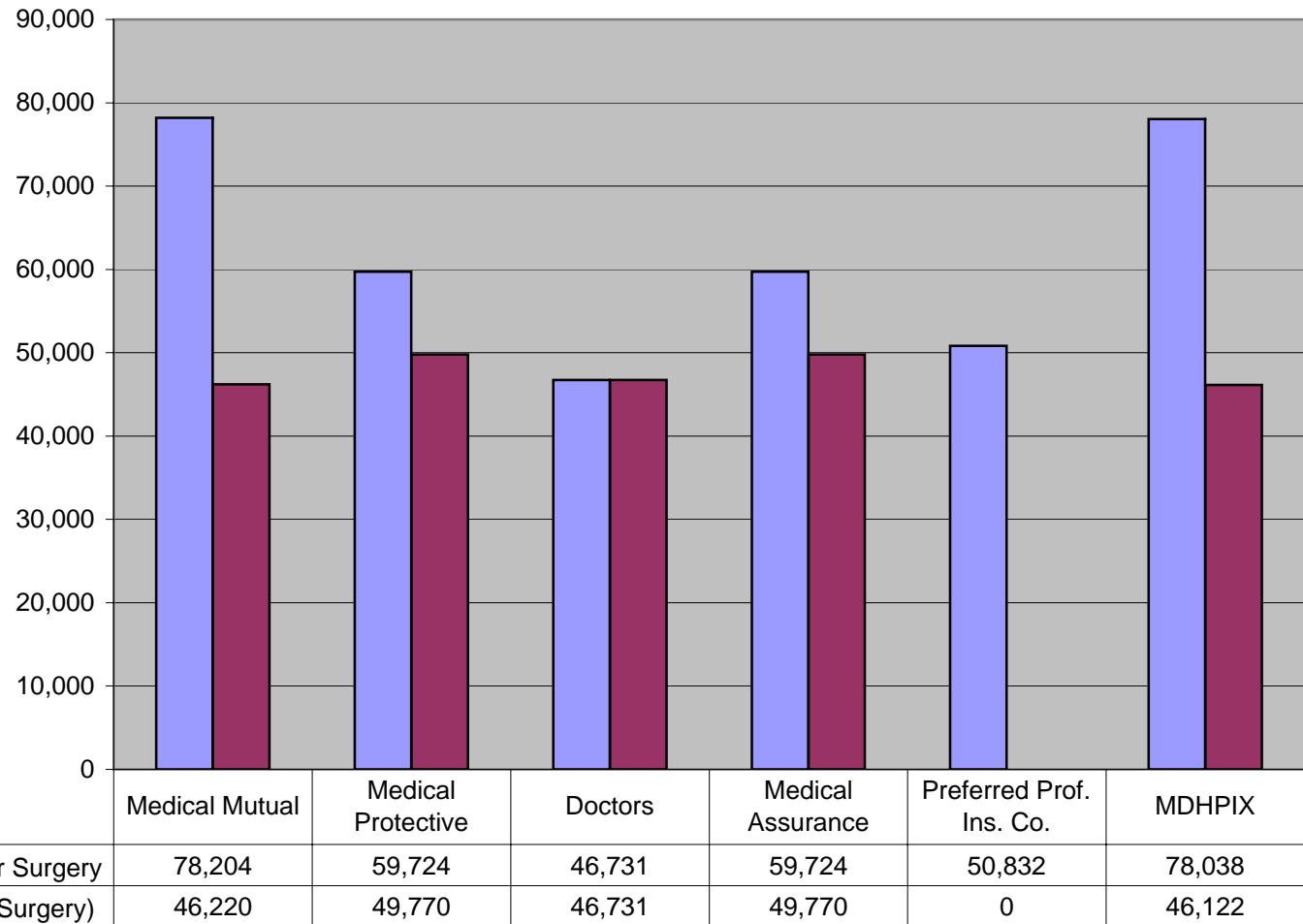
Note: *All Other includes surplus lines, risk retention groups, and carriers who insure healthcare providers other than physicians and surgeons.

Exhibit A2

**Market Share of Medical Professional Liability Insurers in Maryland
Physicians and Surgeons**

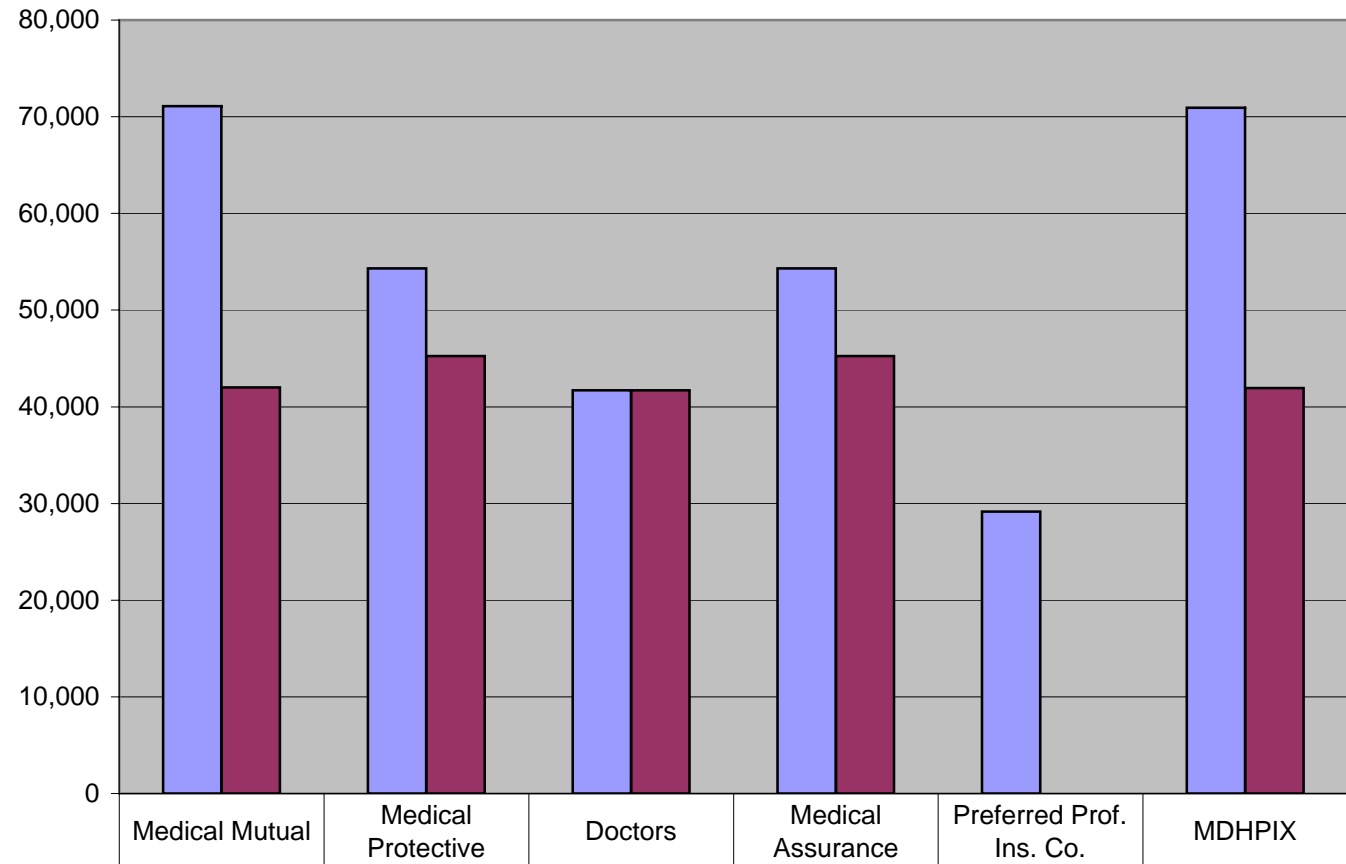
Name of Insurer	2005 Market Share
Medical Mutual Liability Insurance Society of Maryland	45.62%
Doctors Company	6.87%
Medical Protective Company	4.92%
NCRIC, Inc.	4.11%
Preferred Professional Insurance Company	1.51%
*All Other	36.97%
Total	100.00%

**Exhibit B1
Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine
Baltimore City and Baltimore County
Territory 1**



Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

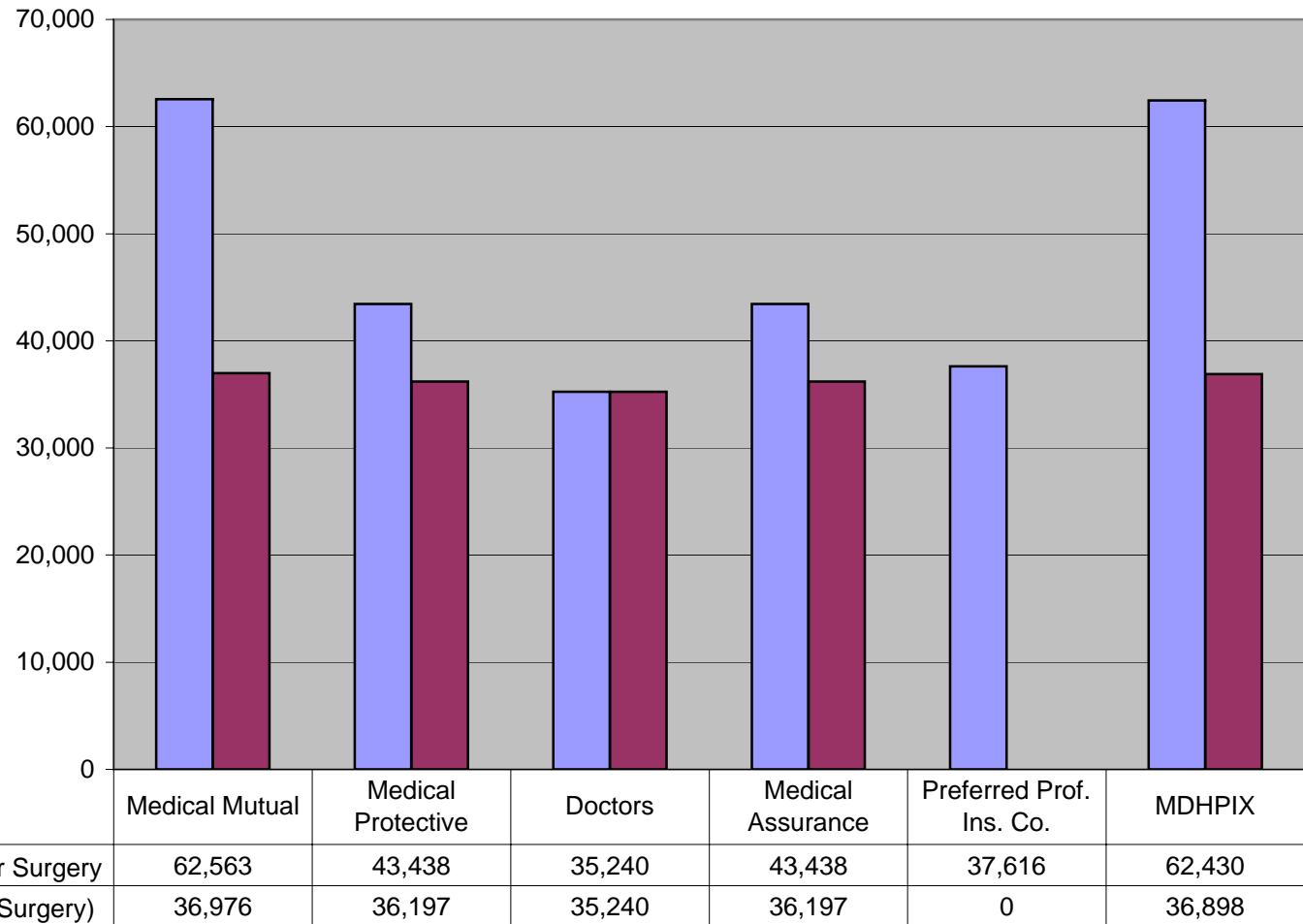
Exhibit B2
Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine Anne
Arundel, Howard, Montgomery, and Prince George's Counties
Territory 2



Emergency Medicine - Inc. Major Surgery	71,088	54,301	41,689	54,301	29,148	70,937
Emergency Medicine (No Major Surgery)	42,014	45,250	41,689	45,250	0	41,925

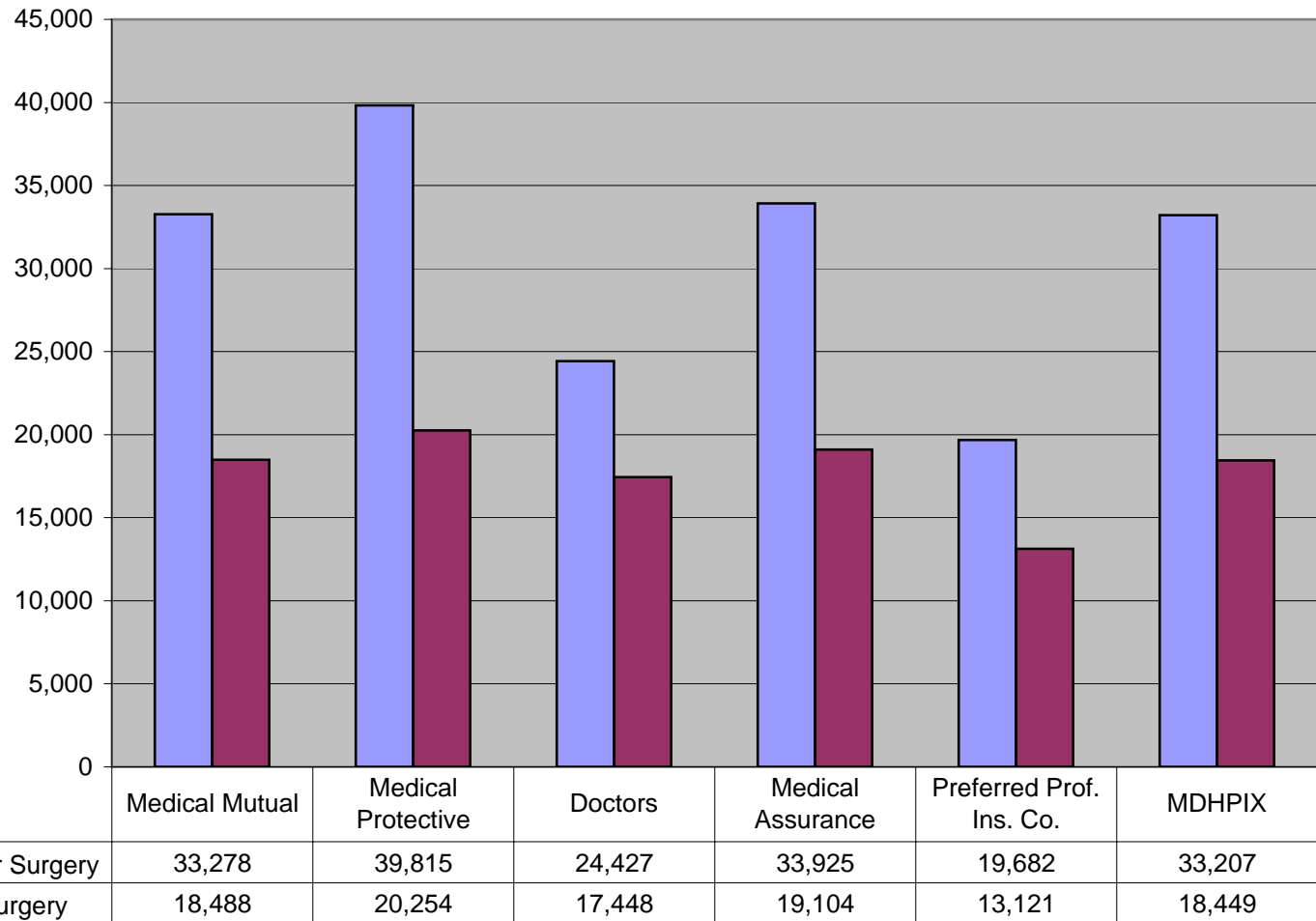
Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

**Exhibit B3
Comparison of Annual Medical Professional Liability Premiums for Emergency Medicine
Rest of State
Territory 3**



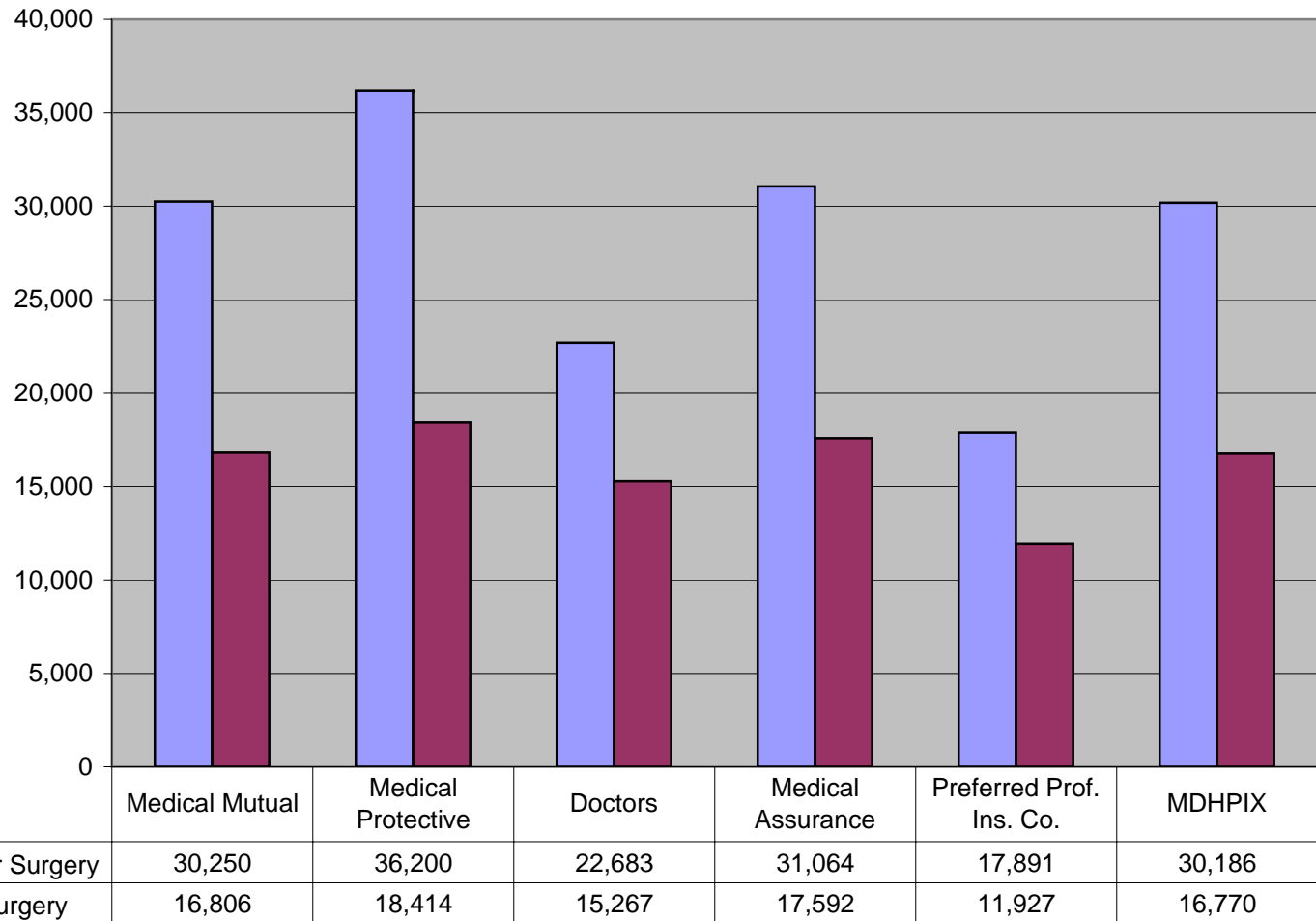
Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit C1
Comparison of Annual Medical Professional Liability Premiums for Family Practice
Baltimore City and Baltimore County
Territory 1



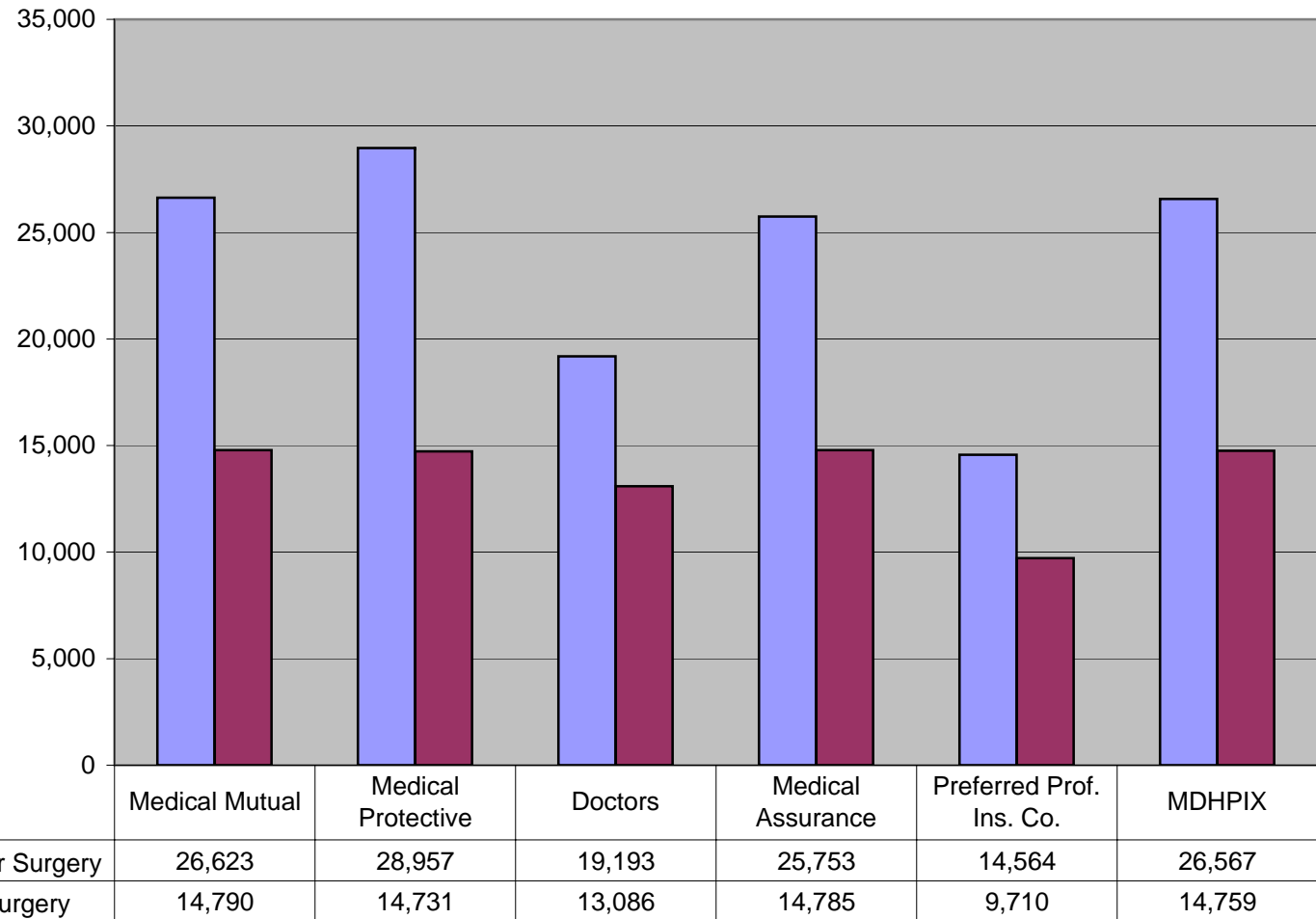
Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit C2
Comparison of Annual Medical Professional Liability Premiums for Family Practice
Anne Arundel, Howard, Montgomery and Prince George's Counties
Territory 2



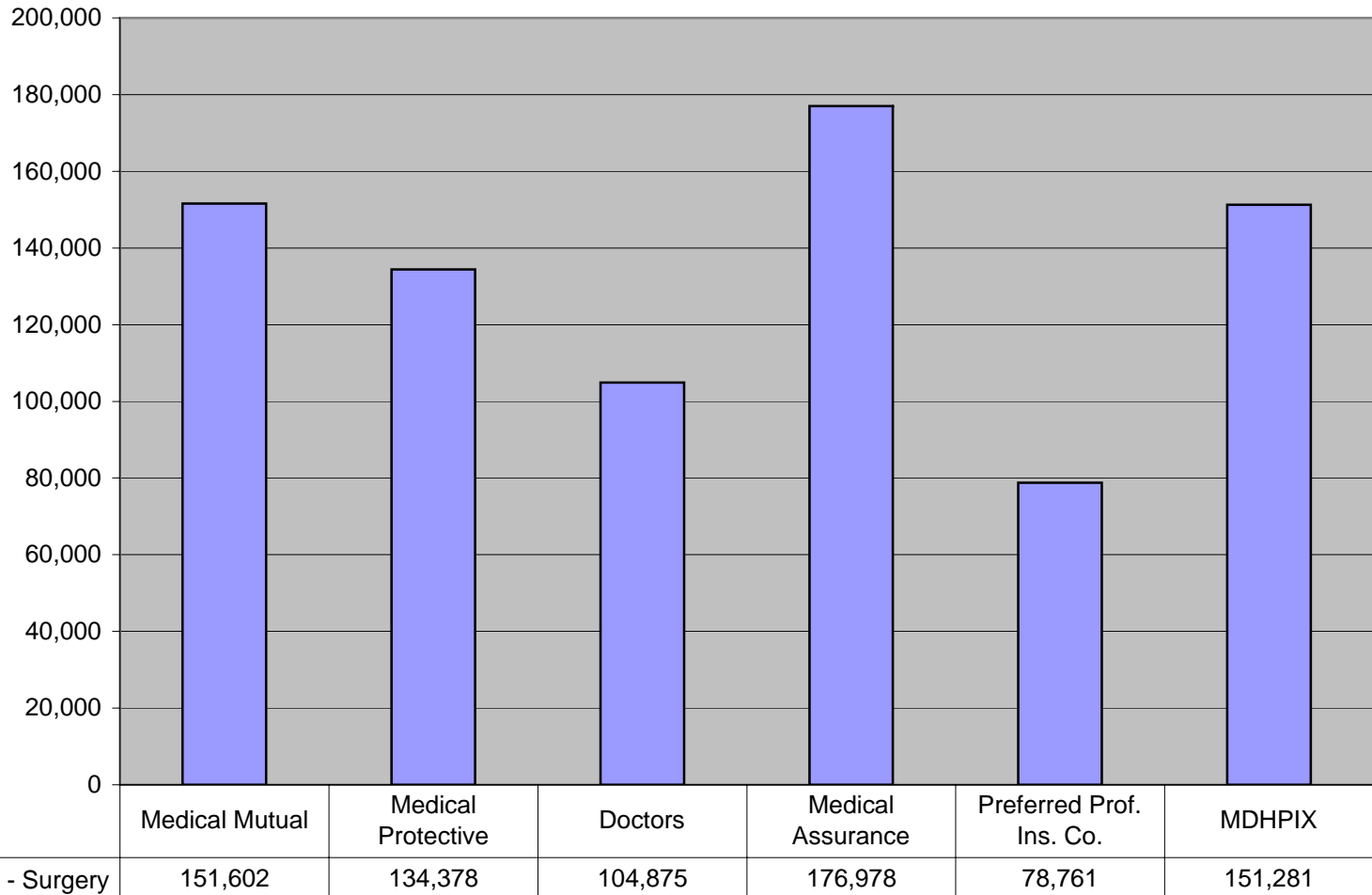
Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit C3
Comparison of Annual Medical Professional Liability Premiums for Family Practice
Rest of State
Territory 3



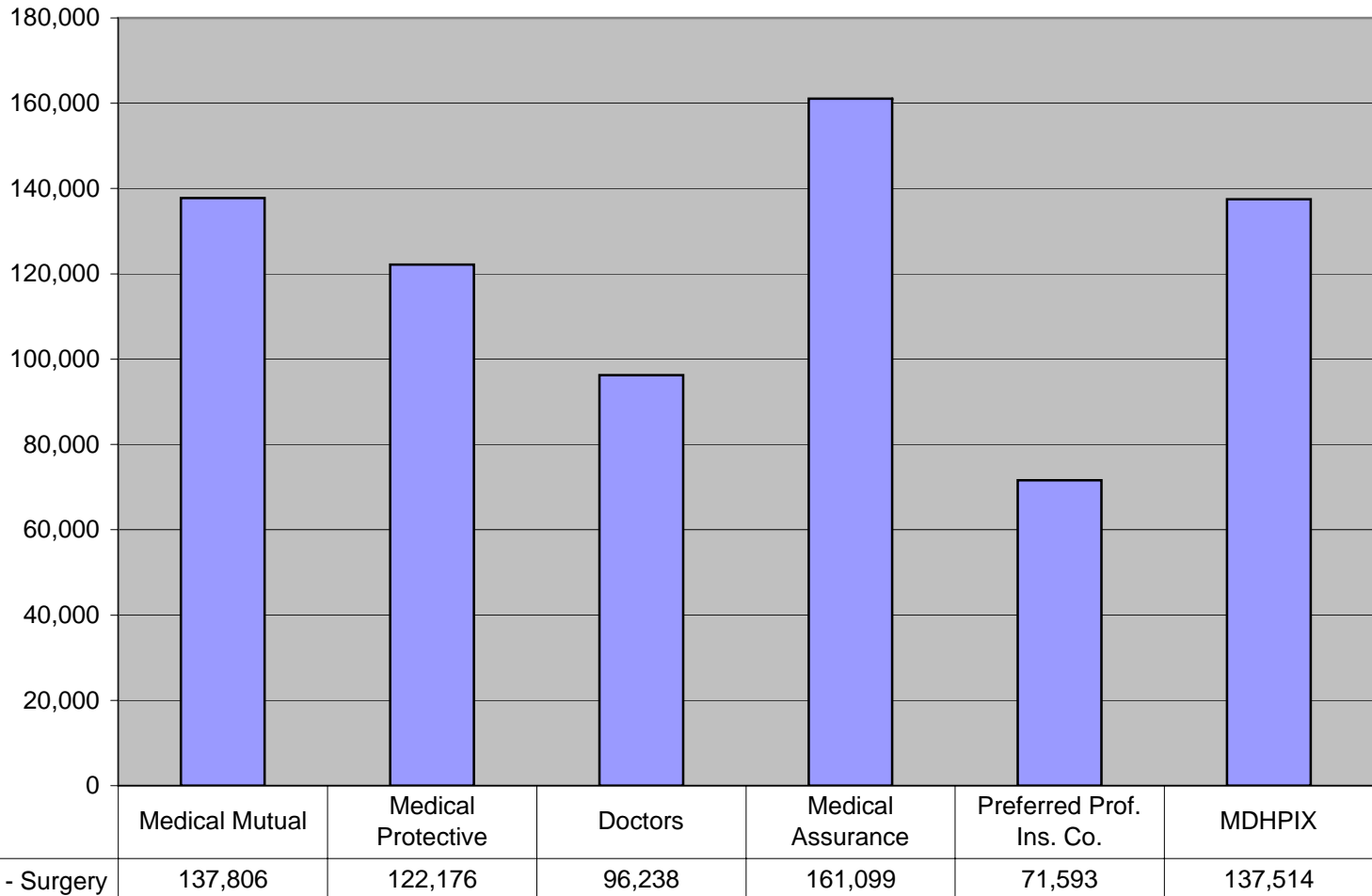
Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

**Exhibit D1
Comparison of Annual Medical Professional Liability Premiums for OB/GYN
Baltimore City and Baltimore County
Territory 1**



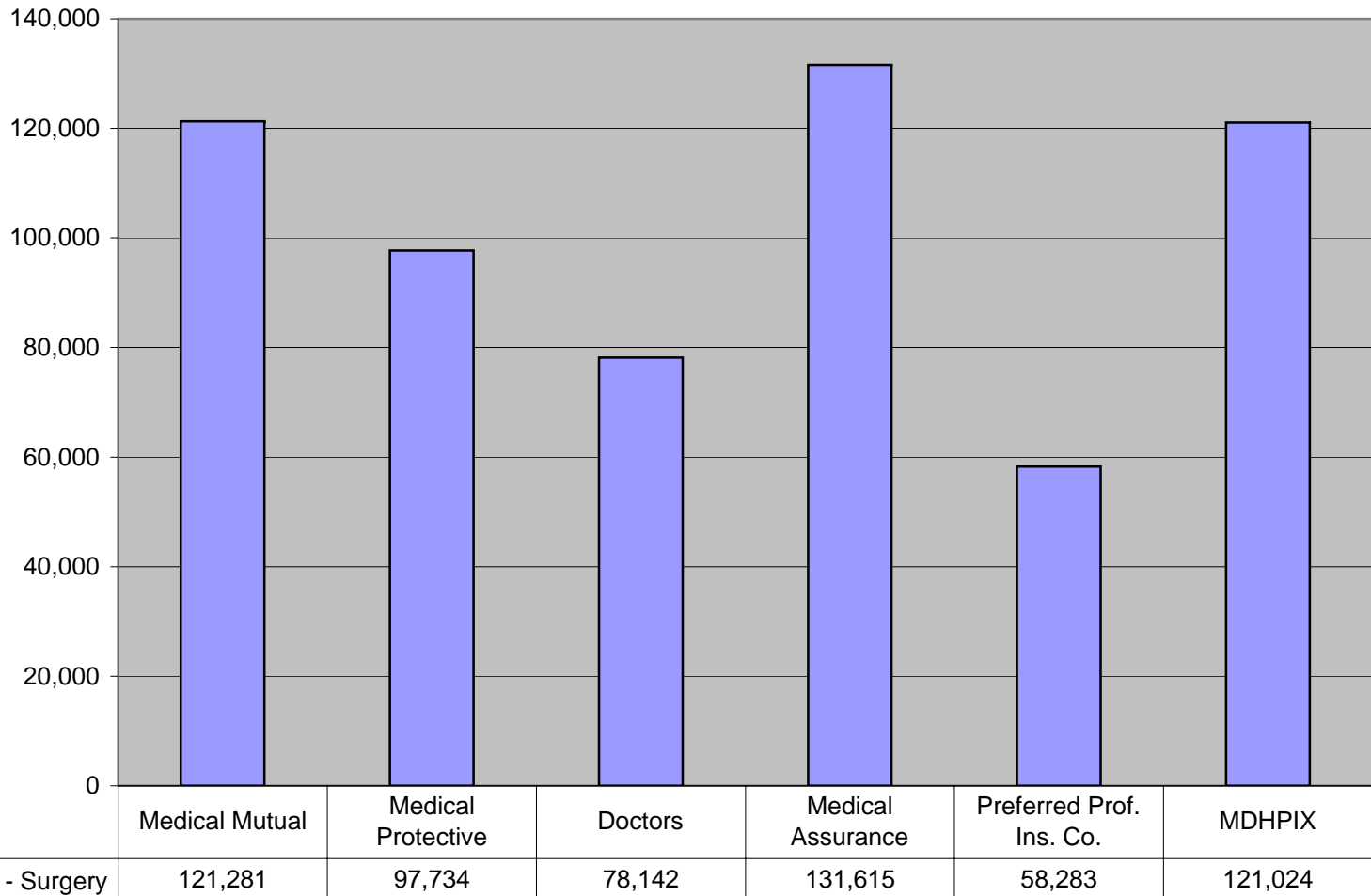
Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit D2
Comparison of Annual Medical Professional Liability Premiums for OB/GYN
Anne Arundel, Howard, Montgomery, and Prince George's Counties
Territory 2



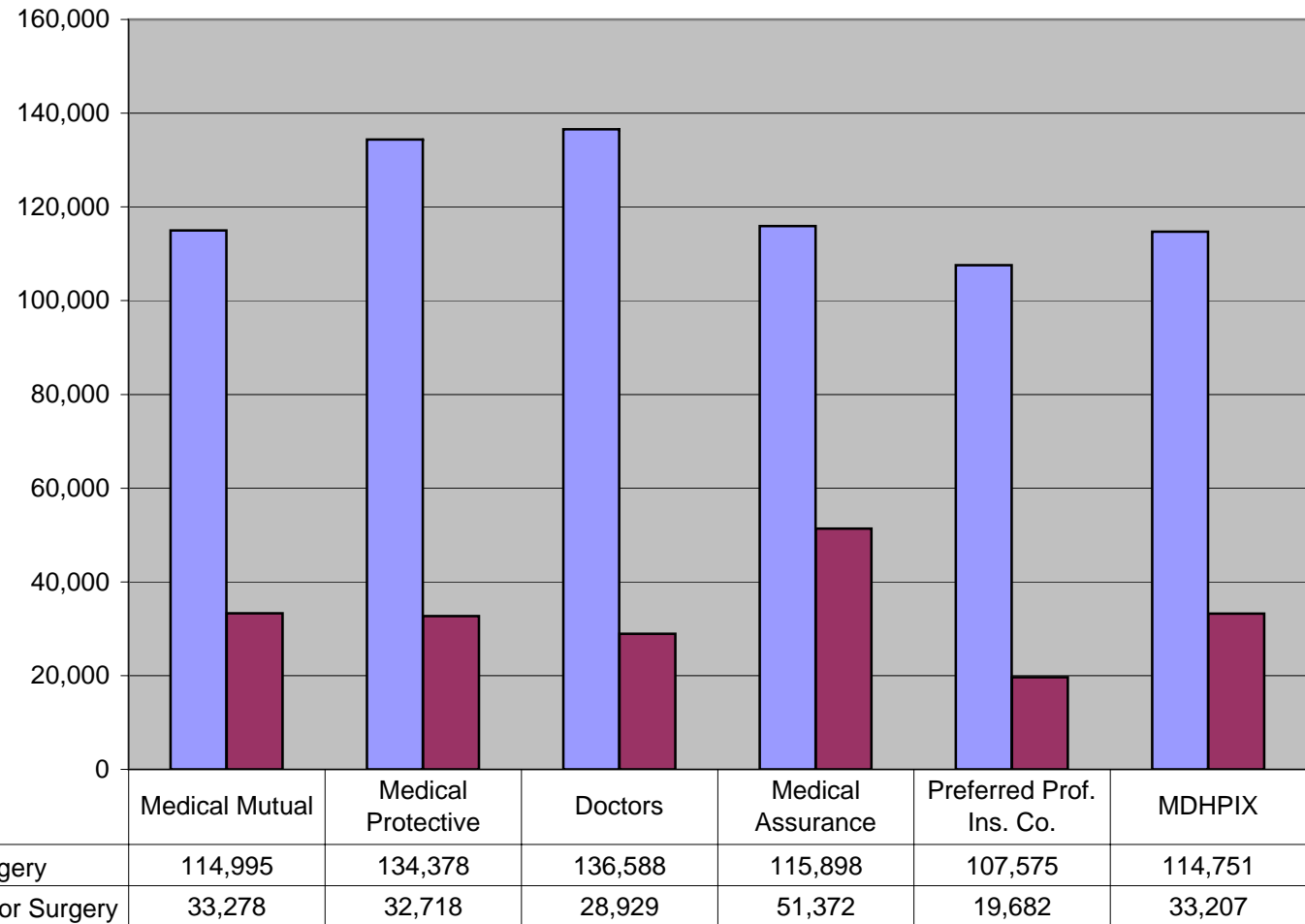
Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

**Exhibit D3
Comparison of Annual Medical Professional Liability Premiums for OB/GYN
Rest of State
Territory 3**



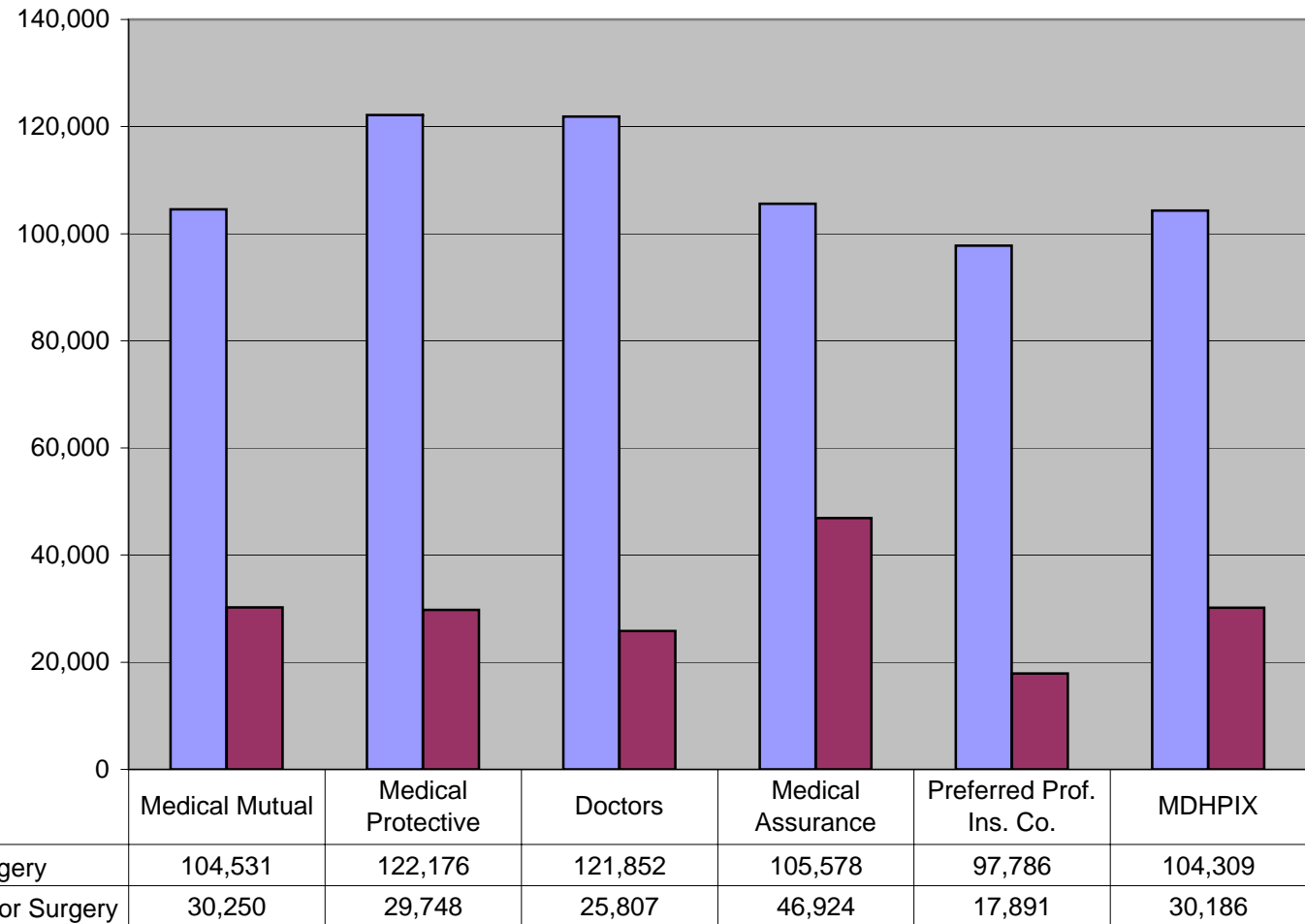
Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit E1
Comparison of Annual Medical Professional Liability Premiums for Neurosurgeons
Baltimore City and Baltimore County
Territory 1



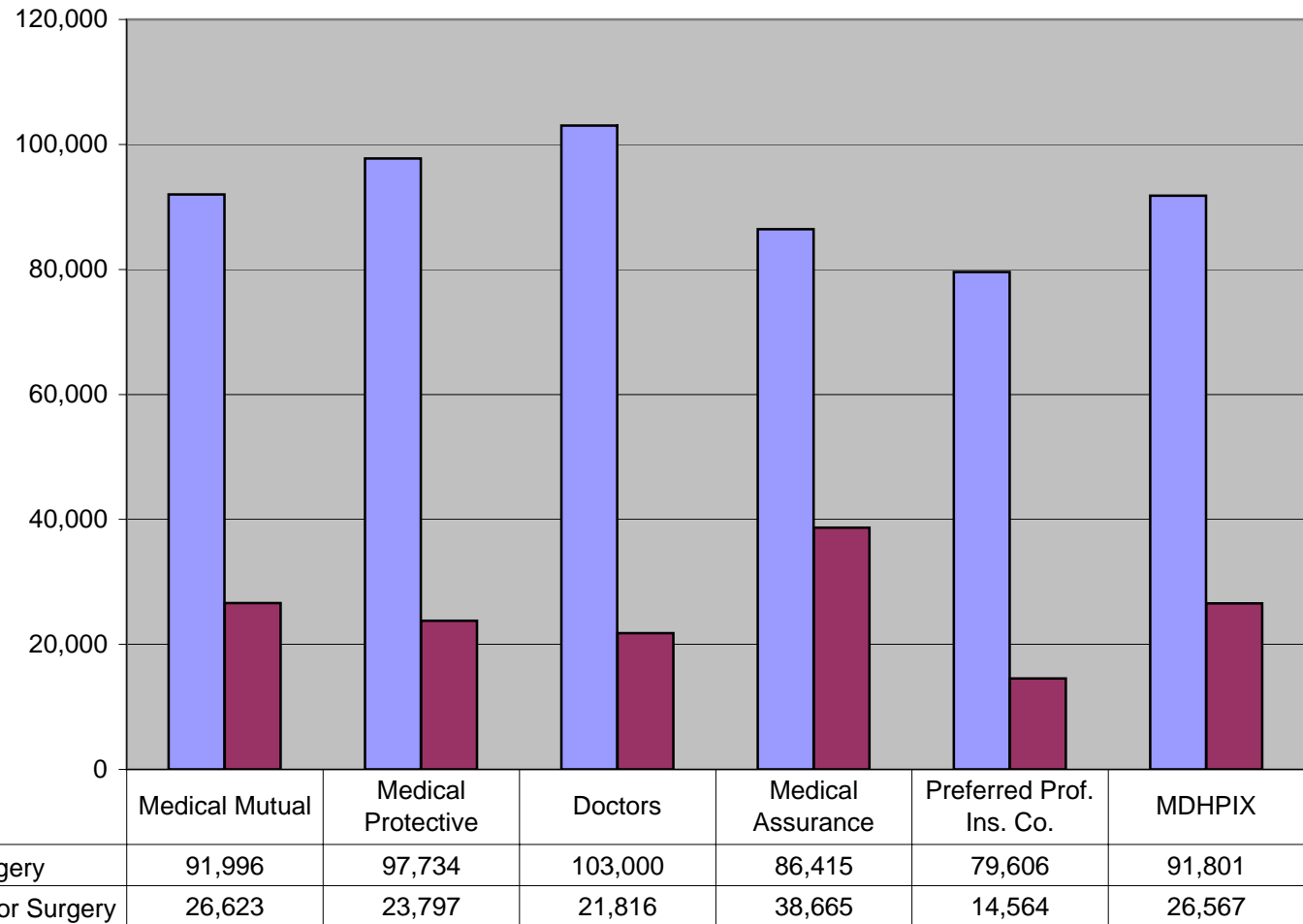
Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit E2
Comparison of Annual Medical Professional Liability Premiums for Neurosurgeons
Anne Arundel, Howard, Montgomery and Prince George's Counties
Territory 2



Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

Exhibit E3
Comparison of Annual Medical Professional Liability Premiums for Neurosurgeons
Rest of State
Territory 3



Notes: No premiums are shown where an insurer does not have rates available for a defined class. Base premiums for policy limits of \$1,000,000 per incident/\$3,000,000 annual aggregate based upon mature claims-made rates in effect on July 1, 2006.

31.08.10.00

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 08 PROPERTY AND CASUALTY INSURANCE

Chapter 10 Medical Professional Insurers Online Claim Survey Reporting Requirements

Authority: Insurance Article, §§4-401 and 4-405, Annotated Code of Maryland

EXHIBIT F

31.08.10.01

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Amount paid to claimant" means the amount of claim settlements and claim awards.

(2) "Closed claim" means a claim filed with the Director of the Health Care Alternative Dispute Resolution Office under Courts and Judicial Proceedings Article, §3-2A-04, Annotated Code of Maryland, that has resulted in:

(a) A final judgment in any amount;

(b) A settlement in any amount; or

(c) A final disposition that does not result in payment on behalf of the insured.

(3) "Confidential information" means "confidential commercial information", "confidential financial information", and "financial information" as those terms are used in State Government Article, §10-617(d) and (f), Annotated Code of Maryland.

(4) "Financial information report" means an annual report as described in Regulation .02 of this chapter.

(5) "Insurer" means each insurer that provides professional liability insurance to a physician, nurse, dentist, podiatrist, optometrist, or chiropractor licensed under Health Occupations Article, Annotated Code of Maryland, or a hospital licensed under Health—General Article, Annotated Code of Maryland.

(6) "Neutral expert" has the meaning stated in Courts and Judicial Proceedings Article, §3-2A-09(d)(2), Annotated Code of Maryland.

31.08.10.02

.02 Financial Information Report.

A. Scope. An insurer that issues professional liability insurance to health care providers in the State shall submit to the Commissioner a financial information report.

B. Confidential Information.

(1) An insurer that submits a financial information report shall notify the Commissioner at the time of the submission of any information contained in the report that the insurer considers to be confidential information.

(2) The Commissioner, in accordance with State Government Article, §10-617(d) and (f), Annotated Code of Maryland, shall deny inspection of any part of a report submitted under this chapter that the Commissioner determines contains confidential information.

C. Filing Requirements.

(1) Insurers shall submit a financial information report by April 30 of each year for the preceding calendar year.

(2) The financial information report shall state, in the aggregate:

(a) The nature and cost of reinsurance for the insurer for the preceding calendar year;

(b) The claims experience, by category, of health care providers insured by the insurer during the preceding calendar year;

(c) The amount paid by the insurer under claim settlements and claim awards in the preceding calendar year;

(d) The amount of reserves for claims incurred and for incurred but unreported claims held by the insurer at the close of the preceding calendar year; and

(e) The number of claims settled by the insurer during the preceding calendar year that included structured settlement payments.

31.08.10.03

.03 Closed Claim Survey.

A. Scope. Each insurer that issues professional liability insurance in the State shall complete and submit to the Commissioner a closed claim survey form, as described in Regulation .04 of this chapter, for each closed claim.

B. Within 90 days after the end of each calendar quarter, an insurer shall complete and submit to the Commissioner the closed claim survey forms for claims closed by the insurer in that quarter.

C. The closed claim survey forms shall be submitted to the Commissioner using an on-line survey tool made available by the Maryland Insurance Administration.

D. A closed claim that is covered under a primary policy and one or more excess policies shall be reported only by the insurer that issued the primary policy. The insurer that issued the primary policy shall report the total amount, if any, paid with respect to the closed claim, including any amount paid under an excess policy and any amount paid by the health care provider subject to the claim or by a person other than an insurer on behalf of that health care provider.

E. A closed claim survey form shall be completed and submitted only for a closed claim that arises out of an act or omission alleged to have occurred in the State or that was covered under a policy of professional liability insurance issued in the State. If the act, omission, or injury alleged in the closed claim allegedly occurred outside the State but was subject to resolution under the substantive laws of the State, a closed claim survey form is not to be submitted on that closed claim, unless the closed claim was covered under a policy of professional liability insurance issued in the State.

F. A single closed claim survey form shall be filed for any closed claim that arises out of the same alleged acts or omissions of a health care provider and asserts the same injury, regardless of the number of claimants seeking damages on account of that injury. Any amounts identified on the closed claim survey form in connection with such a closed claim shall reflect all amounts paid to all claimants in that closed claim.

G. If the insurer did not close any claims during a calendar quarter, the insurer need not submit a closed claim survey form but shall so notify the Commissioner in writing within 90 days after the end of the calendar quarter.

31.08.10.04

.04 Required Information.

The following information shall be reported on a closed claim survey form:

- A. Name of insurer;
- B. Name of insurer group;
- C. Claim file identification (ID);
- D. Name of person completing the form;
- E. Telephone number, including area code, of person completing the form;
- F. Date form completed;
- G. Date of injury;
- H. Date injury reported to insurer;
- I. Date claim closed;
- J. Whether the claim was previously reported;
- K. Age of injured person at time of injury;
- L. Gender of injured person at time of injury;
- M. Type of injury, such as wrongful death, permanent disability, or other bodily injury;
- N. Description of injury;
- O. Name of health facility where injury occurred;
- P. Type of medical professional liability policy, such as occurrence, claims made—basic, or claims made—tail;
- Q. Type of patient, such as inpatient, emergency room outpatient, or other outpatient;
- R. Physician Insurance Services Office Incorporated (ISO) classification or equivalent classification;
- S. Type of health care provider, such as physician-no surgery, surgeon, psychiatrist and related specialties, nurse, nurse midwife, optometrist, pharmacist, chiropractor, podiatrist, psychologist, dentist, hospital, other health care facility, or nurse anesthetist;
- T. Physician and surgeon classification, including name of specialty;
- U. Health care provider name;
- V. Health care provider license number;
- W. Policy limits for each claim or medical incident;

X. Policy limits for annual aggregate;

Y. If known, the facility, office, or county where the injury occurred;

Z. Whether the claim is a zero payment claim file;

AA. Full name and location of the court where the suit was filed and the case was tried;

BB. Case or docket number;

CC. Whether settlement was reached or award was made at one of the following stages:

- (1) Arbitration;
- (2) Mediation before suit was filed;
- (3) After suit was filed, but before trial;
- (4) During trial, but before court verdict;
- (5) Court verdict;
- (6) After verdict; or
- (7) After appeal was filed;

DD. If settlement was reached or award was made by court verdict, whether the result was:

- (1) Directed verdict for plaintiff;
- (2) Directed verdict for defendant;
- (3) Judgment notwithstanding the verdict for plaintiff;
- (4) Judgment notwithstanding the verdict for defendant;
- (5) Judgment for plaintiff;
- (6) Judgment for defendant;
- (7) Judgment for plaintiff, after appeal;
- (8) Judgment for defendant, after appeal; or
- (9) Any other;

EE. If there was no final judgment or settlement, the date of the final disposition;

FF. If there was no final judgment or settlement, the reason for the final disposition;

GG. If case did go to trial, whether the case was tried by a jury or tried by a judge;

HH. Total amount paid to the claimant;

II. Amount paid by the insurer;

JJ. Amount paid by the insured due to retention or deductible;

KK. If known, the amount paid by an excess carrier;

LL. If known, the amount paid by the insured due to settlement or award in excess of policy limits, not including deductible or retention amounts;

MM. If known, the amount paid by the insurer due to settlement or award in excess of policy limits, not including deductible or retention amounts;

NN. If known, the amount paid by other defendants or contributors;

OO. A summary of the occurrence from which the claim or action arose;

PP. A description of the misdiagnosis or alleged misdiagnosis made, if any, of the patient's actual condition;

QQ. A description of the procedure giving rise to the claim;

RR. A description of the principal injury giving rise to the claim;

SS. The amount of past medical expenses claimed by the plaintiff;

TT. The amount of future medical expenses claimed by the plaintiff;

UU. The amount of past lost wages claimed by the plaintiff;

VV. The amount of future lost wages claimed by the plaintiff;

WW. The amount of noneconomic damages claimed by the plaintiff;

XX. The amount of other damages claimed by the plaintiff;

YY. Whether a structured settlement or periodic payment was used, and if so:

(1) The amount of immediate payment;

(2) The present value of the projected total future payout, that is, the price of the annuity, if purchased;

(3) The projected total future payout; and

(4) The cost of the structure;

ZZ. If a neutral expert was used, the findings of a neutral expert witness regarding future medical expenses;

AAA. If a neutral expert was used, the findings of a neutral expert witness regarding future loss of earning;

BBB. If case was tried to verdict:

(1) The amount awarded for past medical expenses;

(2) The amount awarded for future medical expenses;

- (3) The amount awarded for past lost wages;
- (4) The amount awarded for future lost wages;
- (5) The amount awarded for noneconomic damages; and
- (6) The amount awarded for other damages;

CCC. The total allocated loss adjustment expense;

DDD. Of the total allocated loss adjustment expense, the amount representing fees paid to defense counsel;

EEE. Of the total allocated loss adjustment expense, the amount of expenses not included in the defense counsel fees;

FFF. Whether there was a claim made for extra contractual damages;

GGG. The amount claimed for extra contractual damages;

HHH. Whether a suit was filed or claim was made for extra contractual damages; and

III. Where the suit for the extra contractual damages claim was filed, including:

- (1) The full name of the court where the suit was filed and the case was tried;
- (2) The case number or docket number;
- (3) Whether the claim settled or was tried;
- (4) If tried, whether the trial was before a judge or jury;
- (5) The amount paid for the extra contractual damages claim; and
- (6) Whether the claim was previously reported to the Commissioner.

31.08.10.05

.05 Penalties.

Failure to report in accordance with this chapter may result in the imposition by the Commissioner of a civil penalty of up to \$5,000.

31.08.10.9999

Administrative History

Effective date: May 22, 2006 (33:10 Md. R. 882)

Number of Claims by Jurisdiction

EXHIBIT G

Jurisdiction where the Suit was Filed and the Case was Tried	Number of Claims
Allegany County Arbitration	2
Allegany County Circuit Court	3
Allegany County District Court	1
Anne Arundel County Arbitration	4
Anne Arundel County Circuit Court	33
Anne Arundel County District Court	1
Baltimore City Arbitration	3
Baltimore City Circuit Court	43
Baltimore City, MD	4
Baltimore County Arbitration	5
Baltimore County Circuit Court	55
Baltimore County, MD Health Claims Court	1
Baltimore County, MD State Circuit Court	1
Baltimore MD Circuit Court	1
Baltimore, MD Health Claims Court	2
Baltimore, MD State Circuit Court	5
Baltimore, MD unknown which court	1
Calvert County Circuit Court	8
Caroline County Circuit Court	1
Carroll County Circuit Court	3
Cecil County Circuit Court	4
Charles County Circuit Court	7
Charles County District Court	1
Frederick County Circuit Court	22
Frederick MD State Circuit Court	1
Harford County Arbitration	1
Harford County Circuit Court	8
Health Care Alternative Dispute Resolution Office	2
Howard County Arbitration	1
Howard County Circuit Court	4
Kent County Arbitration	3
Kent County Circuit Court	2
Maryland Federal Court	7
Montgomery County Arbitration	2
Montgomery County Circuit Court	43
Prince George's County Arbitration	6
Prince George's County Circuit Court	45
St. Mary's County Circuit Court	4
Talbot County Circuit Court	11
Washington County Arbitration	3
Washington County Circuit Court	12
Wicomico County Circuit Court	15
Worchester County Circuit Court	3