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Employee Benefits: The Looming Healthcare Liability Crisis



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2020 Healthcare Professional Liability Market



“AM Best is maintaining a Negative outlook on the MPL Segment for 2019, with the overarching theme being shrinking demand, prolonged soft market conditions, ongoing challenges to tort reform, and diminishing reserve redundancies.”



Dynamic Market Conditions

- Healthcare consolidation continues to lead to shrinking premium base for underwriters
- Line of business is unprofitable on an aggregate basis
- Efforts to restore profitability vary by carrier, venue and class of business
- Reduction in capacity in difficult jurisdictions or on new business
- Market exits: AIG (Physicians and Sr. Care), OneBeacon and Zurich & Swiss Re (**all US Casualty**); many others reducing capacity
- Numerous RRGs and smaller carriers struggling with solvency



Loss Trends

- Social and economic inflation adversely impacting loss trend
- Increase in large medical malpractice verdicts across multiple jurisdictions, many of which are OB cases
- Large life care plans
- Improved clinical treatment that saves lives but result in extensive disabilities
- Litigation Funding may mitigate reasonable settlements



Hot Spots

- Senior Care is extremely challenging and rates are rising strongly +50%
- FL, IL, KY, LA, MD, NJ, NM, NY, PA, RI, and DC are more challenging jurisdictions. But the adverse severity trend is hitting most jurisdictions
- Various physician specialties including Emergency Medicine, OB-GYN, Radiology, Senior Care



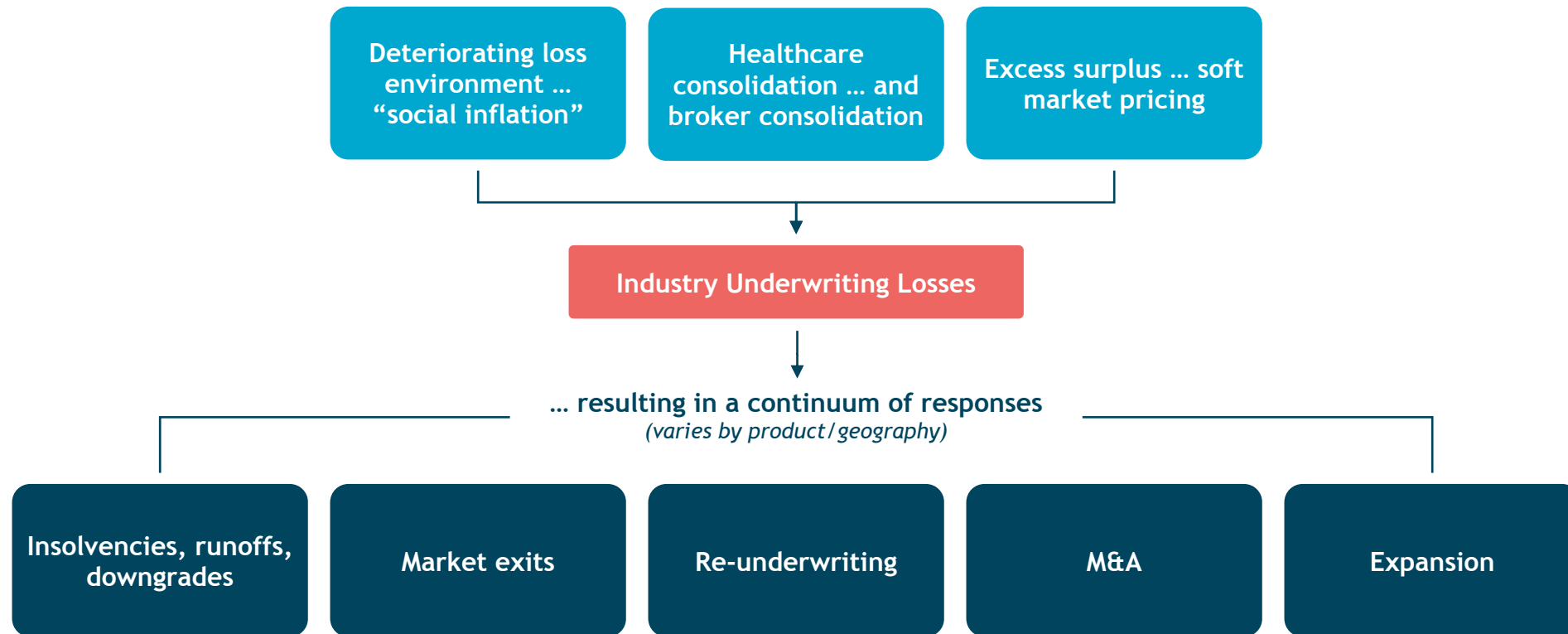
Rate Forecast

- Most risks +10% to +25%; lots of outliers
- Senior Care +50% or more

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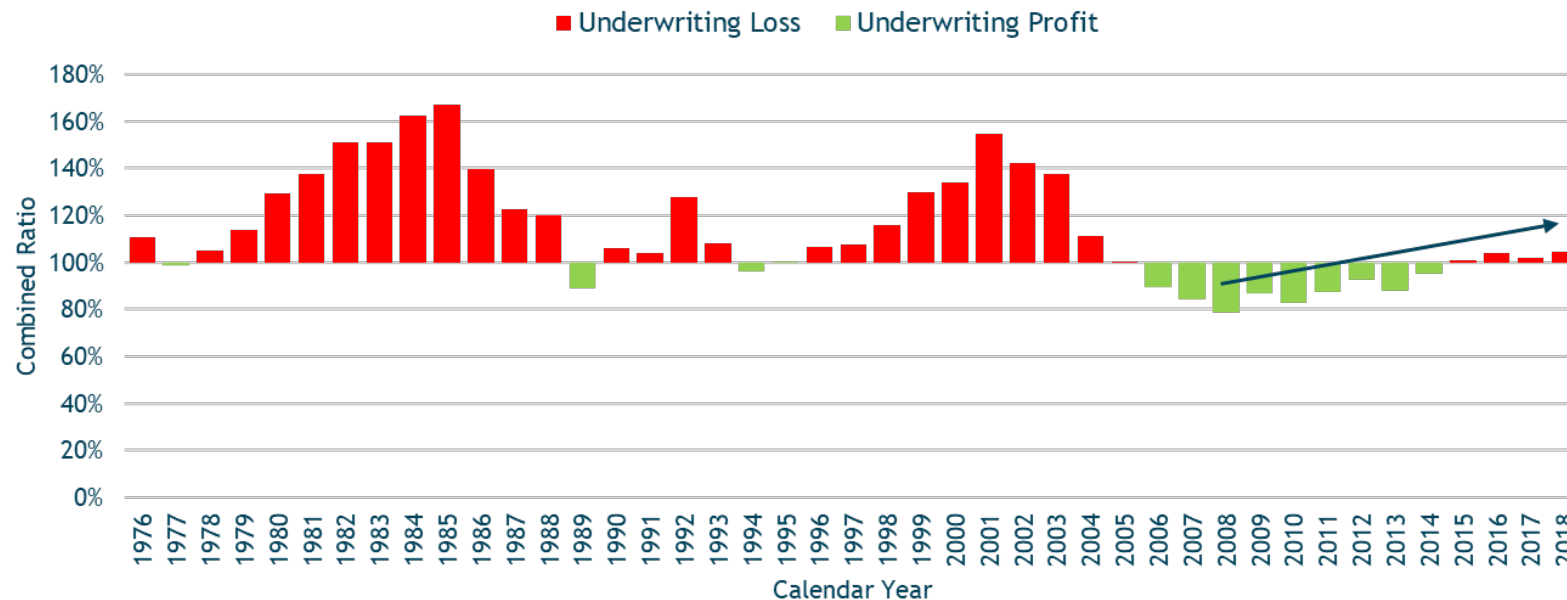
An increasingly challenging HCL market



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... after decade of UW profits, HCL industry writing >100% CR...

Driven by increasing losses (and other macro factors), we appear to be entering a "transitioning" market



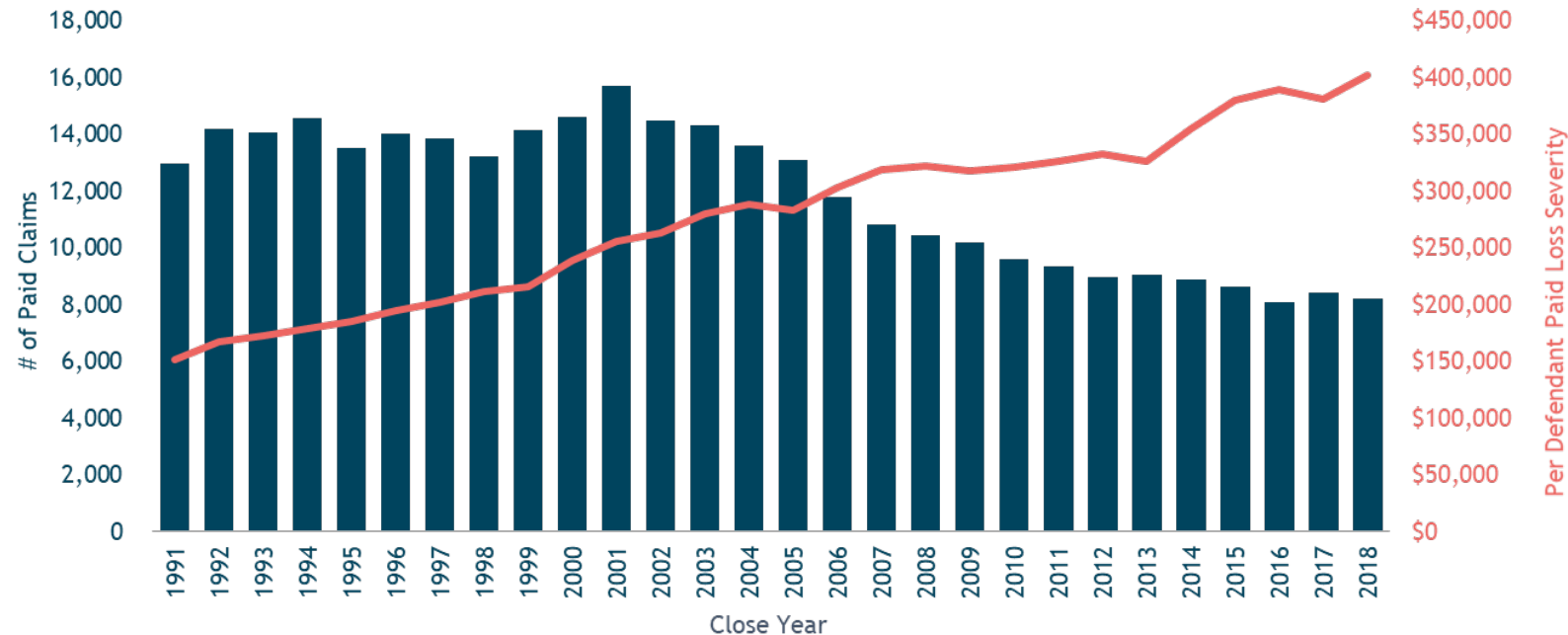
Sources: AM Best Aggregate & Averages, S&P Global Market Intelligence. Competitor dividends included.

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...impacted by less favorable industry loss trends...

Will declining frequency come to end while increasing severity continues?

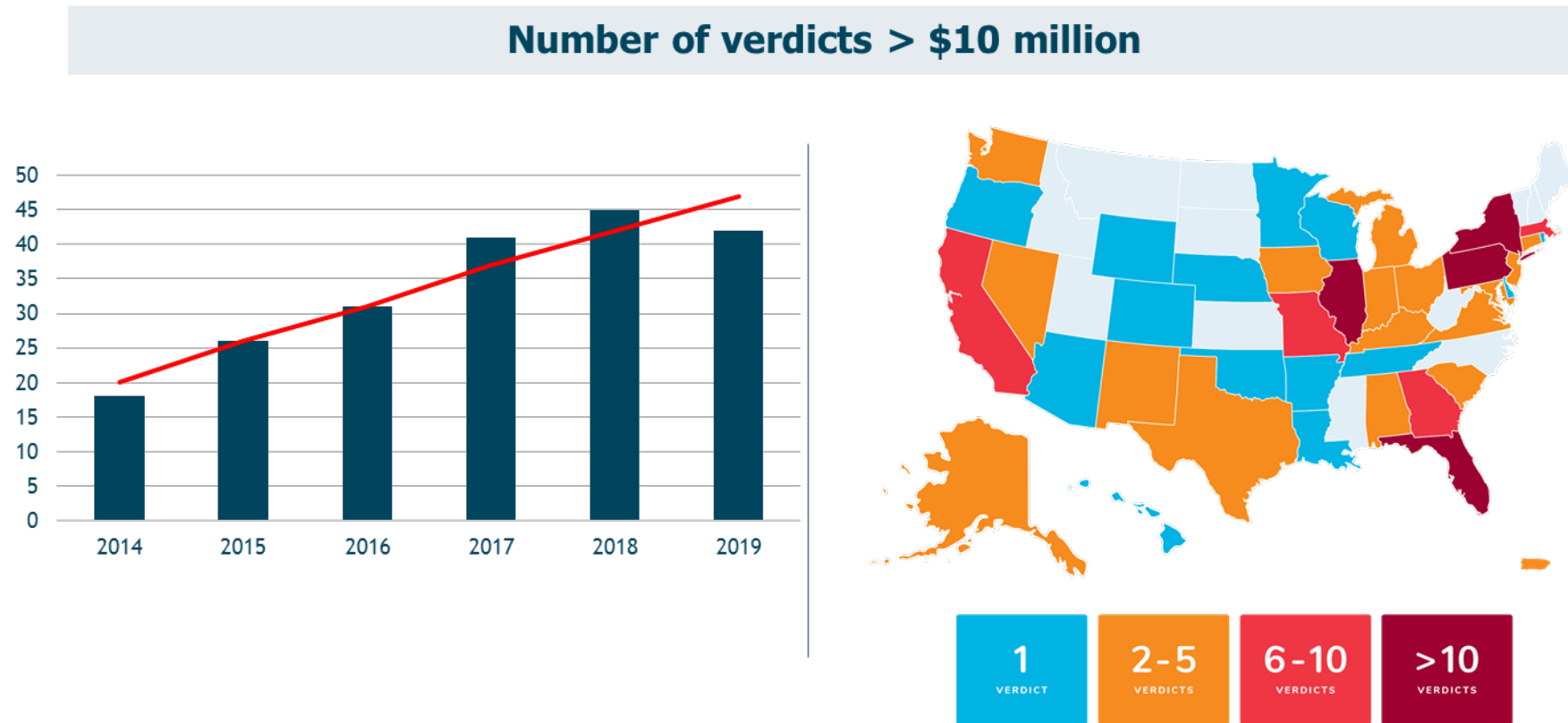


Note: National Practitioner Data Bank Public Use Data File, December 2018, Physicians & Surgeons Countrywide

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and increasing number of ‘shock verdicts’



Sources: Chart: Trans Re Healthcare PL 2017 Retrospective and Internet Published News Articles. Map: various internet articles with publication dates between 01/01/2016 and 12/31/2019.

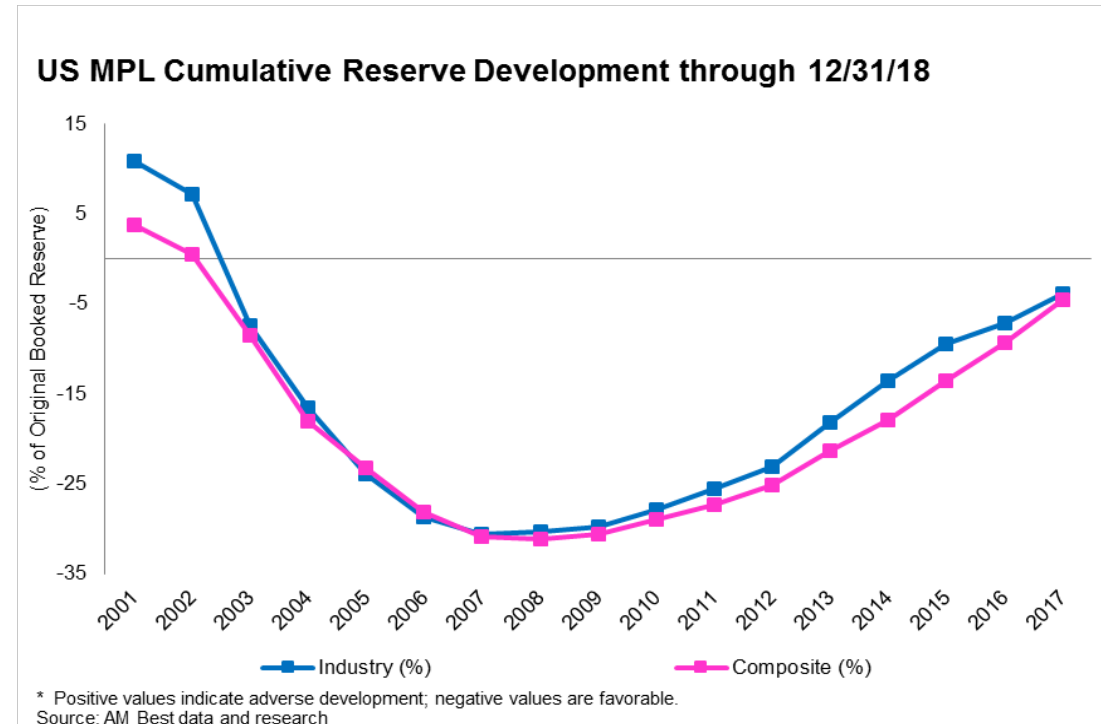
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Market Reaction to Deteriorating UW Results

"Market conditions have indicated that we are at an inflection point in the insurance cycle. What this means for you is ... the Doctors Company anticipates annual rate increases each year to keep up with deteriorating loss and development trends." Press Release October 2019

- Complete re-underwriting process on an account, territory and specialty level
- Across the board rate increases
- Limit reductions
- Forced retention increases
- Delayed renewals
- Increased collateral requirements
- Few, if any, multi-year renewals



Sources: State Insurance Departments, Risk Retention Reporter, S&P Global Market Intelligence, and Internet searches (2016-2018)

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What is a Risk Manager to Do?

- C-Suite Education
- Start Early
- Challenge Brokers to Manage to an Agreed Upon Time Line
- Understand Organizational Risk Appetite and Risk Bearing Capacity
- Meet with Markets and Make Your Case
- Evaluate Captive Strategies
- Be Open to all Options



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Captive Challenges & Opportunities

- Fronting Options – Carriers, Loss Picks and Collateral
- Capital and Surplus Management
- Primary vs Excess Limits
- Reinsurance Support & Reliance
- Greater use of deductible buyback programs?
 - HPL
 - Other lines – Cyber, WC, Medical Stop Loss



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The Market Cycle – Back to the Future

- What will change emerging loss trends
 - Tort Reform
 - Judiciary Changes
 - Jury Perceptions of HC Organizations
 - Loss Prevention / Patient Safety Initiatives
- Will New Underwriting Capacity Emerge
 - Commercial Markets
 - Provider Sponsored Capacity



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