

# 2024 Healthcare Market Update

# Introduction

Prior to introducing our 2024 Healthcare Market Update, we would like to pause and reflect on our prior report. Our 2023 market update centered around market rating and underwriting appetite, the impact of nuclear verdicts and the legal system, and the array of challenges faced by our healthcare clients. While we anticipate the continuation of similar trends in 2024, we are going to introduce a unique perspective provided by those industry leaders who we partner with daily to develop strategies and solutions for Healthcare clients nationwide.

This year, we are presenting our 2024 Healthcare Market Update through the lens of our carrier executives and underwriters, individuals deeply entrenched in the day-to-day operations of placing and underwriting substantial volumes of business in the E&S marketplace across the United States. Our market update is structured around six key healthcare segments, with each segment exploring four core topics. Within the report, you will discover a compilation of insights from our underwriters, a concise summary for each segment from our perspective as wholesale brokers, and recommended best practices for the upcoming year.

We extend our gratitude to all the underwriters who participated in the survey, as their contributions have been invaluable in shaping this comprehensive update.

# Physicians & Ancillary



## From a Broker's Perspective

In the world of medical malpractice insurance for doctors and healthcare providers, we're seeing a soft market, just like underwriters are noticing. Standard insurance companies are holding onto doctors longer than they used to, even when it might make sense to non-renew them, and they're offering rates that are lower and limit structures that are higher than what you'd expect in the current market. But how long can this last with the continued deteriorating legal environment? We continue to see doctors retiring and selling their practices to hospitals at a rapid pace. On the flip side, this is opening new opportunities for cash-based practices to thrive.

## From an Underwriter's Perspective

### Unique Underwriting Challenges

- **Rapid Advancements in Treatments:** The evolving landscape of novel treatments and drugs poses a challenge for underwriters due to limited claim experience and case law to guide risk assessment and rate setting. As a surplus lines market, we navigate these challenges through rigorous risk selection and policy structuring.
- **Softening Medical Malpractice Market - Physicians:** Despite the market's softening, providing adequately priced products remains challenging, especially with the ongoing trend of underpricing risks. Additionally, physicians are increasingly offering services beyond their trained specialties, leading to potential risks, compounded by social inflation and the rise in nuclear verdicts.

### Addressing Claims Severity & Frequency

- **Utilization of Deductibles and Pricing:** We address claim issues primarily through deductibles and pricing strategies, focusing on primary limits typically at \$1M/\$3M. We avoid providing coverage for excess MPL and hospitals with higher exposure to multimillion-dollar verdicts.
- **Focus on Distressed Providers:** Our focus lies on distressed healthcare providers in the E&S marketplace. For those with claims, we modify coverage with sublimits, exclusions, and closely monitor legal climates and legislative changes to adapt our underwriting strategies accordingly.

### Product Differentiation & Outlook

- **Specialized Solutions:** We offer Medical Malpractice solutions for challenging exposures like correctional or nursing home risks, distinguishing ourselves through attentive broker-partner relationships and high service standards. While the market may soften, we remain committed to fair pricing and transparent coverage, with plans to enhance our offerings in 2024.

### Hot Topics & Opportunities

- **Emerging Opportunities:** Telemedicine and weight loss services are poised for growth in 2024, with physicians launching startups and nurse practitioners establishing autonomous practices. These areas represent promising opportunities for expansion and innovation.

# Allied Healthcare



## From a Broker's Perspective

Navigating the vast and complex landscape of the Allied Healthcare insurance sector presents a myriad of unique challenges that demand strategic and creative solutions as well as agile responses. From the imperative need for brokers to possess comprehensive knowledge of carrier appetites to the expertise to evaluate a multitude of structures, services and operations, each aspect requires meticulous and proactive attention. 2024 is poised for continued growth and innovation, lifted by an optimistic outlook and a focus on service excellence and product expertise, to explore and capitalize on emerging opportunities in the Allied Healthcare market.

## From an Underwriter's Perspective

### Unique Underwriting Challenges

- **Appetite Knowledge:** Brokers need to have more knowledge of the carrier's appetite and coverage parts of the policies. Not knowing this slows response times for everyone. This isn't typically an issue with Brown & Riding submissions!
- **Limits Management:** Frequency of severity makes managing limits crucial, with no "safe" venues immune to large verdicts.
- **Talent Acquisition:** As a rapidly expanding E&S carrier, it's been hard to find quality underwriting talent. Due to limited WFH (work from home) policies and talent pool constraints.
- **Third-Party Litigation Funding:** This is only adding to our challenges. Increased trial funding by the plaintiffs bar is showing with the increase in frequency of mega verdicts.

### Addressing Claims Severity & Frequency

- **Strategic Limit Deployment:** Managing limits closely and using granular data for risk selection to prioritize low-frequency accounts.
- **Risk Quality Selection:** Prioritizing low-frequency accounts and managing severity through limit deployment to minimize impact. We believe any venue can present challenges if we insure a low-quality risk.
- **Effective Limits Management:** This may be the only effective strategy here. We can minimize exposure by offering smaller limits, particularly in cases prone to large verdicts.

### Product Differentiation & Outlook

- **Market Trends:** Healthcare PL is still hardening with anticipated rate increases again in 2024. If new capital enters the market this year, this could slow down. Carriers will need to continue to prioritize good submissions/risks.
- **Optimistic Outlook:** We are anticipating rapid growth and expansion in the underwriting team to meet increased business demands. We continue to see/believe the Allied Healthcare market is profitable.

### Hot Topics & Opportunities

- **Service Emphasis:** Prioritizing service with quick submission turnaround and aiming for national expansion in hiring. We will continue to solely support our wholesale broker network.
- **Product Innovation:** Continuously refining products to creatively address coverage needs while maintaining sustainability.
- **Growth Caution:** Persisting with sustainable pricing and terms amid aggressive growth goals from competitors.

# Hospitals & Health Systems



## From a Broker's Perspective – Some current challenges and issues in medical malpractice insurance for hospitals include:

- **Rising Premiums:** The increased costs can strain their financial resources.
- **Claims Frequency & Severity:** The frequency and severity of medical malpractice claims continue to pose challenges. Nuclear verdicts and social inflation are the main factors to the severity increase.
- **Legal Environment:** Evolving legal landscapes, including changes in tort law and liability standards.
- **Patient Safety Initiatives:** Hospitals are investing in patient safety programs to mitigate malpractice risks, but these efforts may not always translate into reduced insurance premiums.
- **Market Dynamics:** Shifts in the insurance market, such as consolidation among insurance providers or changes in underwriting practices, can influence the availability and affordability of coverage for hospitals.
- **Telemedicine & New Technologies:** The expansion of telemedicine and adoption of new medical technologies introduce unique liability considerations and may affect hospitals' insurance needs and coverage requirements.
- **Regulatory Compliance:** Hospitals must navigate complex regulatory requirements, including reporting obligations and quality standards, which can impact their risk profile and insurance coverage. These challenges require hospitals to implement comprehensive risk management strategies, collaborate with insurers, and stay informed about legal and industry developments.

## From an Underwriter's Perspective

### Unique Underwriting Challenges

- **Pricing Challenges in Specific Venues:** Pricing and structuring coverage in challenging venues like New Mexico pose difficulties in offering adequate coverage while maintaining profitability, leading to selective coverage decisions.
- **Renewal Pricing for Hospitals:** Pricing renewals for hospitals, especially those sold off from large owners like HCA or CHS, present challenges due to limited updated loss information.
- **Roll-Up Acquisition Exposure:** Underreporting roll-up exposure in acquisitions adds complexity to risk assessment and coverage structuring.
- **Managing Capacity in High-Verdict Venues:** Being cautious about capacity in venues with higher prevalence of large verdicts, coupled with ensuring proper claims handling processes for catastrophic claims.

### Addressing Claims Severity & Frequency

- **Capacity Management and Venue Selection:** Reducing capacity, being selective in certain venues, and considering higher attachments while maintaining rate increases to address severity concerns.
- **Claims Handling Restructuring:** Restructuring claim handling processes to identify and address claims with high catastrophic potential early, ensuring frequent discussions on settlement/trial strategies, and positioning insurers for optimal defense.

### Product Differentiation & Outlook

- **Focus on Service and Underwriting Flexibility:** Emphasizing service, underwriting flexibility, superior claim handling, and policyholder resources to differentiate the product, expecting continued growth while maintaining profitability in 2024.
- **Targeted Pricing Adjustments:** Correctly pricing risks initially and at renewal, allowing for spread of risk to absorb variations and seeking appropriate pricing on each risk to ensure consistency across the portfolio.

### Hot Topics & Opportunities

- **Quality Considerations in Hospital Selection:** Hospitals increasingly prioritize insurers that offer value beyond risk transfer, particularly in lead layer placements.
- **Managing Exposure to Severity Trends:** Hot topic across underwriters involves strategies to limit exposure to ongoing severity trends, particularly in physical and sexual abuse cases.

# Human & Social Services



## From a Broker's Perspective

This industry segment poses one of the most significant challenges in our specialization currently. Capacity cuts and appetite changes from the largest standard market carriers has created an influx of accounts into E&S marketplace that is causing havoc. The three primary issues are occurrence form triggers, rating differences, and limits. Due to these items, we have limited carrier options, new supplemental applications that have different rating exposures (**# of beds** instead of **square footage**), and oftentimes insureds are purchasing lower limits due to the substantial cost difference, sometimes up to 5x from expiring insurance program. We are seeing more E&S carriers broadening their appetite and entering the Human & Social Services segment in 2024.

## From an Underwriter's Perspective

### Unique Underwriting Challenges

- **Identification of No-Fly Zones:** Discovering social services adjacent no-fly zones during the account review process adds complexity to underwriting, especially in high-volume areas with complicated accounts. Examples are correctional facilities, hospitals, risks with high suicide patients or inpatient residential facilities such as post-incarceration housing, detox, and group homes.
- **Limit and Terms Management:** Prioritizing limit and terms management, especially in navigating coverage challenges like Abuse and HNOA to structure coverage for correlating exposures, remains crucial for underwriting decisions.
- **Programs and Services:** Monitoring exposures such as Inpatient, Youth, Detox and Medication Assisted Treatment, Implementation of Non-FDA Approved medications or treatments.
- **High Rating Impact:** Services that require high levels of supervision or specialized skill. Medical exposure and Physician Direct Patient Care. Inpatient Detox risks.

### Addressing Claims Severity & Frequency

- **Avoiding Auto Exposures:** Implementing strategies to avoid auto exposures, including transportation exclusions and auto exclusions on all coverage parts, to manage claims severity and frequency effectively.
- **Limits and Venue Management:** Employing limits management strategies and conducting daily discussions on venue management to mitigate risks, along with utilizing risk calls with customers for deeper understanding of services and management oversight.

### Product Differentiation & Outlook

- **Personalized Risk Calls:** Leveraging in-person and virtual risk calls to understand clients better and tailor robust terms for superior coverage and claims services, while offering flexibility for price-sensitive insureds through updated sublimits and exclusions.

### Hot Topics & Opportunities

- **Client Response to Limited Capacity:** Observing interesting client responses to limited capacity in the marketplace, with some clients paying high premiums to fulfill contract requirements, while others abandon higher limits to save on costs. Monitoring how this trend evolves over time is key.

# Senior Care



## From a Broker's Perspective

Due to an increase in the number of carriers writing senior care, needed rate increases have not been as pronounced, which has been a welcomed benefit to insureds. However, staffing shortages and the need for additional assistance across all acuity levels persist. We continue to observe losses and severity increases across all senior care classes. The legacy carriers with substantial existing business are the ones trying to push rate as much as they can, but when faced with competition on the account, they will also do whatever they can to retain it. The new carrier capacity has created a false sense of optimism as though the senior care segment is improving and becoming a soft market. However, if the new capacity does not have staying power, we can expect rates to firm up quickly and carriers will get very picky again.

## From an Underwriter's Perspective

### Unique Underwriting Challenges

- **Information Deficits:** Difficulty in obtaining accurate loss and exposure projections as well as history. Prior owner loss runs and exposures during acquisitions is crucial for assessing risk. Incomplete operational data during acquisitions, at renewal, or new business review can hinder underwriting terms.
- **Rising Severity Losses:** Typical claims, such as ulcers & falls, are experiencing increased severity. Venues that typically were not seeing claims are now experiencing an increase in severity. These factors are affecting pricing strategies on a nationwide basis versus targeting rate solely in those hard-to-place venues.
- **Unsolicited Quotes:** Challenges arise when unsolicited quotes, with favorable pricing, must be presented by brokers, potentially binding against original intentions.
- **Flawed Financial Reimbursement Model:** Aging operators and emerging profit-driven owners pose challenges, compounded by staffing shortages and exponential growth in memory care.
- **Naive Underwriting:** Capacity is on the rise, resulting in some stabilization of rates when the rates should outpace inflation. Excess & Surplus lines primary-focused markets remain challenged in competing in better venues or good accounts in "red" venues against packaged products including large umbrella limits.

### Addressing Claims Severity & Frequency

- **Risk Management Credits:** Offering reimbursement-based risk management credits for interested insured parties to be used with reputable third-party companies.
- **Adjusting Limits:** Offering lower limits in venues prone to severity verdicts and introducing optional sublimit endorsements for specific claim issues.
- **Careful Approaches:** Approaching challenging venues cautiously, considering defense inside and lower limits.
- **Limits Management:** Setting maximum limits per claim and minimum retentions, with selective use of exclusions and risk selection.

### Product Differentiation & Outlook

- **Continued Competition:** Increasing competition, including from risk retention groups (RRGs) and traditional carriers, leading to lower pricing.
- **Rising Severity:** Uncertainty regarding severity trends, with notable high-value verdicts and factors like inflation and government regulations affecting outlook.
- **Continued Rate Decreases:** Despite rising claim costs, focus on service quality, expanding into allied health space, and maintaining differentiation through expertise and service levels.
- **Rate Stabilization:** Anticipating stabilization in 2024 with new capacity entering the market and differentiation based on coverage strength and partnership with brokers.

### Hot Topics & Opportunities

- **New Trends:** Good operators are aging out and a new crop of owners are emerging that falls into the predatory law firm tactic of "profits over people."
- **Staffing Shortages:** Continue to plague the industry. Memory care is growing exponentially, and staffing is lagging behind.

# Digital Health



## From a Broker's Perspective

In the dynamic landscape of Digital Health insurance, 2023 was the year of transition. Prior to, the market was historically controlled by two carriers. Last year, additional markets emerged presenting a breadth of opportunity relative to appetite, policy structure, capacity, underwriting expertise, risk management, and claims services. There are a multitude of unique challenges that demand constant vigilance and adaptation from brokers specializing in this space. This introduction sets the stage for an exploration of the strategies and opportunities in 2024 to effectively pursue this unique telehealth insurance marketplace.

## From an Underwriter's Perspective

### Unique Underwriting Challenges

- High limit requirements associated with contracts with health plans, especially concerning cyber insurance due to the sensitivity of data involved.
- Increased data interoperability leading to a larger accumulation of sensitive Personal Health Information (PHI) and Personally Identifiable Information (PII).
- Growing regulatory oversight and Department of Justice investigations, necessitating thorough compliance measures.
- Struggles with headcount, training burdens for new hires, managing high-touch accounts, and handling a higher volume of submissions than available time.

### Addressing Claims Severity & Frequency

- Utilizing carrier-dedicated applications to manage cyber perils and enhance the risk management of insureds.
- Appointing strong panel counsel to handle claims effectively.
- Developing a digital health risk management program for insureds covering various risk management and regulatory topics in the sector to be offered at a preferred rate.
- Managing limits and increasing retentions to control exposure.
- Recognizing the nuanced nature of venue underwriting for telehealth due to the geographical separation between entities, providers, servers, and patients across multiple jurisdictions. Despite this complexity, applying established underwriting principles effectively by treating telehealth claims similarly to traditional in-person claims.
- Collaborating closely with the Cyber Risks Division and broker partners to stay competitive and educated in the technology/cyber space.

### Product Differentiation & Outlook

- Evolving policy forms with stronger regulatory Errors & Omissions (E&O) wording and coverage enhancements within the base policy framework.
- Expressing enthusiasm and a positive outlook for the year ahead, despite increased competition in the telehealth market. Advantages lie in underwriters' experience and specialized knowledge in digital health.
- Offering a comprehensive, modular policy form designed to be adaptable regardless of how care is delivered. This approach contrasts with other carriers that have separate forms for virtual and traditional miscellaneous medical coverage.

### Hot Topics & Opportunities

- **Artificial Intelligence (AI):** With AI playing an increasingly significant role in patient care, there's a need to assess the balance between technology and human oversight.
- **Prescribing Guidelines and Predatory Marketing:** Concerns about over-prescribing via telehealth platforms, particularly in areas such as mental health and weight management medications, are growing.



# Conclusion

As we continue the journey into 2024, it is evident the landscape of the medical malpractice insurance market remains complex and multifaceted. Drawing from the insights gleaned from our combined experience of nearly a century and incorporating the invaluable perspectives of carrier underwriters, we anticipate a continuation of trends such as limits management, innovative brokering and underwriting approaches, and the shifting dynamics of insured entities. Considering these trends, we also find the need to review our best practices and offerings as a broker partner to our retail agents, insureds, and carrier allies.

Our contribution to our partners encompasses various strategies and approaches aimed at effectively tackling complex issues and presenting strategic solutions.

- We continue to work closely with our retail and carrier partners to tailor insurance coverage solutions that align with their specific needs and risk profiles.
- We leverage our underwriting relationships and expertise to identify and evaluate exposures, loss data and policy attributes to accurately customize policy options, endorsements, and enhancements to address unique risks.
- We have developed analytic tools and techniques to analyze claims data, identify claims and exposure trends in support of and to set underwriting and pricing expectations. This helps insureds better understand their impact on and within the marketplace.
- We provide ongoing education and support to agency partners to help them navigate the complexities of medical malpractice insurance. This includes resources on loss and litigation trends, jurisdiction challenges, underwriting response to industry changes, and helpful tools, tips, and information to support retail partners in their growth.
- We maintain open and transparent communication with retail partners, insureds, and other stakeholders regarding market status, policy terms, coverage options, and claims processes. Clear communication fosters trust and helps ensure that expectations are aligned.

In our 2024 Annual Healthcare Market Update, we have endeavored to provide a comprehensive overview of the market through the lens of carrier underwriters, offering insights and best practices to assist healthcare entities, agency partners, and brokerage firms in navigating the challenges and opportunities ahead. As healthcare systems undergo transformation and challenges persist, insurers and brokers must remain nimble in adapting their strategies to meet evolving needs while ensuring profitability amidst heightened claims severity and frequency. A nuanced understanding of market conditions and key factors shaping the medical malpractice insurance sector is crucial for stakeholders navigating this dynamic terrain.

We extend our sincerest appreciation to the carrier partners whose contributions have enriched this update, and we remain committed to delivering actionable insights to support informed decision-making and drive success in the ever-evolving landscape of healthcare insurance.

# Learn More

Our professionals are dedicated to the healthcare industry and provide expert knowledge of the market and the available insurance coverages needed by your clients. Learn more about our Healthcare Practice Area: [www.browndriding.com/practice-areas/healthcare/](http://www.browndriding.com/practice-areas/healthcare/).



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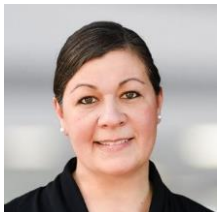


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