

# ATTACHMENT 12

**Summary of Insurance Carriers Responses  
to Department Questions for Public Hearing  
on the Future of the Med Mal JUA in New Hampshire**

1. How many insureds have you declined to cover per year over the last 5 years? For each declination, could you provide the reason for declination-- for example, prior losses, high risk practice area (please specify) other reason such as type of procedures performed.

**Among those companies who responded with declination figures, the average total number of declinations was 16 over the last 5 years combined. The range of responses was 1 to 28 declinations in the 5 year period. Extrapolating from the information provided we estimate a declination rate of less than 5%. The most common reason for declination was poor claims history however other reasons included**

- **size of the provider's practice (one insurer does not cover practices with fewer than 5 physicians)**
  - **lack of underwriting information provided by the applicant,**
  - **applicant's planned practice activities (one physician refused to practice western medicine and would only provide Chinese traditional treatments) and**
  - **a gap in the company's rating structure.**
2. Do you have underwriting guidelines or rules that provide for referral to an underwriter or the home office under certain circumstances? Can you provide copies of those guidelines or rules? The Department will maintain these documents strictly confidential in accordance with RSA 400-A:16.

**The department received underwriting guidelines from 3 carriers. These guidelines indicate that a fully completed application for coverage would only be declined if there is prior criminal activity, indication the insured will perform services outside his or her area of expertise without adequate supervision, exclusively serving high risk populations (e.g. inmates, professional athletes) or similar rare circumstances. One of these guidelines explicitly states that the company will make an effort to place a declined risk with an affiliated carrier in the excess and surplus lines.**

3. Have these guidelines significantly changed over the last 5 years? Do your guidelines change due a softening or hardening of the market?

**Guidelines have not changed over the last 5 years. Most respondents did indicate that although guidelines don't generally change during hard or soft markets, underwriting decisions can be influenced by swings in the market cycle.**

4. What is the demographic of your book of business currently and over the past five years? For example, please be specific and identify any changes in limits, occurrence versus claims made coverage, practice areas, age of policyholders, location and type of practice (practice group, hospital, nursing home or other facility, or stand-alone individual practitioner)?

**Claims made is the predominant coverage type. At least one of the respondent carriers does not provide occurrence coverage at all. Most carriers provide coverage in all practice areas although some do lean towards larger medical groups. It was mentioned that as doctors move to hospitals and larger practice groups so does the coverage. The average age of physicians covered by the two carriers that provided such information was about 51 years. (The average age of a JUA physician is 55 years. )**

5. Assume that the state needs a residual market mechanism that provides guaranteed issued coverage. What form of mechanism do you believe would function the best in New Hampshire without interfering with the voluntary market? Please consider both current market conditions and anticipated changes in the market which would be expected to occur (because of the cyclical nature of the med mal market). If possible, please provide examples from other states that have adopted successful approaches, and if possible provide references to any laws or plans of operation that might be used as a model for a similar plan in New Hampshire.

**JUA as insurer of last resort, require proof of declination or charge above market rates.  
Reinsurance facility with "take all comers" statute similar to Massachusetts**

6. Are you anticipating any significant changes in the medical malpractice market over the next three to five years? Any information you share will be kept confidential.

**Respondents do not anticipate any significant changes to the market in this time period. They believe the trend toward consolidation of hospitals and healthcare systems will continue. And in turn the number of solo practitioners and small groups will decrease. These larger organizations will have size and capital to accept more risk pushing deductibles and SIRs up thereby reducing the need for a residual market mechanism.**