

# Policy Research Perspectives

## New Data Show the Highest Prevalence of Medical Liability Premium Increases in 15 Years

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### Introduction

This Policy Research Perspective (PRP) summarizes changes in medical professional liability insurance (MPL) premiums and provides examples of premium levels for select geographic areas from 2011 to 2020. The data are from the Annual Rate Survey Issues of the *Medical Liability Monitor* (MLM) including the latest from October 2020. The MLM conducts an annual survey of major U.S. liability insurers and is considered the most comprehensive source of data on MPL premiums from a national perspective. Despite its comprehensiveness, the data should be interpreted with some caution. The MLM reports *manual* premiums, which could differ from the final premiums physicians pay.<sup>1</sup> It reports them for three specialties—obstetrics/gynecology (OB/GYN), general surgery and internal medicine—in each state where those insurers provide coverage. In some states, insurers price their policies differently across geographic areas within a state and report premiums to the MLM for each of those sub-state areas. Thus, insurers and states with more rating areas are overrepresented in the data. Finally, the data may not reflect all liability insurers in a market.

The Rate Survey Issue of the MLM lists the current and previous year manual premiums of participating insurers in each specialty and geographic area for which they report data. The percentage change in an insurer's premium from the previous year to the current year is also provided as well as a table that summarizes distributions of those changes.<sup>2</sup> The MLM does not provide summary information on premium *levels*, such as averages or medians. Rather, it is a useful indicator of whether premiums in the aggregate have been changing, in which direction, and by how much.

It should be highlighted that in 2019 and 2020, the proportions of premiums that increased year-to-year reached highs not seen since the 2000s. In 2019, this share almost doubled from 2018, and then it went up again in 2020, when more than 30% of premiums increased from the previous year.

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<sup>1</sup> A “manual” premium does not reflect credits, debits, dividends, or other factors that may reduce or increase the actual premiums that individual physicians pay for coverage. The manual premiums that insurers report to MLM are typically for policies with \$1 million/\$3 million limits.

<sup>2</sup> For example, the table might show that 25% of premiums reported to the MLM were higher than in the previous year, 25% were lower, and 50% stayed the same.

## Annual changes in premiums, 2011-2020

Each year the MLM compares an insurer's reported premium in a given geographic area and specialty to the amount reported in the previous year. Exhibit 1 summarizes those comparisons over the 2011-2020 period.<sup>3</sup> For each year, Exhibit 1 shows the percentage of premiums that remained the same, increased, decreased, or changed by more or less than 10%.

The data show there had been increasing stability in premiums up to 2018, when 80.8% remained the same as in the previous year. However, that proportion fell in both 2019 and 2020, to 68.4% and 60.8%, respectively, indicating that premium stability is slowing.

Despite an uptick in 2020, there was a downward trend in the share of premiums that decreased year-to-year over the 2011-2020 period. In 2020, 8.1% of premiums fell from the previous year, compared to 30.3% that dropped in 2011.

The main and most significant finding in this year's PRP is that more premiums increased than in any year since 2005. The proportion of premiums that went up in 2018 almost doubled in 2019—from 13.7% to 26.5%. Then in 2020, this share grew again, as 31.1% of premiums increased from the previous year. This appears to be the beginning of an upward trend in increases in premiums—a trend not seen in over 20 years.

Exhibit 2 presents the 14 states where premium increases of 10% or more were reported, ranked by the share of comparisons that were increases of such magnitude. Those states and their shares are Kentucky (29.6%), South Carolina (27.8%), Maryland (18.8%), Nebraska (16.7%), Oregon (16.7%), Montana (16.7%), Georgia (14.8%), Missouri (14.8%), New Hampshire (13.3%), Illinois (11.9%), Michigan (11.6%), Texas (9.2%), North Carolina (6.7%) and Virginia (1.3%).

Looking only at the shares of comparisons with big increases does not tell the whole story. To give a more complete picture, Exhibit 2 also presents the size of the largest increase in each state, the share of comparisons that were increases of any size, and the number of comparisons (N). With this we see, for example, that although South Carolina ranked second in terms of the fraction of premiums that rose by at least 10%, the largest increase in that state (10.8%) was well below the largest increase in most states that had fewer big increases. In Virginia, where only 1.3% of premiums rose by 10% or more, the largest increase was 27.6%, much higher than that of South Carolina.

It is also instructive to focus on the states in which a high share of comparisons were increases. For example, although fewer than 17% of comparisons in Nebraska were increases of 10% or more, *all* its premiums rose by at least some degree. Similarly, all the premiums reported in Kansas, Louisiana and New Mexico went up, though they're not shown in Exhibit 2 because their increases were all smaller than 10%. Those four states are all patient compensation fund (PCF) states, where physicians pay "surcharges" in addition to the base premium. The premium increases in those states are largely driven by increases in the surcharges rather than in the base premium. In sum, the 14

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<sup>3</sup> Exhibits 1 and 2 in this report reflect minor corrections that will be made to estimates first published in the October 2020 issue of the MLM.

states in Exhibit 2, along with Kansas, Louisiana and New Mexico, are where premium increases were most prevalent, or where they were the largest.

### **Premium levels in select areas, 2011-2020**

To illustrate premium levels and their variation by geography and specialty, Exhibit 3 reports 2011 to 2020 premiums for the three specialties in the MLM in seven geographic areas for select insurers chosen based on data availability throughout the study period. For each area, the reported figures are for the same insurer over time, though the insurers can differ between states. Despite the number of data points in the MLM survey, there are relatively few areas in which the same insurer can be tracked over the 2011-2020 period.<sup>4</sup> Thus, Exhibit 3 only includes 21 trends (7 areas per specialty), which are not necessarily state or nationally representative and cannot fully reflect the changes in Exhibit 1. The selected trends, however, clearly demonstrate the wide geographic and specialty variation in premiums.

The wide geographic variation in premiums is striking. For example, general surgeons and OB/GYNs faced 2020 manual premiums ranging from \$41,775 and \$49,804, respectively, in Los Angeles County, California to \$205,380 (for both specialties) in Miami-Dade County, Florida—approximately 4 to 5 times greater, respectively. The difference between the two areas is even higher among internists. In that specialty, premiums in Miami-Dade are more than 6 times greater than in Los Angeles. There is wide variation between the other regions as well.

There is also wide premium variation by specialty, though this is perhaps less surprising due to differences in liability risk. In each of the selected geographic areas, the manual premiums for general surgeons were above those for internists, and OB/GYNs' were higher than general surgeons', with one exception. OB/GYNs and general surgeons faced the same premiums in Miami-Dade. To illustrate the wide variation across specialties, consider that premiums in Nassau County, New York, were \$33,852 for internists, \$154,056 for general surgeons and \$174,552 for OB/GYNs, and in Cook County, Illinois, they ranged from \$41,272 for internists to \$179,497 for OB/GYNs.

To better visualize the trends in premiums in Exhibit 3 and their wide geographic variation, those data are presented graphically in Exhibits 4 through 6, separately for each specialty. With the exception of some instability in a few premiums from about 2012 to 2015, the majority of premiums in the selected areas were generally stable during most of the period.

### **Conclusion**

For several years, observers have been wondering when the next hard market will materialize. It has just been a matter of time. The last hard market—also referred to as the liability “crisis”—took place about 20 years ago, in the early 2000s. It was characterized by dramatic increases in premiums. In 2003 and 2004, respectively, 77.4% and 82.1% of premiums increased from their levels in the

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<sup>4</sup> One possibility is that insurers that remain in the market and thus are in the data over long periods of time may have more stability in premiums. Changes in premiums of insurers that enter or exit the market during the study period cannot be observed so it is unknown whether their premium trends differ from those consistently in the data.

previous years. Some general surgeons in Miami-Dade County, Florida faced manual premiums that increased from \$110,068 in 2000 to \$277,241 in 2004.<sup>5</sup>

That period was followed by a soft market during which a growing number of premiums started to decrease. The fraction of premiums that decreased year-to-year reached a high of 42.7% in 2008. Since then, however, fewer premiums have fallen over time. The major trend after the last hard market had generally been one of increasing stability, though this trend started to diverge in 2019.

Also in 2019, for the first time since the last hard market, the share of premiums that increased year-to-year went up significantly. Nevertheless, last year it was too early to tell whether this signaled the next hard market or whether it was just a blip. Once again in 2020, however, an even higher proportion increased, when 31.1% of premiums went up from the previous year. In fact, this was the highest proportion observed since 2005. According to the actuaries who authored the 2020 MLM article, we are already in the early stages of a hard market. Insurers have started raising premiums in response to deteriorating underwriting results, lower loss reserve margins, and lower returns on investment. They indicate that increases in premiums are needed to ameliorate those structural problems. Thus, they expect that, barring unforeseen circumstances, insurers will sustain or even push for higher premiums in the next 12 months.<sup>6</sup> Premium increases should be viewed in light of significant decreases in physician revenue and increases in personal protective equipment (PPE) costs due to COVID-19. A nationwide survey found over 80% of physicians reported revenue was still lower than before the pandemic and that 64% of practice owners reported higher PPE spending.<sup>7</sup>

Notably, the responsiveness of premiums to changes in their determinants and external factors takes considerable time in the medical liability insurance market. Therefore, although some 2020 premiums may have been set after the onset of the pandemic, it was still too early for them to be affected by it. The authors of the MLM article indicate that the long-term effect of the pandemic is, as of yet, unknown.<sup>8</sup>

It is normal for there to be hard and soft markets, for premiums to go up and down, as this is part of the insurance cycle. How severe the current hard market will become—how many premiums will increase and how high they will go is still uncertain. Next year's MLM data will cause a great deal of anticipation and ought to be closely observed.

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<sup>5</sup> Guardado J. *Professional Liability Insurance Rates and Distributions of Rate Changes, 2003-2007*. Chicago, IL: American Medical Association; 2007. Policy Research Perspectives No. 2007-2. These numbers for Miami-Dade are not directly comparable to those in Exhibit 3 of the present PRP because they are for different insurers.

<sup>6</sup> Burns B., Gittleman A. *Rate Increases – Just What the Doctor Ordered. Medical Professional Liability in 2020*. Medical Liability Monitor, Annual Rate Survey Issue, Vol. 45 (10). October 2020.

<sup>7</sup> COVID-19 Physician Practice Financial Impact Survey Results. American Medical Association. Available at <https://www.ama-assn.org/system/files/2020-10/covid-19-physician-practice-financial-impact-survey-results.pdf>

<sup>8</sup> Burns B., Gittleman A. *Rate Increases – Just What the Doctor Ordered. Medical Professional Liability in 2020*. Medical Liability Monitor, Annual Rate Survey Issue, Vol. 45 (10). October 2020.

**Exhibit 1. Distributions of year-to-year comparisons of medical liability premiums, 2011-2020**

Size of change in premium	Premium comparisons									
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
<b>Increased</b>										
10% or more	5.1%	0.3%	2.7%	0.1%	5.8%	1.0%	0.1%	3.9%	3.6%	5.2%
0.1% to 9.9%	9.4%	14.8%	11.0%	12.1%	11.5%	14.5%	13.3%	9.7%	22.8%	25.9%
<b>Any increase</b>	14.5%	15.1%	13.7%	12.2%	17.2%	15.4%	13.4%	13.7%	26.5%	31.1%
<b>No change</b>	55.1%	59.2%	57.6%	65.0%	69.1%	75.2%	74.2%	80.8%	68.4%	60.8%
<b>Decreased</b>										
0.1% to 9.9%	27.8%	15.7%	17.2%	16.9%	8.8%	5.0%	7.3%	4.5%	3.3%	4.4%
10% or more	2.5%	10.0%	11.5%	5.9%	4.8%	4.4%	5.2%	1.0%	1.8%	3.7%
<b>Any decrease</b>	30.3%	25.7%	28.7%	22.8%	13.6%	9.4%	12.4%	5.6%	5.1%	8.1%
<b>Observations</b>	963	954	1014	1023	1056	1107	1143	1149	1296	1416

## Notes:

1. Sources: 2011-2020 Medical Liability Monitor (MLM) Rate Survey Issues; and data provided by Bill Burns, ACAS, MAAA and Alyssa Gittleman.
2. The table reports year-to-year comparisons of manual premiums for medical professional liability insurance. The unit of observation is a liability insurer in a given geographic area and specialty.
3. In each year, the percentage of premiums that increased, had no change, and decreased sum to 100%. For example, in 2020, 60.8% of premiums had no change, 31.1% of premiums increased, and 8.1% of premiums went down from their levels in 2019.

**Exhibit 2. States Where Largest Increases in Liability Premiums were Reported, 2019-2020**

<b>State</b>	<b>% of Comparisons that were Increases <math>\geq 10\%</math></b>	<b>Size of Largest Increase</b>	<b>% of Comparisons that were Increases</b>	<b>Comparisons (N)</b>
Kentucky	29.6%	24.3%	55.6%	27
South Carolina	27.8%	10.8%	50.0%	18
Maryland	18.8%	20.0%	18.8%	48
Nebraska	16.7%	37.2%	100.0%	18
Oregon	16.7%	26.5%	33.3%	18
Montana	16.7%	10.0%	25.0%	12
Georgia	14.8%	23.0%	44.4%	27
Missouri	14.8%	22.0%	14.8%	27
New Hampshire	13.3%	15.0%	20.0%	15
Illinois	11.9%	15.0%	64.3%	126
Michigan	11.6%	10.0%	47.8%	69
Texas	9.2%	24.9%	27.6%	87
North Carolina	6.7%	12.7%	20.0%	15
Virginia	1.3%	27.6%	39.7%	78

## Notes:

1. The unit of observation is a comparison of an insurer's 2019 and 2020 premiums in a state (or sub-state) and specialty.
2. States are included if they had at least one increase of 10% or more. The ranking of states is based on the share of comparisons that were increases of at least 10%.

**Exhibit 3. Medical professional liability insurance premiums for \$1M/\$3M policies, selected insurers, 2011-2020**

	\$									
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
<b>Obstetrics/Gynecology</b>										
California (Los Angeles, Orange)	49,804	49,804	49,804	49,804	49,804	49,804	49,804	49,804	49,804	49,804
Connecticut	170,389	170,389	170,389	170,389	170,389	170,389	170,389	170,389	134,054	134,054
Florida (Miami-Dade)	201,808	201,808	190,829	190,829	190,829	190,829	190,829	190,829	195,600	205,380
Illinois (Cook, Madison, St. Clair)	177,441	177,441	177,441	177,441	177,441	177,441	177,441	177,441	179,497	179,497
New Jersey	109,189	109,189	109,189	109,189	90,749	90,749	90,749	90,749	90,749	90,749
New York (Nassau, Suffolk)	206,913	204,684	227,899	214,999	214,999	214,999	214,999	192,087	182,482	174,552
Pennsylvania (Philadelphia)	163,793	165,657	124,627	124,627	112,289	117,415	119,466	119,466	119,466	119,466
<b>General surgery</b>										
California (Los Angeles, Orange)	41,775	41,775	47,595	47,595	47,595	41,775	41,775	41,775	41,775	41,775
Connecticut	65,803	65,803	65,803	65,803	65,803	65,803	65,803	65,803	90,577	90,577
Florida (Miami-Dade)	190,088	190,088	190,829	190,829	190,829	190,829	190,829	190,829	195,600	205,380
Illinois (Cook, Madison, St. Clair)	118,909	118,909	118,909	118,909	118,909	118,909	118,909	118,909	120,258	120,258
New Jersey	73,074	73,074	73,074	73,074	60,810	60,810	60,810	60,810	60,810	60,810
New York (Nassau, Suffolk)	128,542	114,770	148,454	134,923	134,923	134,923	134,923	154,056	154,056	154,056
Pennsylvania (Philadelphia)	130,026	131,274	90,802	90,802	80,154	84,280	85,930	85,930	85,930	85,930
<b>Internal medicine</b>										
California (Los Angeles, Orange)	10,343	10,343	8,274	8,274	8,274	8,274	8,274	8,274	8,274	8,274
Connecticut	34,700	34,700	34,700	34,700	34,700	34,700	34,700	34,700	18,878	18,878
Florida (Miami-Dade)	46,372	46,372	47,707	47,707	47,707	47,707	47,707	47,707	48,900	51,345
Illinois (Cook, Madison, St. Clair)	40,865	40,865	40,865	40,865	40,865	40,865	40,865	40,865	41,272	41,272
New Jersey	18,900	18,900	18,900	18,900	15,900	15,900	15,900	15,900	15,900	15,900
New York (Nassau, Suffolk)	32,611	32,288	35,883	33,852	33,852	33,852	33,852	33,852	33,852	33,852
Pennsylvania (Philadelphia)	36,469	37,360	26,037	26,037	23,335	24,433	24,873	24,873	24,873	24,873

## Notes:

1. Sources: Annual Rate Survey (October) Issues of the Medical Liability Monitor, 2011-2020. The numbers in this table are manual premiums reported by a liability insurer selected on the basis of data availability in every year. Premiums reported for Connecticut pertain to \$1 million/\$4 million limits, and Pennsylvania premiums include Patient Compensation Fund surcharges.
2. Counties to which the premiums refer are in parentheses, though some counties may not be named due to space constraints. Counties in California (CA), Illinois (IL) and Pennsylvania (PA) changed slightly over time. However, CA counties always include Los Angeles, IL counties always include Cook, and PA counties always include Philadelphia.

Exhibit 4. Medical professional liability insurance premiums, selected insurers  
OB/GYN

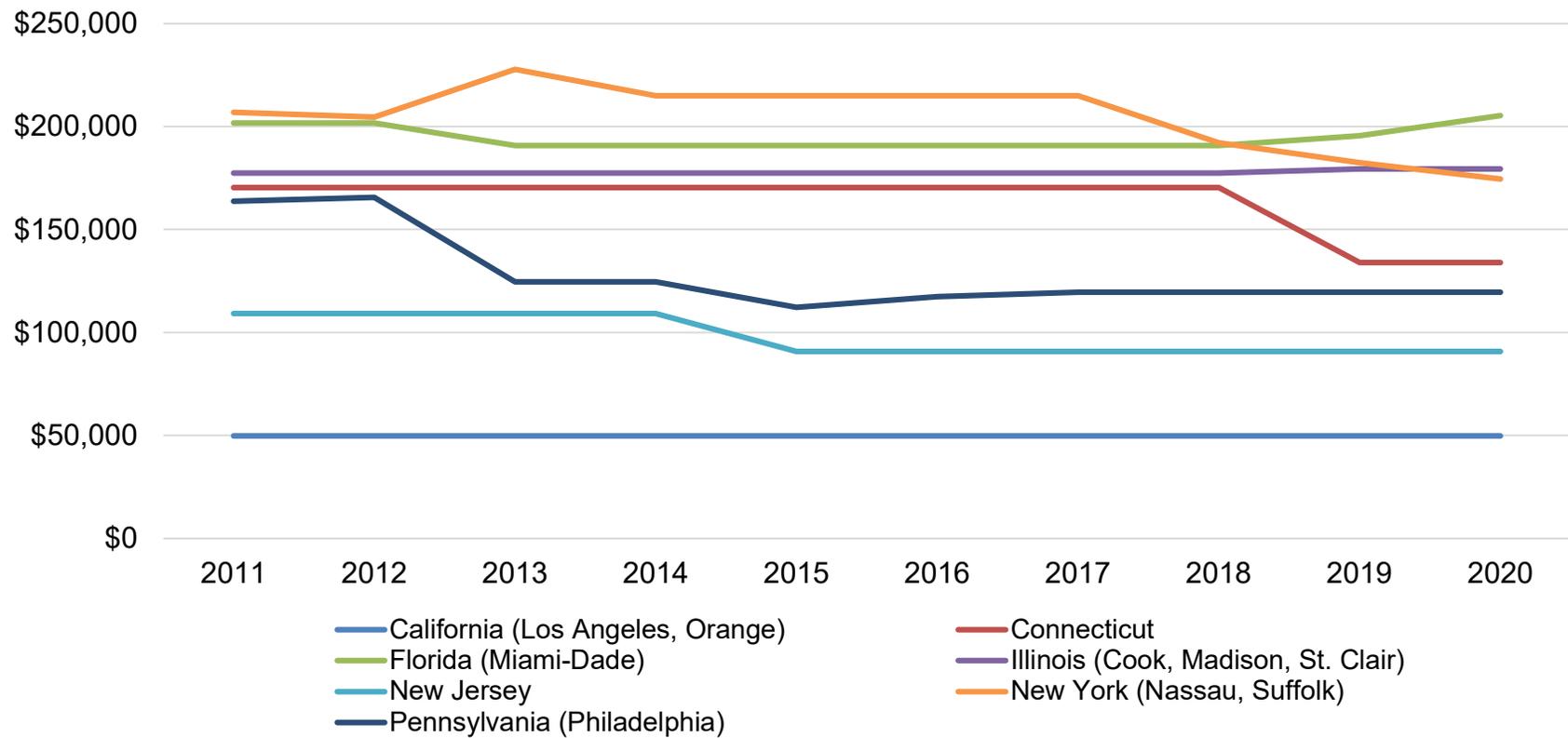


Exhibit 5. Medical professional liability insurance premiums, selected insurers  
General Surgery

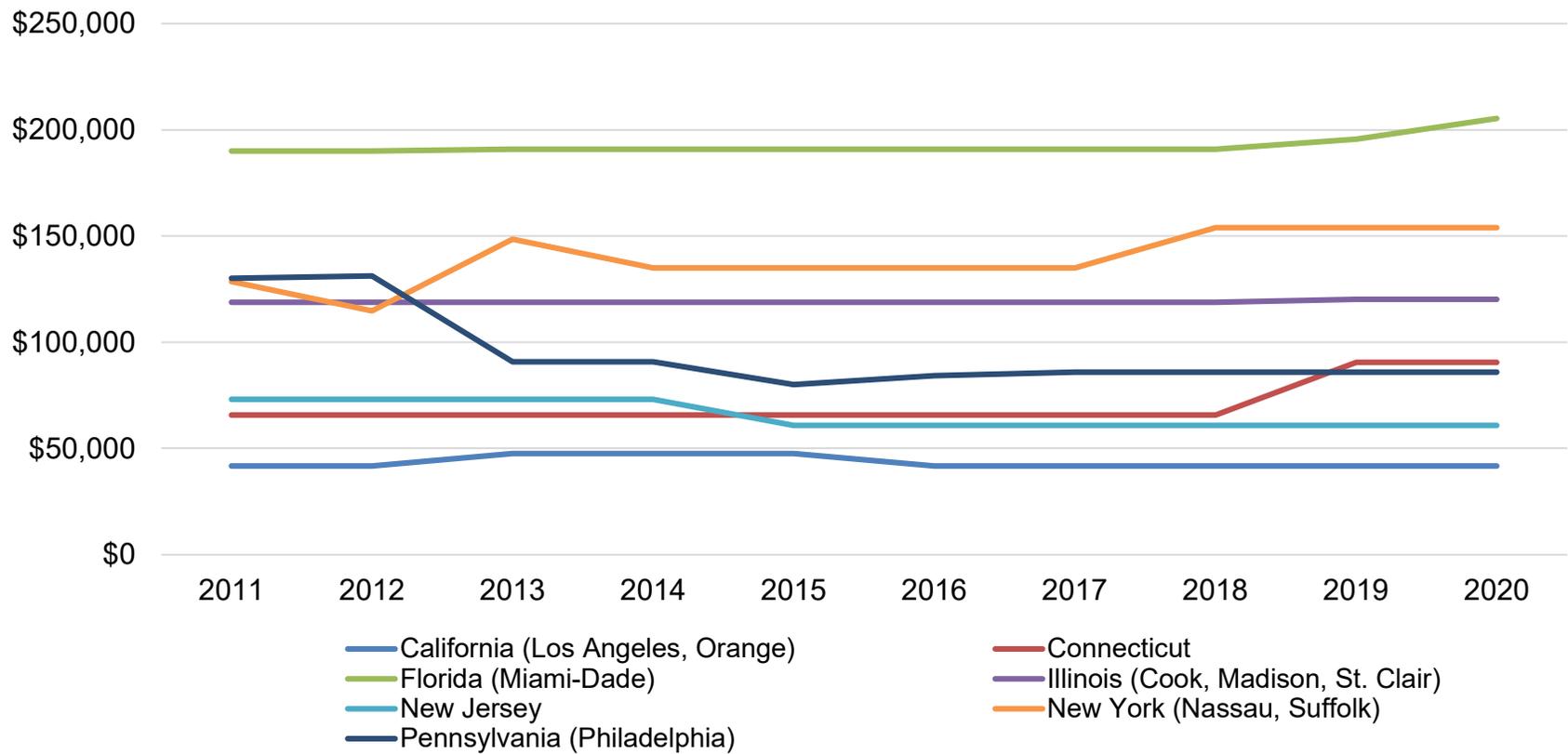


Exhibit 6. Medical professional liability insurance premiums, selected insurers  
Internal Medicine

