

Domino KB: Availability and Cost of Professional Liability Insurance. *ASA Newsletter*, 68(6): 5-6, 2004.

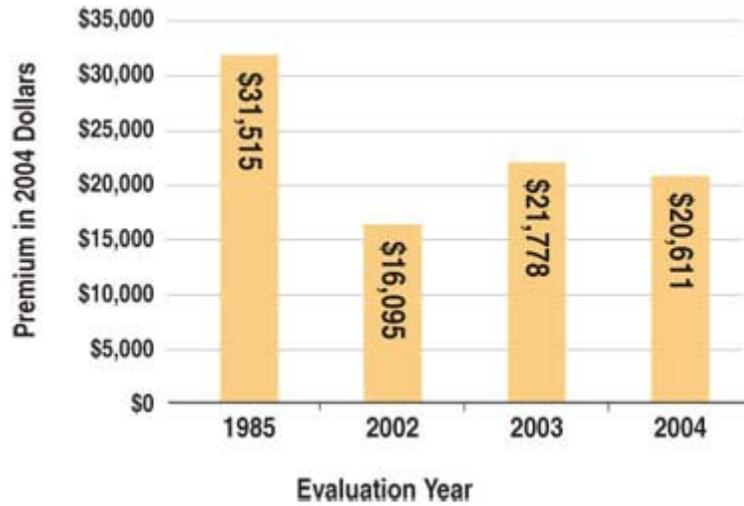
Full Text

Reports of a crisis in availability of professional liability insurance and escalating premiums frequent the news media.¹⁻² Although neurosurgeons, obstetricians and orthopedic surgeons are most affected, anesthesiologists, at least in some areas of the United States, are experiencing substantial premium increases and a reduction of insurance carriers. Volatile jury awards, increased defense costs and changes in the medical malpractice insurance marketplace — due to a decline in investment income and withdrawal of insurance companies — have contributed to increasing premiums over the past several years.³

Liability insurance premiums are determined by analysis of claim severity, frequency and defense costs for each specialty adjusted for risks in each community.

This spring the ASA Committee on Professional Liability again conducted a survey of 46 medical liability insurance carriers to assess rate changes and market trends in 2004. We compared 2004 premiums to similar surveys in 2002 and 2003.^{4,5} The average premium for anesthesiologists in 2004 was \$20,611 (range = \$3,958 to \$62,400) compared to \$15,476 (range = \$4,855 to \$58,089) in 2002, representing a 33-percent increase [Figure 1]. The premiums are highly variable, however, with markedly high premiums for anesthesiologists with prior history of a lawsuit, performance of higher-risk procedures (e.g., invasive pain management, office-based surgery), and for those practicing in localities with high liability risk. Mean premiums were fairly similar in 2003 and 2004, although some states experienced increases of more than 40 percent (Alabama, Colorado, Maryland, Missouri, New Hampshire and Oklahoma). In 2002, five states had average premiums of greater than \$20,000, while 22 states had average premiums of more than \$20,000 in 2004. The highest average premiums (>\$30,000) during 2004 were found in Florida, Illinois, Michigan, Ohio and West Virginia, with premiums in Florida leading the nation. Rate increases have been particularly severe when insurance carriers have withdrawn from the market in the state.

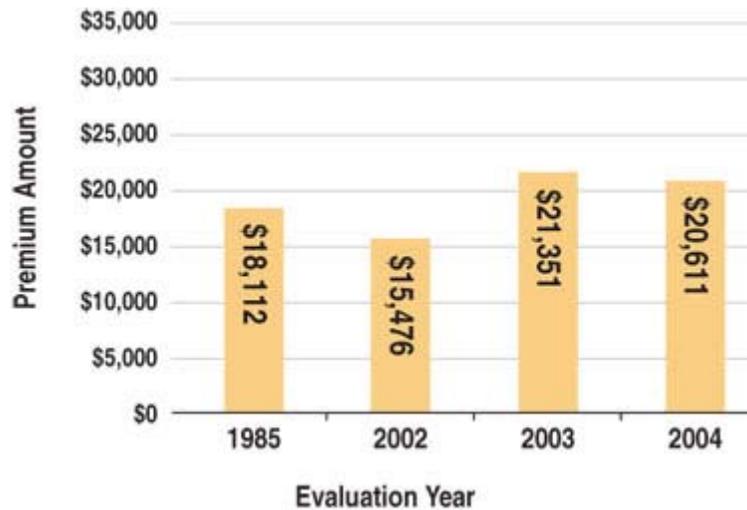
Figure 1: Trends in Anesthesia Malpractice Premiums



Mean premiums for liability insurance for anesthesiologists in the United States. Premiums were increased more than 30 percent in 2003 and 2004 compared to 2002.

Compared to a 1985 telephone survey of premiums at St. Paul,⁶ a company that withdrew from the malpractice market completely two years ago, the current average rate is 14 percent more than the average rate in 1985 (\$18,112). When adjusted to 2004 prices to control for the effects of inflation, however, the mean 1985 premium (\$31,515) is 35 percent higher than current premiums [Figure 2]. Improvements in patient safety due to the adoption of monitors and practice standards and guidelines have been credited for these savings. The reduction in severity and payment of claims in the Closed Claims Project database, described by Karen L. Posner, Ph.D., on page 7 of this *ASA NEWSLETTER*, also is consistent with a decrease in the relative value of premiums since the mid-1980s.

Figure 2: Inflation-Adjusted Anesthesia Malpractice Premiums



Mean premiums for liability insurance for anesthesiologists in the United States adjusted for inflation to 2004 dollars using the U.S. Consumer Price Index. Adjusted premiums during 2002-04 were still more than 30 percent below those in 1985.

A major trend in the current malpractice crisis is the loss of availability of insurance caused by the exit of companies from the state, reduction of insuring "high-risk" providers and consolidation of insurance carriers, thereby reducing competitive pricing of insurance premiums. Our informal survey found that nearly one-third of the companies polled reduced coverage by withdrawing from a state or region or by not writing new policies. Thirty-three states had one or more insurance companies exit the market. States with a loss of three or more companies included Georgia, Illinois, Nevada, Virginia and Texas. Texas had 21 insurers previously, but now only three remain. The exit of 15 companies affecting insurance availability in 33 states is impressive given the limited nature of our survey. On a historical note, in previous insurance availability crises, many state medical societies started mutual companies to provide coverage to their members. In our current survey, we found that some of these companies are not writing new policies.

In summary the current malpractice crisis for anesthesiologists involves a marked reduction in availability of liability insurance coverage with an increase in average premium rates of 33 percent over the past two years. Currently nearly half of the states are reporting average premiums of \$20,000 or more for anesthesiologists. However, an anesthesiologist may face premiums up to three times the average depending upon the litigation risk in the territory, prior claims history and type of practice of the insured anesthesiologist.

References

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