2. Uniformity. Most states that currently collect claims data *do not* exempt non-licensed and self-insured entities. Any revisions along the lines of the "opt out" proposals would not conform to the predominant practice.

3. Enforcement. The opt out proposals would make the model unenforceable by state DOIs and greatly impair their ability to collect comprehensive data. As mentioned, the proposals would have medical practitioners themselves report the required data in lieu of carriers. Obviously, state DOIs have no means to enforce this provision, or even the means to determine who would be required to report. Even in the unlikely event that medical practitioners voluntarily reported, even in the absence of any external prompting, they simply would not have the necessary information to complete the forms. For example, it is unlikely that doctors would have information related to claims adjustment expenses and defense costs incurred by insurance carriers.

4. Market Share. Self-insurers, surplus lines, and risk retention groups constitute a significant share of the medical professional liability insurance market in most states. Attached is a table of market share data for 2007 for non-admitted carriers (*excluding self-insureds).* As you'll note, surplus lines companies and RRGs constitute fully ¼ of the market nationwide and, as much, as 80 percent in at least one state.

Adding self-insureds to this data would unquestionably, significantly increase the market share represented by exempt entities. For example, Missouri has collected data from self-insureds for many years. Based on this data, the proportion of all claims that were reported by self-insureds was 21 percent in 2006, and 25 percent in 2007.

In summary, I believe the proposals are unenforceable and unworkable, and would greatly diminish the usefulness of any data collected pursuant to them. As you are unquestionably aware, the impetus for the model law was the recognition by the NAIC, the GAO, and other federal and state policymakers, that states lacked the data necessary to understand and effectively redress the dramatic dislocations in the medical malpractice market that occurred earlier this decade. The GAO considered the problem so serious that they formally stated to Congress that if the states failed to act, then the US Congress should intervene to remedy the data deficiency. I don't believe that the NAIC should respond to these regulatory challenges in a partial or incomplete way. Any changes should preserve flexibility for those states that wish to obtain comprehensive data. Again, thank you for your consideration.

Linda Bohrer

Acting Director
Missouri Department of
Insurance, Financial Institutions, and
Professional Registration

Attachment

State	Licensed Insurers	Surplus Lines, RRGs	Total	% Non-admitted Market
SD	$22,599,966	$3,108,963	$25,708,929	12.1%
TN	$220,071,401	$118,658,347	$338,729,748	35.0%
TX	$270,457,870	$121,302,115	$391,759,985	31.0%
UT	$59,141,228	$13,264,893	$72,406,121	18.3%
VA	$192,422,329	$90,209,427	$282,631,756	31.9%
VI	$37,654	$68,354	$106,008	64.5%
VT	$11,307,594	$8,445,296	$19,752,890	42.8%
WA	$171,304,465	$68,654,967	$239,959,432	28.6%
WI	$103,127,602	$10,954,092	$114,081,694	9.6%
WV	$63,641,242	$19,059,261	$82,700,503	23.0%
WY	$17,838,270	$6,536,414	$24,374,684	26.8%
Total	$8,696,326,360	$2,957,416,394	$11,653,742,754	25.4%