



History of
TMILT



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The photographers who took the earliest photographs in our history are not identified in our archives. We thank them here for helping to preserve these special moments in TMLT's journey.

History of TMLT

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he story of TMLT is a story of vision, creativity, dedication, and courage. The idea of forming a self insurance trust owned by its policyholders sprang from a handful of TMA member physicians and a young Austin attorney back in the mid-1970s. These insightful leaders wanted to create their own company so that they could have direct input and develop the kind of service and brand they thought Texas physicians deserved.

Success began almost immediately. These same physician leaders, who had the vision of the type of company they wanted to create, were also intuitive enough to recruit and select just the right insurance professional to lead the new company. Throughout these past 30 years, TMLT has been unique in its ability to find outstanding insurance and management talent and blend that talent with proven physician leadership. Working together, the physician governing boards and dedicated staff of TMLT have taken the company from a fledgling startup of a handful of employees and a few hundred policyholders to the leading writer of physicians' professional liability insurance in the state of Texas today.

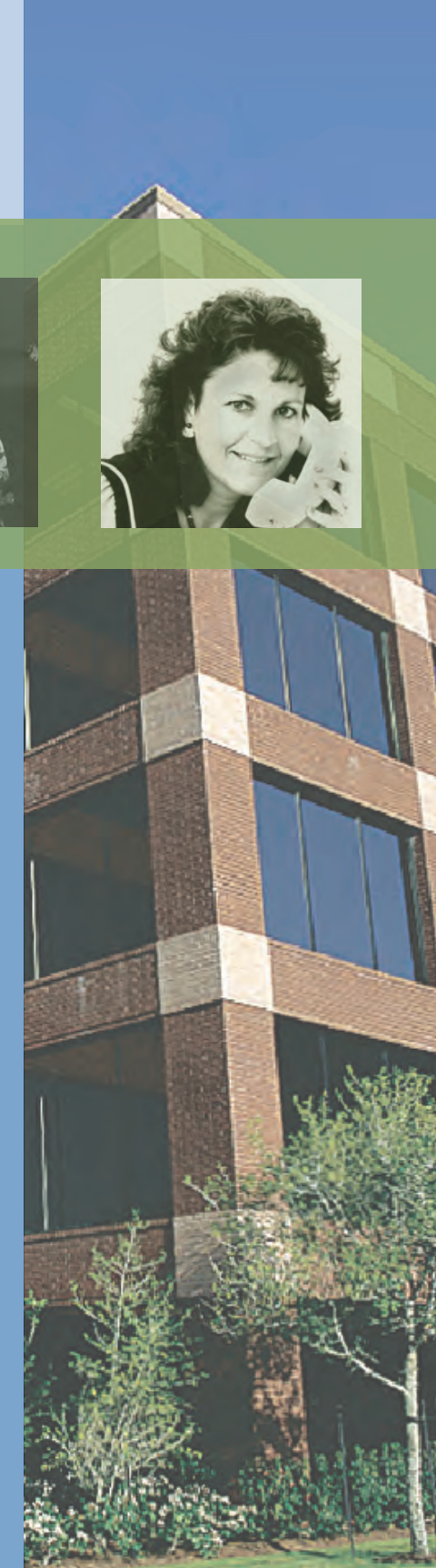
This 30th anniversary history of TMLT will record and preserve the memory of the great challenges, decisions, leaders, and accomplishments of this fine company. It will serve to remind us all of how we began and what we have achieved.



*Bob R. Fields
President and CEO*



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The Lone Star State has always been a place of rugged beauty. In the harsh desert plains or the densely brambled Hill Country, determined plants spring up despite hot temperatures and arid conditions. These types of circumstances are what give Texas its sense of character, its strength in the face of adversity. Such strength is reflected in the determination and unity of the people who inhabit this grand state. We are a diverse group, yet we all share a pride and a sense of community that make us Texan.

For Texas physicians, this identity would come into question during the time when medical malpractice claims began to rise, and everything that they had built was in danger of being destroyed. Their fortitude, both as Texans and as caregivers, was tested greatly during the tumultuous years before medical liability reform.

Thankfully, the inception of TMLT served as an oasis during the harsh legal environment of this time, giving Texas physicians the strength to carry on in their practice. To this day, TMLT carries on the legacy of Texas tenacity by fostering the growth of these physicians. For 30 years, the Trust has been unshakably committed to each Texas physician's career. Yet, more than this, it holds fast to the ideals that created this unique state, allowing Texas physicians to not only grow as a community, but to thrive, even in the toughest of conditions.



A brewing storm

In the 1970s, the incidence and size of medical malpractice claims in Texas were accelerating out of control, throwing the medical liability insurance industry into disarray. Almost all private insurance companies left this field of coverage in Texas because it was both unpredictable and unprofitable. Choice was limited and insurance protection was costly. In fact, medical liability insurance premiums for Texas physicians had increased as much as 600% from 1971 to 1976!

Physicians were raising their fees and increasingly practicing defensive medicine in order to have back-up evidence protecting them in the event of litigation. Many physicians set limits on the procedures they were willing to perform. Some of the most needed kinds of medical treatment were disappearing for patients.

At that time, there was a serious lack of adequate state law and corrective state legislation concerning medical liability that left physicians vulnerable. In 1975, the 64th Texas Legislature enacted Senate Bill 466 which placed regulation of medical malpractice insurance rates under the authority of the State Board of Insurance (the Texas Department of Insurance or TDI). This bill established a two-year statute of limitations for claims against medical professionals and health care institutions. Additionally, insurers were prohibited from writing medical liability insurance for less than one policy year. The bill was scheduled to self-destruct December 31, 1977.

Senate Bill 491 formed the Joint Underwriting Association (JUA) in 1975. The JUA was to function as a regular insurance company that would issue policies and pay claims. Once the JUA was in operation, its premium rates would primarily be based on its loss and expense experience. Since the JUA would cover what is termed the residual market, "or those who cannot obtain malpractice insurance in the normal market," its rates were relatively high, and could go higher if adverse experience were to develop. It was originally intended to be a temporary facility that would cease issuing policies on Dec. 31, 1977.

In March 1975, representatives of the Texas Medical Association went before the Texas House Insurance Committee to discuss the medical malpractice insurance problem in Texas. Physicians voiced very real concerns including the escalating number of claims and awards, insurance companies that refused to write new policies or that pulled out entirely from high-risk specialties, or other companies that left the state and left their former policyholders without insurance. The TMA representatives told the committee that young physicians would not be able to afford to start private practice in the state and older physicians





Daniel A. Chester, MD

Daniel A. Chester, MD, is an obstetrician/gynecologist who practiced medicine in McAllen, Texas, and is now retired. He served on TMLT's governing board for 19 years. Dr. Chester reflects on this foundational period in TMLT's history:

"On August 5, 1977, an ad hoc committee was called to order to discuss the idea of a self-insurance trust for medical liability insurance. This was an organizational meeting of amazing consequences. Attending that first meeting were Dr. Milton Davis, chairman; Dr. Merle Delmer; Dr. Don Webb – all members of the Texas Medical Association; Jack Maroney and Ace Pickens who represented legal counsel of the TMA; Paul Gray (who coordinated start up expenses for the self-insurance trust for the TMA), Don Lehman, and Brooks Davis of the TMA staff.

At this meeting, these professionals with an interest in providing Texas physicians with a stable source for medical liability insurance, described the operating mechanism of a self-insurance trust; familiarized themselves with the activities of the Joint Underwriting Association (the JUA) and which of these activities could be performed by the self-insurance trust; identified actuaries to assist them; identified officials from other state medical society insurance programs who could serve as resources for the committee; discussed the possibilities of contracting with an existing carrier to perform a variety of insurance functions; and, discussed how to handle risk control problems.

The ad hoc committee estimated expenses for this project and determined to present these to the Board of Trustees of the TMA. The TMA board of trustees was asked to devote funds – not to exceed \$50,000 – for a feasibility planning study for a self-insurance trust for TMA member physicians. Early on the risks of the self-insurance trust were noted: economic failure requiring multiple assessments, lack of physician participation, inability to obtain reinsurance, and resistance by physicians

After months of investigation, the committee recommended that the TMA Board of Trustees create a professional liability insurance trust. In February 1978, the board approved the project for funding, subject to final negotiation of the contract by the ad hoc committee. The final negotiation came in May after careful consideration of the feasibility of such a trust. There were still many questions. Could a conservatively financed, stable, and secure insurance trust provide professional liability protection at costs competitive with those currently available in the commercial insurance market and substantially less than the JUA? Could an insurance trust be organized and managed in a way that would better meet TMA's larger objectives and be more responsive to the interests of TMA's membership than through present insurance arrangements? Would an insurance trust gain acceptance with enough TMA members to assure its success?



to settling justified claims. No data were available to accurately determine what the costs would be."

The ad hoc committee determined that:

- The trust must be physician directed.
- The trust must be organized to permit maximum flexibility in future operations.
- The trust must be accountable to the TMA and its members. Any financial benefits realized through more efficient administration and retained investment income will accrue to the trust participants in ameliorating future financial requirements.
- The trust must be in concert with the broad purposes of the Association; however, it should be operated at "arms length," separate from the TMA.
- The trust must be approached as a business entity, utilizing and adequately compensating governing board members, experienced insurance professionals, consultants and physician advisors for management, administrative and actuarial functions.
- The trust must have cost-effective administration.
- The trust must be financially secure. It must be funded in a manner which ensures its ability to meet its financial obligations.

The committee discussed the advisability of organizing an insurance company under the Texas Insurance Code. They decided that the freedom from reporting and regulatory requirements available by organizing under the Trust Enabling Legislation (Section 31.13 of HB 1048) would give TMA much greater flexibility in coping with professional liability management and service problems. Additionally, the committee recognized that this flexibility should not be used to ignore sound and conservative funding and business principles in organizing and operating the trust. ■

with part-time or limited patient practice would be forced to retire earlier. Established physicians in more critical specialties would very likely relocate to other areas of Texas or move to other states with lower premium rates. This situation affected the availability of patient care.

In December 1976, the Final Report of the Texas Medical Professional Liability Study Commission to the 65th Texas Legislature focused on liability insurance, its availability, and cost. Tort law recommendations that came of this commission stated:

"At the heart of the medical liability insurance crisis is the cost involved in the tort law/liability insurance system in economically coping with the increasing demand for compensation for alleged medical injury. Increase in frequency of claims is due to increased patient expectations and awareness of his legal rights. Advanced techniques being used which have a higher degree of success and risk of severe damage. Wages are higher than ever before, and hospital service charges and room rates have increased much faster than have services outside the medical sector. Add the delay inherent in the judicial process and the high cost of bringing or defending a claim, and malpractice insurance becomes a very unattractive line."

In 1977, the 65th Texas Legislature passed House Bill 1048, Section 31.13, authorizing certain groups to develop their own self-insurance trust for professional liability and related risks. Texas Medical Association (TMA) met the qualifications outlined by the Legislature.

For many Texas physicians, a self-insurance trust formed by the TMA would solve the medical liability insurance availability problem. The trust would provide its members with medical liability insurance coverage. Funding of this health care liability claim trust would be acquired through premiums and assessments paid by members. The agreement to be assessed was its guarantee of solvency, thereby avoiding the necessity for a \$300,000-\$500,000 capital surplus deposit required by other groups wishing to establish an insurance company in Texas at that time.

A board of trustees would direct the trust. Their duties would consist of administering the trust and receiving and disbursing all monies. This would be accomplished through entering into an agreement with a servicing agent to collect, disburse, and account for all monies, to counsel with members as to claims handling and investigation, and to provide for excess insurance coverage if necessary.

With the legislature's consent to form a trust, the TMA Executive Board, led by TMA president Dr. John M. Smith, Jr., formed an ad hoc committee. The committee was charged with the responsibility of investigating how to create a TMA-sponsored self-insurance trust under Section 31.13 of HB 1048. The committee launched a feasibility planning study. Members of this committee were Milton V. Davis, MD, chairman; Walter Brooks, MD, Merle Delmer, MD, E. Donald Webb, MD, and Presley Chalmers, MD.



In June 3, 1978 the professional liability trust was established. It was projected to begin issuing coverage on December 1, 1978, and would begin soliciting surplus in September.

The objectives of the trust were established. The trust must be financially stable and solvent at all times. It must be physician oriented. It must be operated under the principles of sound business management and realistic insurance concerns. And, it must be managed with policies which directly reflect policyholders' interests.

Even with this newly formed trust under way, threats to the organization's existence were still present. Approximately 40% of TMA members were covered through the Joint Underwriting Association (JUA) or through one of the carriers that wrote professional medical liability insurance for relatively small numbers of Texas physicians. The major carrier in the state, Medical Protective of Fort Wayne, Indiana, insured between 58% and 60% of Texas physicians at this time.



Birth of the Trust 1978-1979



Ace Pickens
Attorney at Law

Ace Pickens is an attorney at law with Brown McCarroll in Austin, Texas. In the late 70s, he was called on to work with the TMA to help their physician members determine how they could assure themselves a stable and available market for medical liability insurance.

“In the 1970s, frequency and severity were up. Medical liability carriers were deselecting and non-renewing physicians. Up to that time, having medical liability protection was one of the most stable things a physician could do. In 1974, Medical Protective was the largest writer in Texas. Aetna, Travelers, the Hartford, St. Paul, and INA began to withdraw and not write coverage. Physicians found that this was affecting their ability to practice medicine in Texas and thereby affected their patients.

January 1, 1975 the Texas legislative session began. Link Williston and the TMA leadership said, ‘What are we going to do?’ Sam Stone, Pat Overton, and I got involved in trying to help design some legislation. The TMA Council on Legislation said, ‘We need a bill.’ However, we were totally dependent on others for information. Carriers would not tell you. There was a tremendous paucity of information, but we cobbled together a bill for the 1975 session. Nobody in the United States had significantly developed any programs at that particular point in time. Our bill included some tort reform, some collateral source, and something unique – a claims review panel. Before someone could sue a physician, the case had to be reviewed by this panel.

In 1975 the Texas Trial Lawyers Association was around. We did manage to get this bill passed in the Senate but at 11:49 on the last day, we lost 74 to 72. We didn’t know what to do. We drafted a provision and put it on another bill. A medical liability study committee was formed of physicians, hospitals, insurance carriers, trial lawyers, and public members. Governor Dolph Briscoe appointed Page Keeton, the dean of UT law school, to head up this committee. He did a marvelous job of trying to bring these diverse groups together. The representatives on the medical liability study committee included TMA members Don Webb and Milton Davis. The committee spent 6 months working on this project. TMA’s Paul Gray, who had a degree in statistics, surveyed the TMA member physicians so, for the first time, we began to understand frequency and severity, the premium situation, and what needed to be done so we could get a handle on the situation. The study won a national award and is in the TMA library today.

During this time, we had been to a meeting of the Dallas County Medical Society one night and were flying back. There was a story in the flight magazine about a guy who had decided to form a trust to handle the insurance needs of his association. That was a novel idea, so I drew it out on paper and we took it to the committee. The idea for forming a trust was just one of the recommendations of the

Daniel A. Chester, MD

“The organizational meeting of the Board of Trustees of the TMA Healthcare Liability Claim Trust was called to order at 3 p.m. on June 3, 1978 by TMA president Dr. Mylie Durham, Jr. Members of the first board were Dr. Walter Brooks, Dr. Milton Davis, Dr. Charles Castle, Dr. Presley Chalmers, Dr. Ed Schmidt, Dr. Robert G. Thumwood, and Dr. Richard Vardy. Absent board members were Dr. Warren Tingley and Dr. Frances O’Neill. Dr. Chalmers was elected president of the board. Dr. Davis was elected vice chairman. Dr. Schmidt was elected to serve the combined position of secretary/treasurer.

The board established a bylaws committee and decided that the new trust should join the Physician Insurers Association of America (the PIAA – www.thepiaa.org) Milliman and Robertson was chosen to be the actuarial consultants. The Capital National Bank of Austin was designated to provide regular banking services, a \$350,000 line of credit, and a loan program to finance a physician’s contribution to surplus. Paul Gray continued to represent the TMA staff to the new board.

In July 1978, the name of the Trust was formally chosen to be Texas Medical Liability Trust. The new board sought and received a ruling from the IRS that, for tax purposes, the Trust be considered a mutual insurance company. The board designated two different territories for premium pricing. One would consist of Bexar, Brazoria, Galveston and Harris counties and the other would comprise the rest of the counties in the state. There would be a differential of 1.5 for the four counties noted. Interestingly, a vehicle for contribution of surplus from various physicians not interested in purchasing insurance was derived.

Frequent meetings were held during the summer and fall of 1978 to select a data processing entity, complete the bylaws, and authorize development of a suitable slide presentation on the Trust for presentation to physician audiences. Decisions were made to present the TMLT to Texas physicians in a variety of ways. Monthly advertisements in Texas Medicine would keep the TMLT’s name before the medical community. Strong marketing continued as the Trust developed over the years from slide shows to risk management courses over the Internet.

In December 1978, the first underwriting committee was formed with Dr. Presley Chalmers as chairman. At that time, American Health Services – the consultants hired to help the fledgling organization – submitted a proposal stating that TMLT would not be liable for any



1979 Board of Governors

(L-R): Richard L. Vardy, MD, Presley H. Chalmers, MD, Ed W. Schmidt, MD, Walter A. Brooks, MD, Charles W. Castle, MD, Milton V. Davis, MD, C. Kenneth Landrum, MD, Robert G. Thumwood, MD, Randolph C. Zuber, MD

Council on Legislation. We were asked to draft another bill and it was comprehensive, including insurance provisions, regulations and the State Board of Medical Examiners, and tort reform. This was House Bill 1048. Trial lawyers did not like this at all because there was a provision that would put caps on noneconomic coverage and they were not about to sit still and let that go without a fight, and it was a hell of a fight.

At 11:49 on the last day of the session, the bill passed in the senate. The self-insurance trust provision was one of the provisions in the bill. The bill went into effect September 1, 1977. Now we had to figure out, would it work. The TMA Board of Trustees set aside \$50,000 for an economic feasibility study to find out and appointed a committee. The committee hired John Dorsett, a man from San Francisco with experience in setting up startup insurance companies. At this time, we also had outside insurance companies knocking at our door angling to provide us with their services.

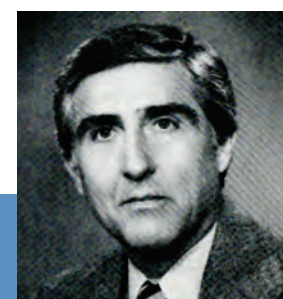
professional fees unless it achieved enough participation to commence operations.

Texas Medical Liability Trust was to begin offering insurance on January 1, 1979, provided that reinsurance was confirmed (an order for reinsurance had been placed with Lloyds of London). On January 12, 1979, the executive committee interviewed applicants for the chief executive officer. On February 17, 1979, the executive board approved the selection of John Lomenzo to be the first chief executive officer of Texas Medical Liability Trust. The initial expenses for establishment of the Trust included \$29,498 to American Health Services, \$8,223 to Milliman and Roberson for actuarial services, \$72,710 to TMA for organizational costs, and \$34,989 for legal expenses.

It is noteworthy to mention that, in the background of the early beginnings of Texas Medical Liability Trust, TMA's Paul Gray had written an article on the Texas insurance market. In the article, he said all private carriers were writing on a very selective basis, availability of insurance at a reasonable cost was still a critical problem, and many of the companies writing insurance were writing renewals only or were withdrawing from the market. Legislative efforts on tort reform were being ignored. This resulted in a lack of available, adequate medical liability insurance for physicians and hospitals in Texas, and a cost escalation for those who could obtain coverage. Any effort along the lines of a self-insurance trust would be an undertaking of the most major proportions, in terms of organization and individual commitment and in terms of financial obligations and their attendant risk.

The option of contracting with an outside organization for management of the Trust was carefully considered, but rejected for the following reasons: divided loyalty never succeeds as well as singleness of purpose; using a middle man introduces additional expense factors; future

To the physicians credit, they kept coming back to this idea: we want something where we are involved in underwriting, pricing, payment, claims, the running of the company and we do not want to depend on someone else to tell us what they think we ought to do and what it should cost. They went back to TMA with the recommendation that they take a look at the Trust idea. On January 3, 1978 in the Thomson Library at the old TMA building on Lamar, the TMA Board of Trustees met and voted to create the Texas Medical Liability Insurance Trust. I was there and was a notary. We got through signing the paperwork and Dr. Don Harrell, who was president of TMA at that time from Dallas, noticed that the paperwork said 'for \$10 we are doing this.' In order to get the thing moving on, I took out \$10 and gave it to him. On June 1, 1978, the organizational meeting was held to determine what to call the trust. Various names were suggested. I said it is not going to make a lot of difference because they will use an acronym anyway and from the Texas Medical Liability Insurance Trust, the name was whittled down to TMLT.



*John R. Lomenzo
First President of TMLT
1979-1991*

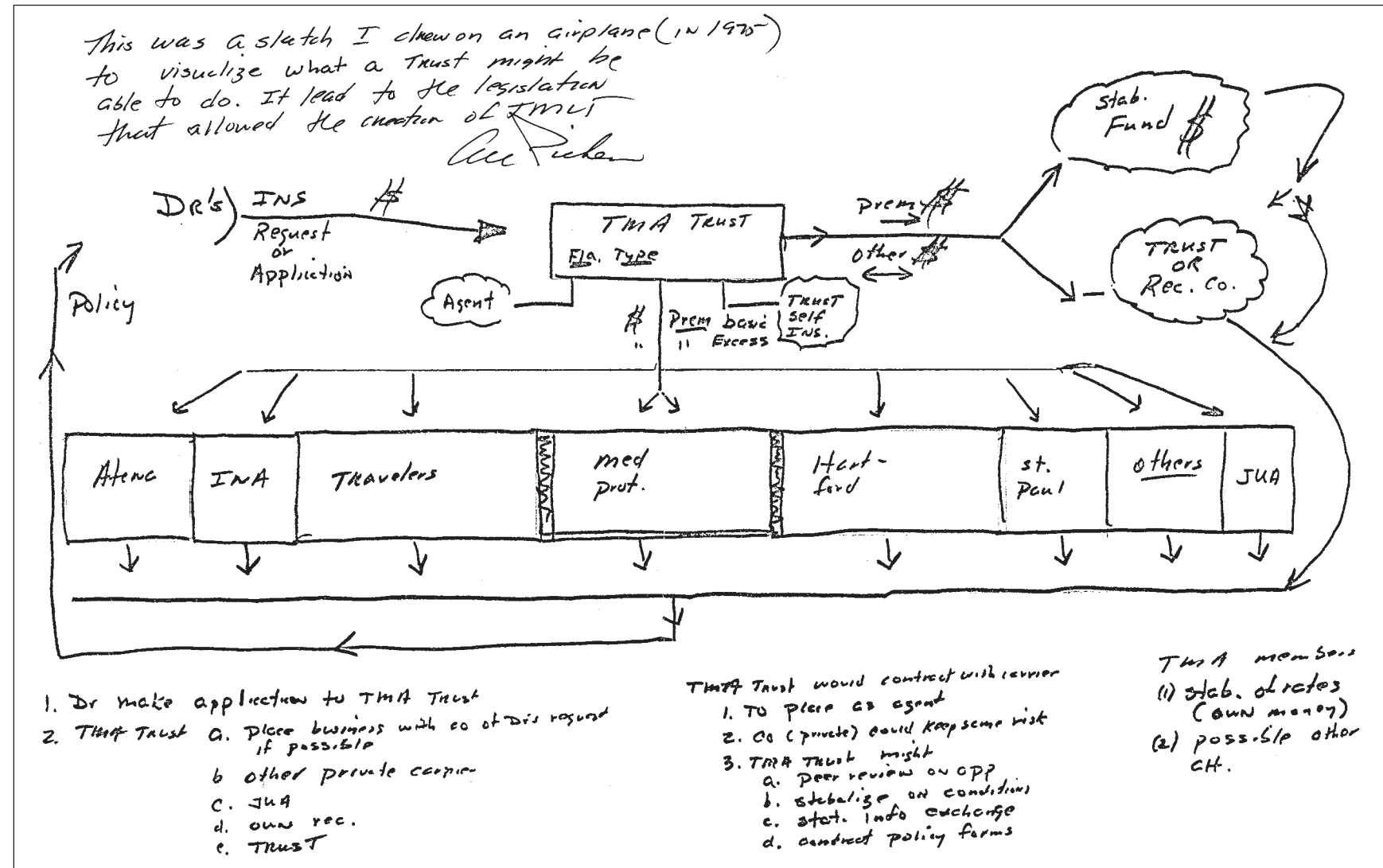
The founding directors were appointed in the trust instrument. At the very first meeting, John Dorsett was hired to be the interim executive to start trying to figure out what the policy would look like and how much we would charge. Although we were starting an entity, we could not sell stock so we had no way of getting money to start the company up and establish the necessary reserves you would need to run the company. Dorsett came up with the idea of a surplus debenture equal in cost to an annual premium. With this, the trust could raise the needed capital. In February 1979, the first policy was sold to Dr. Mario Ramirez.

The most outstanding thing John Dorsett ever did was to find Mr. John Lomenzo and talk him into coming down here to Texas.

I can only imagine what he told him. John Lomenzo took the job. Nobody knew with any predictability if it would work. There have been many times since that day that I have said to myself, what would physicians have done if the TMLT had not been there? Without the leadership at the TMA, the Trust would not have been started. Without the leadership at TMLT, the Trust would not have made it. Thank God it got put together somehow and worked out to be what it is today."

trends might produce conflicting positions; flexibility in management decisions could be lost; the unknown dangers of a situation whereby sudden incompatibility or failure of a service agency would leave the company with a management vacuum. Thus, Texas Medical Liability Trust would manage its own affairs from the beginning. However, always in the back of the minds of the early administration were the risks of not succeeding.

After the Trust was formed, the board voted to provide funds to secure registered lobbyists to see after the legislative needs of the Trust. Jack Maroney, Will Barber, and Ace Pickens registered as lobbyists for TMLT. With John Lomenzo as president, the board began making decisions regarding premiums, return of surplus to policyholders, and changes in territories reflecting the different venues in the state. In August 1979, Clyde Christiansen was appointed director of claims and risk management. By year-end, the Trust insured 1,134 policyholders from various specialties and territories." ■



Ace Picken's sketch detailing the formation of the Trust

A

As the ink dried on the legal papers that created Texas Medical Liability Trust, all those involved in the push for TMA-member physicians to have their own medical liability insurance company held their collective breath. Would this new organization be able to raise the necessary capital to operate TMLT? Would other TMA physicians follow Dr. Ramirez' example and move their medical liability insurance to the new Trust? What other problems and obstacles were lurking that could derail the new organization?

As the 70s ended and the 80s began, the pioneering physicians who conceptualized Texas Medical Liability Trust entrusted the protection of their own medical careers to this untested, new medical liability insurance entity. These founding fathers were able to convince a number of their colleagues to throw their support to TMLT. Some, either unwilling or unable to make the full commitment to switch carriers at that time, were willing to give money toward TMLT's surplus fund. The Trust was on its way.

The early years

At the end of 1979, TMLT had \$3,263,000 in surplus and was growing. The governing board voted to advertise TMLT in county medical society publications so that the Trust could become more widely known across the state.

By October 1980, TMLT had 1,584 policyholders and by the close of that year, had increased the policyholder count by 45 percent over 1979. In the 1980 annual report, president John Lomenzo stated that TMLT was “strong and getting stronger.” He reiterated that the goals of the new Trust were to deliver professional insurance services at the lowest possible cost to Texas physicians, to grow in numbers of policyholders, control administrative costs, and maintain financial stability. TMLT’s assets grew by 72 percent over 1979 and surplus, considered to be a barometer of financial stability, increased approximately 30 percent.

In 1981, the number of TMLT policyholders increased 28 percent over 1980 to 2,100 across medical specialties and geographic locations in Texas. Assets increased to more than \$21 million with policyholder surplus over \$6 million. Broader insurance protection became available when TMLT announced an additional limit of liability—\$2 million per occurrence and \$3 million aggregate. Moonlighting coverage for second-year residents choosing to work outside their training program was introduced.

The Trust’s stated claim philosophy was to “defend defensible claims,” so TMLT hired an in-house claims attorney to assist the legal defense teams handling claims. The 1981 annual report noted that claim numbers for 1981 were higher than had been projected. Additional technical underwriting staff was hired to expand TMLT’s ability to serve policyholders and, because continued growth was in the best interest of the Trust, a manager of marketing and development was hired to oversee marketing and business development activities.

As a physician-owned organization, TMLT physicians were actively involved in peer group committees such as the underwriting review committee, the claim review committee, risk control (loss prevention) committee and finance committee. At this time, the risk control committee collaborated with the TMA to produce a film that would illustrate for physicians how to prevent patient injuries in the medical practice and how to make claims more defensible.

Steady growth in surplus and written premium was observed over the course of the 1980s. By 1982, TMLT had 2,600 policyholders, \$30 million in assets and \$8 million in surplus. A small net profit was recorded in 1982. Maintaining financial stability was a priority, and both the governing board and management were pleased that expense control was achieved without compromising quality of services.

The 1982 annual report stated, “We have made a meaningful commitment to loss prevention and patient safety in 1983 and the future.” TMLT’s loss prevention committee had a strong belief that loss prevention activities could have a positive impact on patient safety as well as on the premiums charged for medical

1980-1989



1980 Board of Governors

Front: Walter A. Brooks, MD, Richard L. Vardy, MD, Milton V. Davis, MD, Randolph C. Zuber, MD

Back: E. Donald Webb, MD, Presley Chalmers, MD, C. Kenneth Landrum, MD,
Not pictured: Robert G. Thumwood, MD, Richard A. Morton, Jr., MD





Randolph C. Zuber, MD

Dr. Zuber, a urologist from Kerrville, was nominated to replace Dr. Francis O’Neal who was unable to complete his term of office on the TMLT board. Dr. Zuber served on the board from 1979-1985. He has served on TMLT’s claim review committee for 25 years. In 2004, he retired from active medical practice, but has continued to serve on TMLT’s claims review committee.

“The officers of the TMA appointed the first board. Dr. O’Neal had to resign for some reason. I was quite young but had been active in TMA and Dr. Charlie Jones recommended me to Dr. John Smith of TMA to complete Dr. O’Neal’s term. I thought it would be great to be a part of helping doctors through the medical liability crisis. Because I was a lot younger—ten to twenty years—than others on the board, they sometimes wondered if I had been picked too green off the vine, but I showed them I could do my part.

I had to have a board job so they appointed me co-sponsor of the claims committee along with Dr. Milton Davis. I have served on that committee for thirty years. I remember the very first claim – we worked that claim over. At that time, we had one claims representative, Clyde Christiansen. A family practice physician in Fredericksburg was being sued for missing appendicitis in a young boy who developed complications and we all decided we needed to win this case. I remember taking trips to Austin weekly to work that claim. We looked at it inside and out. And, TMLT won its first claim!

The board members—and their wives—soon concluded we could not keep this up because we knew that, over time, claims would be increasing. John Lomenzo realized this and began increasing the staff of the claims department and we on the board settled back into reviewing the cases somewhat like we do today. I was on the board for seven years and when I retired from board service, I was asked to stay on as the urological representative on

liability insurance. This committee collaborated with TMA on a second loss prevention film that would be applicable to all medical specialties. TMLT’s first loss prevention seminars were held in 1982 throughout Texas and extended an 8% premium credit to physicians who attended these seminars. Policyholders received a general rate increase and a few specialties were reclassified into higher or lower classes. President John Lomenzo recommended to the board that a small percentage of surplus dollars be returned to policyholders. The board agreed to a 6% return.

TMLT’s five years of solid growth was celebrated in 1983. As the number of policyholders increased, so did the number of claims the growing Trust must handle. By spring 1983, TMLT had 435 open claims and a claim staff of five individuals. In January 1985, premiums increased 38% for all specialties and territories.

By April 1985, open claims had increased to 919. The TMA House of Delegates passed a resolution at this time to work with TMLT for tort reform. In July 1985, the Texas Supreme Court made a decision that would affect the business of TMLT and all medical liability carriers in the state. That decision said that prejudgment interest would be paid in Texas from the date of loss to the date of payment.

1986 was the largest year of policyholder growth since TMLT’s inception. Very few policyholders were lost to competitors, even though TMLT’s premium rates increased significantly. According to the 1986 annual report, broadened standards of liability and liberalized law were powerful ingredients in necessitating the premium increases. The board and staff devoted a great deal of energy toward achieving tort reform, recognizing that it would help with fair product pricing and legal defense costs. The board and staff attach a special importance to the words “the integrity of the Texas medical Liability Trust.” The word integrity summarizes the Trust’s concept of insurance protection.

In 1987, Billy Neely, who was the head of TMLT’s claim department, resigned. Bob Fields took over management of the claim department in August 1988.

By 1988, surplus stood at \$19,682,000 and written premium was \$51,400,000. Assets had increased from \$13,165,000 in 1980 to \$137,681,000 in 1988. In October 1989, TMLT sent rate reduction letters to nine medical specialties and the board passed a 30% reduction in the surplus requirement and a 6% return of surplus to all policyholders.

The 1988 annual report stated that as the 80s were nearing their close, premium rates had begun to stabilize. The premium rate increase was about 50% of the 1987 increase on average; however, the rates were stabilizing at too high a level. The components of the ratemaking process include dollars paid to plaintiffs, loss adjustment expenses, operating expenses, and investment income. At that time, TMLT’s operating expenses were slightly above 5%, and investments were performing favorably.

Seventy-five percent of claims were being closed without any indemnity payment to the plaintiff; however, the cost of a strong defense for policyholders was spiraling upward. TMLT would continue to seek reform but tort reform was described as a slow process. The most immediate help could be drawn from developing risk management tools, expanding educational endeavors to help identify the causes of claims and inform policyholders how to prevent them, and how to better defend themselves in the event of a lawsuit.

TMLT’s advertising slogan in 1989 was “You’ve Got Us Right Where You Want Us,” meaning that TMLT was here in Texas, working exclusively for Texas physicians. The board and staff of the Trust wanted to convey that TMLT had the best interests of their physician policyholders at heart. The statement “Together with you, we are Partners in Trust” underscored that TMLT was dedicated to fulfilling the mandates for which it was formed.

the claims review committee. I’ve enjoyed it and it has been a pleasure to be with you all these years. TMLT has grown from the fledgling organization that Ace started and John led. It was a wonderful experience. I never knew as much about insurance as our physician leaders know today, but we convinced Texas physicians to take this risk with us. TMLT has grown and grown and the real success is a tribute to the members who worked at TMLT. I look forward to seeing TMLT continue to be the most outstanding insurance company in the state of Texas, maybe even in the United States.” ■



TMLT began attending medical conferences to increase the visibility of the new Trust. The pictured exhibit was used during the 1980s and features TMLT’s original logo. The TMLT logo has changed three times over 30 years.



John R. Lomenzo

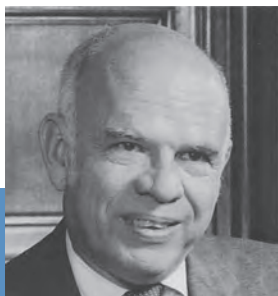
Mr. Lomenzo was hired as the first president of TMLT. He served from 1979 until his retirement in 1991. Under his leadership, the Trust became an established, stable source of medical liability coverage for physicians and began its journey down a path of successful growth and service.

“Much thought and action and effort went into the formation of the Trust. Much was accomplished; however, we still had a long road ahead of us when I arrived in Texas to develop TMLT into a viable ongoing insurance organization. When I first came to Austin, TMLT had a small office space downtown and 200 policyholders. The first steps were to develop our priorities and put them into proper sequence as to urgency. I might say that at this early stage, it was extremely important that we balance these priorities so they did not come into conflict with each other.

The first urgency was very obvious—we had to grow. With a policyholder base of 200, we could not endure over an extended period of time for a number of reasons. One reason was that this is not an adequate spread of risk to satisfy the very concept of risk pooling, which is the center of all insurance. We needed to grow because TMLT, over an extended period of time, could not offer acceptable rates at that size. Further growth would also allow us to be in a better position to negotiate reinsurance terms, which were vital at that particular point at our tender age to improve our price somewhat.

Obviously we needed revenue to broaden our facilities, equipment, computer facilities, data management and to bring in the necessary talent with experience to operate TMLT soundly. Even though growth was imperative, it was vital that we be mindful of our other priorities and to remember our responsibilities to manage TMLT in a sound manner and not overlook operating under sound principles of management and insurance. At the same time, we must watch over our investments and make sure that strategy was in keeping with where we were in that time and place.

Our arrival in the marketplace was at a very uneasy time. Texas was considered a very liberal and pro-plaintiff state. In fact, we were at the top of the list. There was plenty of competition. There were three companies specializing in professional liability for doctors in Texas and a few on the fringes like St. Paul and Travelers. However, we began making our plans as to how we would go about this from the beginning. There were two things that we did not have that we must have in order to grow. We did not have broad credibility across the state nor did we have visibility. These were our first urgencies. We needed to correct that. We did broad advertising to get TMLT’s name out whenever we could. Later when we developed depart-



Mario Ramirez, MD became TMLT’s first policyholder.



C. Kenneth Landrum, MD

Dr. Landrum was a partner of Landrum and Chester Obstetrics and Gynecology in McAllen, Texas. He replaced Dr. Charles Dryden—who could not complete his term of office on the first TMLT Governing Board—and he served from 1979-1982. Dr. Landrum was insured with TMLT until 1994 when he retired from active medical practice.

“The first I heard of medical malpractice being an issue was when it was a problem in California. We in Texas thought it would never happen here. We thought that Californians were of a different mindset. They seemed to be abandoning the model of a private practice for big clinics like Kaiser Permanente. But our theory of medical malpractice not coming to Texas did not hold up well. Malpractice claims and lawsuits were rampant in the Valley, where my practice was located. We were probably the worst hit in the state next to Jefferson County. It started to get bad around the early 70s and progressively got worse. It seemed like everyone in the Valley was being sued. Even though the Valley was hard hit and certain specialties were hard hit, it was overall a problem of every specialty in every area of the state.

In the first days, TMLT was in competition with Medical Protective, who had a strong presence in the Texas market. At first, physicians with Medical Protective were hesitant to switch to TMLT because Medical Protective did not offer tail coverage. Before joining TMLT, I was a Medical Protective insured. I worried what if something came to trial after I let my Medical Protective policy go? There were two kinds of policies—occurrence and claims-made. With claims-made insurance, TMLT would cover me and that one thing did a great deal for our progression toward success.

Early on, the board decided to use a hands-off approach and leave the operations in the hands of the leadership at TMLT. I remember some of the noon meetings

ments, we broadened our marketing efforts even more strongly, but at the beginning, our main thrust was to speak around the state wherever we could about TMLT, at county medical society meetings, seminars of all type, after dinner speaking opportunities in various settings, to tell what we were about.

At that particular time, we were not selling insurance policies even though we were obliquely. We were selling the TMLT concept and why it was important for us to have a presence in Texas. We talked about the political climate and the legal climate in Texas and how it affected doctors. Our message included our concept, of course, how we were different, the very nature of professional liability, and the recognition that doctors had different needs from their liability insurance. Overall it was necessary to leave an impression, keeping in mind that we were the new kid on the block, untried and untested. We had to convincingly leave the impression that we knew what we were doing, where we were going, and that we knew how to get there. And that is what we went about doing as actively as we could and we did begin to grow. As we grew, our departments began to take shape. We started introducing more management structure and accountabilities and, importantly, we started establishing a culture for the company. From my point of view, on an overall basis, TMLT and TMLT’s progress, has always been about people at all levels—those within TMLT and those without—that worked with us for a long period of time, all having the right blend of talent, attitude, and commitment, forwardly working together.”



Marketing Director Yvonne Johnston advises a physician concerning his medical liability coverage.

we had in the first years of the Trust, and we ordered sandwiches and ate them in an employees’ lounge where there was plenty of room for us. Growth began with John Lomenzo and TMLT was well on the way to success in the capable hands of someone who understood insurance.

I felt that Mr. Lomenzo hired a good, stable underwriting staff. TMLT grew fast, and they always needed people to work for them. I served on the underwriting review committee and used to take a little ribbing from other members of the committee. If we refused to accept some doctors because they did not meet eligibility and underwriting requirements, they then often became candidates for policies under the Joint Underwriting Association. At least they had that organization to go to. Another problem we had in the early beginning was how to attract someone who had been a policyholder for many years with another company and who may have pending claims or lawsuits. How did we compete with Medical Protective or other commercial companies?

Bob Fields started from the ground up. I remember Bob coming to my office a time or two over the years and assuring me that everything would be all right. The tender, loving care physicians received from TMLT and their claim representatives was and is truly remarkable.” ■



T

he first ten years of TMLT operations were a resounding success. The Trust was growing and insuring more TMA-member physicians every year. Surplus was increasing, as was investment income. TMLT committees were working with organized medicine to help physicians recognize risk and improve patient safety in their practices. The Trust was developing its informational database. The information in the database was already showing a trend toward increasing claim frequency and severity.

TMLT entered the 90s with great expectation to expand the number of policyholders served, to meet the needs of physician groups and networks formed during the advent of managed care, and to work tirelessly to make TMLT the largest and most respected provider of medical liability protection in the state.



Ten years of prosperity

1990-1999



In 1990, TMLT reduced premium rates for the second consecutive year for many medical specialties, reduced the cost of the reporting endorsement, reduced the cost for partnership policies, introduced the new Master Group policy, and introduced a special individual physician discount program based on loss experience to become effective in 1991. The management of the Trust was concerned about the continued upward trend of claim severity and concomitant high legal expenses. TMLT established an effective legal monitoring system to help control



*Sam Branham
President & CEO
1991-1995*

legal expenses to the extent possible, realizing that successful management of these expenses would help keep the cost of TMLT's insurance product reasonably priced.

President and CEO John Lomenzo retired in 1991 and turned management of TMLT over to a new leader, Sam T. Branham. The goals for 1991 included continued sound financial expansion and policyholder growth. However, the increasing number and severity of reported claims was directing attention to the strong need for effective tort reform.

More competitors had entered the medical liability marketplace in Texas. At this time, TMLT was the second largest medical malpractice insurance writer in the state with Medical Protective holding the primary position. In 1991 TMLT designed a new product, Occurrence Plus, to meet the needs of policyholders who desired greater limits and yet had a preference for the occurrence policy form. The Trust continued to market to physician groups with the Master Group policy. Qualifying policyholders received a partial return of surplus for the third consecutive year. At the close of 1991, TMLT boasted 5,675 policyholders. Trust assets totaled over \$215 million and surplus was over \$35 million. TMLT's goal for the future stated by Mr. Branham at the end of his first year as president and CEO was "to become the premier medical malpractice organization in the industry."



1993 Board of Governors
(L-R): Robert G. Thumwood, MD, R.A.D. Morton, MD, Presley H. Chalmers, MD, Martin F. Scheid, MD, Walter A. Brooks, MD, M. Dwain McDonald, MD, Dave W. Kittrell, MD, Sam T. Branham, Ronald C. Prati, MD



211 East 7th Street



1016 La Posada

Former TMLT Locations



6300 La Calma



6210 HWY 290



Sandye Hayden

Sandye Hayden has been a TMLT employee in the underwriting department since 1982. She has over 27 years of continuous service and, as a senior underwriter, she has met and worked with many TMLT policyholders over the years.

“Our very first location in late 1978 — before my time — was at 211 East 7th Street in Austin. By 1982, we were located at 1016 La Posada, a small 2-story building just off of Highway 290 and IH-35. Interestingly, the JUA was also housed in this building.

By 1983, TMLT had moved to the second floor of 6300 La Calma. This building was located across the street from a huge, empty field. From our windows, we watched the construction of a large, new office building in that empty field, the Farm Credit Bank. In 1986, TMLT moved into the new bank building.

By 1996, TMLT was outgrowing the available space in the Farm Credit Bank building and Trust management began looking for a new location. Just south of downtown Austin was a complex of five story office buildings, a few still under construction. In October 1997, TMLT moved south to the Barton Oaks Plaza complex. The Trust initially occupied two floors of Building V. As the number of employees grew to serve an expanding number of policyholders and services, office space needs required three floors of Building V. In 2009, the governing board and management of TMLT made the decision to purchase the office building so that the Trust would have room to grow without having to change locations.” ■

In 1992, TMLT received the full endorsement of both the Texas Medical Association and the Texas Academy of Family Physicians. In an increasingly competitive marketplace, these endorsements would prove invaluable to TMLT’s continued future growth. In an ongoing effort to become involved with the medical community to help improve medical care and have an impact on medical malpractice issues, TMLT united with the TAFP, M.D. Anderson Cancer Center and the Physician Oncology Education Program to help develop an office-based program for primary care physicians to help identify and track specific cancer risks for patients called “Spot Your Cancer Risk.”

TMLT initiated a marketing study to aid in targeting marketing efforts and established a marketing committee. Rating territories were expanded from two to five. This change allowed for a more equitable rating system based on the claims experience of medical specialties and practice locations. Rates were modified from -5% to +10% depending on specialty, liability limits, and territory. Although TMLT successfully defended 84% of policyholders taken to trial, there was an amazing 65% increase in new claims reported. To meet growing service needs, the claim department increased the number of claim professionals from twelve to sixteen. At the end of 1992, assets had grown to over \$237 million and policyholder surplus was \$37.9 million.

The medical liability climate in 1993 was marked with ever increasing claims frequency. Although medical liability reform seemed to be on the horizon, the current situation was unstable. The Trust was unwilling to mortgage long term stability for short term gain and continued a commitment to the values established by the founding fathers. Recognizing that the future needs of Texas physicians would require some added flexibility—including the ability to write coverage for a policyholder’s ancillary staff—the governing board and management team decided to form a wholly owned subsidiary of TMLT called Texas Medical Insurance Company (TMIC). TMLT ended the year with 6,700 policyholders.

TMLT celebrated fifteen years of success in 1994. The Trust was continuing to grow in a highly competitive environment and ended the year 7,500 policyholders strong with a 40% increase in group business. TMLT received the formal endorsements of Dallas, Tarrant, and Travis county medical societies and pledged to increase involvement with the county and specialty societies to better serve local interests.

TMLT’s claim department was challenged with over 600 trial settings and a claim intake of over 2,000. The Trust celebrated wins in 40 out of 42 cases taken to trial. Cases closed without any indemnity payment increased to 87%, the highest percentage in TMLT’s history at that time. Even with these outstanding results, the worsening legal climate continued to cause concern as well as hope for tort reform in the 1995 Texas legislative session.



As physicians increasingly formed groups and large networks, TMLT launched marketing approaches to secure new business.

In 1995, the Texas Legislature passed a mandatory rate rollback effective January 1996, which would affect medical malpractice premiums. Since TMLT was not a regulated insurance company, it was not statutorily subject to the rate rollback. However, the TMLT governing board and management chose to participate in the rate rollback to demonstrate commitment to 1995 tort reform. TMLT, TMA, and several Texas attorneys from the Texas Association of Defense Counsel had worked tirelessly together in negotiations with the Texas Trial Lawyers Association (TTLA) at the Texas Legislature to help secure a measure of tort reform that would improve the current medical situation. The results were moderately disappointing but were moving in the right direction.

Sam Branham resigned as president and CEO in the summer of 1995 and Tom Cotten was named acting president by the governing board. Despite increasing competition, TMLT recorded a positive policyholder growth of 5.4% at year-end 1995.



*W. Thomas Cotten
President & CEO
1996-2006*

TMLT had an excellent year in 1996. The average premium was reduced, and although the insurance market was soft with many carriers vying for new business, we recorded 90% policyholder retention. Medical practices were moving in a new direction however. Physicians were increasingly choosing to practice in groups rather than solo. A 1996 TMA physician survey showed the number of physicians in group practices increased from 23% to 35% from 1994 to 1996. As more physicians became a part of managed practice mergers, the liability needs of their practices also changed. To meet those needs, TMLT's wholly owned subsidiary, Texas Medical Insurance Company (TMIC) began offering physicians an expanded line of insurance products TMLT was unable to offer because of the restrictions of its trust instrument.

Thanks to some limited success with tort reform efforts in 1995, TMLT saw a decrease in the number of frivolous claims and

lawsuits filed in 1996; however, severity was continuing to trend upward. Premium revenue was down somewhat because of TMLT's voluntary participation in the 1995 rate rollback but the organization's overall financial fitness allowed the governing board to declare a surplus return to policyholders.

In 1997 TMLT moved to a new office building located near downtown Austin. The larger office space would accommodate the expansion of technical operations, enhance policyholder services, and allow for growth in business through TMIC. TMLT introduced Meddefense coverage to its policy form at no



1995 Board of Governors

(L-R): W. Thomas Cotten, Dave W. Kittrell, MD, M. Dwain McDonald, MD, Martin F. Scheid, MD, R.A.D. Morton, MD, Robert G. Thumwood, MD, Walter A. Brooks, MD, Ronald C. Prati, MD, Presley H. Chalmers, MD, Daniel A. Chester, MD

additional charge to policyholders. This coverage would provide protection in the event of a disciplinary proceeding by state or federal agencies.

Competition continued to grow in the medical liability arena. Since physicians were continuing to form groups and networks of doctors managed by administrators who often made their insurance decisions through insurance agents, the governing board gave consideration to marketing TMLT through agents on a limited basis. TMLT would remain primarily a direct writer of coverage.

During 1998, TMLT received an initial rating from A. M. Best Company. The rating of A- excellent was the first for a Texas domiciled medical malpractice organization. Best cited TMLT's strong membership loyalty, sound operating strategies and position of market leadership, profitability, excellent level of capitalization and adequate loss reserves.

Claim severity continued to be concerning in '98. TMLT won 72 of 82 trials taken to verdict and closed 85.8 percent of claims with no indemnity payments. However, one in four Texas physicians would be involved in a malpractice claim. The legal system was spiraling out of hand. TMLT ramped up its risk management services for physicians, delivering seminars and workshops as well as on-site practice reviews. In order to communicate quickly and conveniently to physicians, TMLT created a web site to provide physicians with information on regulatory activities and medical developments as well as offer CME credit courses and homes studies for risk management discounts. New technology was put in place to enhance claims management and policy renewal. An email system was established for efficient and convenient communication with policyholders and business partners. At the close of 1998, TMLT led the industry in Texas in number of policyholders.

In 1999, TMLT celebrated 20 years of protecting Texas physicians. However, even as the Trust celebrated its success, TMLT's claim management reported some troubling news. TMLT was seeing a significant rise in claims frequency and severity among its policyholders. The number of lawsuits without merit was escalating. Groups such as Citizens Against Lawsuit Abuse were also calling attention to an increasing number of frivolous lawsuits. By October 1999, TMLT management determined to advise policyholders of the situation. An information kit called TMLT 2000 was sent to every policyholder, beginning with January renewals, and to many in organized medicine, as well as the media. Articles began appearing in medical journals warning physicians of a storm to come. TMA commissioned a professional medical liability data study of the three largest medical liability carriers in Texas—TMLT, Medical Protective, and API—to see what was happening statewide. The decade ended on an uneasy note.



Front: Bob Fields, executive vice president, Dave W. Kittrell, MD, chairman, Board of Governors
Back: Michael Wallach, attorney at law, Kim Ross, TMA, Harold Freeman, TMA



1995 staff photo

A

lthough twenty years had passed since TMLT was created, the threat of another medical liability crisis was again shadowing the medical liability insurance industry. Claims frequency and severity were rising in many states, including Texas. The number of frivolous lawsuits was escalating and the severity of jury awards in cases lost at trial was shocking.

It was time to circle the wagons and get ready for a fight. Some of the original TMLT founding fathers were still around to offer advice, but a new crop of physician pioneers was determined that Texas physicians would not succumb in the battle for tort reform. The medical liability community put their energies together with Texas physicians and the medical community to work toward achieving meaningful, effective medical liability reform.

A *new century and an old problem*

2000-2003



As the year 2000 dawned, the anticipated Y2K global computer meltdown did not materialize. At TMLT, we directed our energy toward the mounting medical liability crisis in Texas. Claim frequency and severity continued rising rapidly. Headlines shouted with incredible jury awards against Texas physicians and the cost of legal defense for an unprecedented number of claims began to take its toll.

TMLT began the new millennium with 10,068 policyholders and had a claims inventory of 3,829. By November, there were 4,206 open claims. TMLT took in a record number of claims and a record number of cases went to trial. As claims numbers rose, so did claims costs. The average cost to defend a claim in 2000 was \$20,102 up from \$19,232 in 1999.

TMLT, Medical Protective and API participated in the second TMA Medical Professional Liability Data Study in the spring of 2000 which showed increasing deterioration in the industry. In order to ensure TMLT's long-term survival, underwriting guidelines were tightened and policyholders received two premium rate increases. To help offset these increases, physicians could take advantage of loss experience credits and risk management discounts. In spite of the potential negative impact of these actions, TMLT retained 91.1% of its policyholders.

In 2001, TMLT increased rates in both January and July. Because of the large number of claims and lawsuits and associated costs, policyholder surplus had fallen to record low numbers. The board and management were extremely concerned about the tenuous position of the Trust. As the carrier insuring the largest number of physicians, the responsibility to take the right corrective action weighed heavily on the hearts of all decision makers. Other medical liability providers were already either departing Texas or placing a moratorium on writing new business. Headquartered in Texas and committed to serving only Texas physicians, TMLT braced for a fight. The situation was dire.

In January 2002, a consortium of interested parties including Texas Medical Association, the Texas Hospital Association, TMLT and over 200 other members launched the Texas Alliance for Patient Access (TAPA) to fight for medical liability reform in the 2003 Texas legislative session. At this time, over 14 medical liability carriers had either left Texas or gone out of business; only four medical liability carriers remained. Although TMLT believed that premiums were adequate in 2002, surplus deposits had fallen to even lower levels. The Trust sent out a \$5,000 call for surplus in order to infuse needed cash into surplus funds. These funds from both new and renewing policyholders bolstered surplus so that TMLT ended 2002 with surplus of \$67.7 million, up from \$22.9 million at the close of 2001. The loyalty and trust of TMLT policyholders enabled the Trust to survive a situation that would have thrown a regulated carrier into receivership. Claims were still rising, however. The average cost to defend a medical malpractice claim in 2002 was \$22,425 compared to \$20,386 in 2001. TMLT ended the year with 10,489 policyholders.



(L-R): Bob R. Fields, executive vice president; Howard R. Marcus, MD, chairman, TMLT Board of Governors; W.Thomas Cotten, president & CEO; Theo van Eeten, director, legislative affairs



2000 Board of Governors
 Front row (L-R): Dennis J. Factor, MD., Howard R. Marcus, MD., Nancy Byrd, MD., Robert G. Thumwood, MD.,
 Back row (L-R): W. Thomas Cotten, Martin F. Scheid, MD, Chairman; Richard C. Geis, MD; Daniel A. Chester, MD.,
 M. Dwain McDonald, MD., Samuel C. Walters, MD.

As stated in TMLT’s 2003 annual report, “2003 will be remembered as the year the litigation playing field was finally leveled. It is the year that TMLT regained its financial strength. It is the year that TMLT gained prominent political standing.” The drama of the 2003 Texas legislative session and the battle for medical liability reform is recounted eloquently in the article “The Rocky Road to Texas Tort Reform” by then TMLT governing board chairman and chairman of TAPA, Howard Marcus, MD. This article was first published in TMLT’s newsletter, *the Reporter*.



The Rocky Road to Texas Tort Reform

By Howard R. Marcus, MD



Howard R. Marcus
 MD

In Texas we called it House Bill 4. The *Wall Street Journal* called it “Ten Gallon Tort Reform.” The trial lawyers made every attempt to stop it, but on June 2, 2003, the Texas legislature passed landmark tort reform legislation. This included some of the most sweeping revisions in medical professional liability statutes anywhere in the country since the California MICRA legislation of 1974. Two weeks later, Governor Rick Perry signed the legislation into law. On September 13, 2003, the Texas electorate narrowly passed a constitutional amendment guaranteeing the bill’s statutory cap on noneconomic *damages* in civil lawsuits. Texas had finally achieved effective and sustainable professional liability tort reform.

How did this come about? The journey was long and arduous, but I believe that our tort reform consortium, Texas Alliance for Patient Access (TAPA), was a key player in both the legislative and electoral victories.

The Texas State Capitol Building in Austin is a beautiful pink marble structure built in the 1880s. It dominated the Austin skyline for a century until the 1980s, when downtown high rises began to block many of the views. Taller than the U.S. Capitol Building in Washington, DC, it is an impressive sight, particularly when lit at night. Texans are proud of this building which is immaculately maintained, reminding me of a cruise ship with crews constantly polishing brass and waxing floors. Although I have lived in Austin since 1981, I had not ventured into the building for nearly twenty years. In 2001, that all changed.

Texas Medical Liability Trust, a PIAA member established in 1979, is the largest medical liability carrier in Texas. As a member of the TMLT Board of Governors, and as a physician paying ever-increasing liability insurance premiums, I had become deeply concerned by the late 1990s about progressively worsening claim severity and frequency. TMLT’s surplus was diminishing, and those painful premium increases were occurring regularly. This unsustainable trend had to be stopped, and tort reform was the only solution.

Although the Texas legislature had passed some modest tort reform measures in 1995, they had proven to be largely ineffective. In early 2001, Tom Cotten, then TMLT president and CEO; Bob Fields, Executive Vice President; and I as Chairman of the TMLT Governing Board held a brainstorming session. How should we respond to this building medical liability crisis? Starting with the Texas Medical Association (TMA) and the Texas Hospital Association (THA), we increasingly widened our discussions to include



other members of the health care community who cared deeply about tort reform. We studied CAPP, the successful California tort reform consortium, and we applied some of their lessons—that the consortium should be non-partisan, single issue, and broad-based. We quickly expanded our membership as each organization which joined us made additional contacts. We ultimately grew to a membership of over two hundred and fifty, including physician groups, professional liability carriers, professional associations, and hospitals. Our mission was clear: to bring about truly effective tort reform that would best ensure future patient access to care.

As a 501(c)(6) entity, TAPA was able to raise money for issue advocacy. We created an executive committee of eight members and held frequent meetings both in Austin and by phone conference. By December 2001, we had hired a full-time executive director. Flexible membership categories allowed for many levels of participation. All of the major carriers in Texas, including PIAA members American Physicians Insurance Exchange (APIE), Health Care Indemnity, Inc. (HCI) and The Doctors Company, as well as Medical Protective, joined the consortium.

One of the key elements for success was utilizing the assets of our member organizations. For instance, TMA, THA and many hospital systems had active political action committees (PACs) with established influential relationships at the state capitol. Professional liability carriers had the expertise to know which reforms were most likely to be effective. We hired some of the best legal minds in Texas, including experienced appellate and defense attorneys.

TAPA organized communications, finance, legal, and claims committees. Charged with formulating legislative proposals, the legal and claims committee met regularly for a year before the legislative session even began. While TAPA adopted many of the MICRA reforms, additional legislative proposals addressed issues which were either specific to Texas or not included in MICRA.

By the spring of 2002, while TAPA was preparing for the legislative battle ahead, Texas physicians were taking the issue of tort reform directly to the public. In April 2002, hundreds of doctors across South Texas staged grassroots political protests on the steps of their courthouses in a “Day of Awareness.” Both in regional and national publications, the tort reform emergency was publicized and debated, thus focusing the public’s attention on the medical professional liability crisis and raising concern about access to care. President Bush and the U.S. House of Representatives supported tort reform, particularly a cap of \$250,000 on noneconomic *damages*. In his election campaign, Governor Perry announced in March 2002 that tort reform was a major objective. Things were beginning to fall in place.



Bob R. Fields, executive vice president; Howard R. Marcus, MD, chairman, TMLT Board of Governors; Frank Galitski, executive director, TAPA; Senator Joe Nixon; Theo van Eeten, director, legislative affairs; W. Thomas Cotten, president & CEO

We quickly learned, however, that consensus among our membership did not always come quickly or easily. In particular, both the Texas Hospital Association and the Texas Medical Association, as well as other consortium members, needed adequate time to debate the TAPA legislative proposals within their own committee structures. We needed every minute of the year to prepare for the 78th session of the Texas legislature which was to begin on January 15, 2003.

While consortium members were eventually able to reach agreement on most aspects of our legislative proposals, the issue of the cap on noneconomic *damages* presented a thorny problem.

The MICRA experience had clearly demonstrated that a \$250,000 cap on noneconomic *damages* was key to effective tort reform, but in 1988 the Texas Supreme Court had decided that a 1977 statute establishing a cap on noneconomic *damages* was unconstitutional on the basis of the “open courts doctrine” (i.e. providing citizens adequate access to the courts). To try to ensure that this would not happen again, the TAPA legal and claims committee proposed a compromise remedy statute requiring minimum policy limits in exchange for a noneconomic cap limit of \$250,000. This “quid pro quo” solution was quickly opposed, however, by some physician consortium members. They considered this not only a bad precedent, but also a requirement which they believed could actually increase premiums in order to pay for the higher policy limits that some physicians were already carrying. TAPA acknowledged these as valid concerns and thus headed towards deadlock on this issue.

The ultimate solution came not from TAPA, but from Governor Perry, who in late 2002 proposed a constitutional amendment to allow for caps on noneconomic *damages* for professional liability claims and other civil actions. TAPA consortium members quickly gave this bold proposal their full support.

The Texas legislature meets in regular session for one hundred and forty days in odd-numbered years. There is a well-established pattern to Texas politics where legislative elections are held in the fall during even-numbered years, and the newly elected legislators go to work three months later when the new legislative session begins. While most recent Texas governors have been Republican, the Texas House and Senate have been held by a Democratic majority without interruption since Reconstruction. While many Democrats supported tort reform, we knew that our best chances lay with a Republican-led legislature.

The 2002 legislative elections were good news for TAPA. Republicans took control of both the House and Senate, and Governor Perry was elected in a landslide. David Dewhurst, also a tort reform supporter, was elected lieutenant governor, a key position in the Texas legislature as the lieutenant governor presides over the Senate. In January 2003, Governor Perry declared tort reform as emergency legislation which gave



us a jump-start. Since we had less than five months to accomplish our goals, we hoped this would mean plenty of time for committee hearings, for passage in both bodies, for the conference committee, and for the final vote. As it turned out, we made it, but only by the skin of our teeth.

As we began the legislative process, I soon found out that I had a lot to learn about how government works. In my first serious foray into the process of passing legislation, I learned important lessons.

1. Experienced and committed lobbyists are essential. You will get nowhere without them.
2. There are dozens of ways to kill a bill. Passing landmark legislation is very difficult.
3. Anything you say to anyone becomes general knowledge in about five minutes.
4. At least two independent sources should concur before you believe anything.
5. Unity among consortium members is essential. That means no separate deals which can be tempting when the pressure mounts.
6. Texas politics is a rough business. The faint at heart need not apply.

By February 2003, medical malpractice tort reform legislation was combined with a large general tort reform bill called House Bill 4 (HB 4). The Texas House Committee on Civil Practices, chaired by Representative Joe Nixon of Houston, then convened to examine most of the TAPA legislative proposals. During this process, and as both the House and Senate committees heard testimony, TAPA and our consortium members provided vital research and data and coordinated the presentation of expert witnesses.

During House committee hearings, the commissioner of the Texas Department of Insurance recommended a range of premium rate reductions which he believed should result from tort reform. TMLT was ready immediately thereafter to make a public commitment to that effect. Tom Cotten and the TMLT Governing Board thus took that courageous step in March 2003, committing TMLT to a rate reduction if tort reform and the constitutional amendment both passed.

When HB 4 reached the House floor, our opponents attempted more than three hundred amendments to derail it, all without success. In large part due to Speaker Tom Craddick's efforts, HB 4—including a \$250,000 cap on noneconomic *damages*—passed the House with a large majority on March 28th and was then sent to the Senate. Things were rolling along just fine, but little did we know what was in store.

Senate committee hearings were chaired by Senator (and former Lt. Governor) Bill Ratliff, a highly respected and experienced legislator. Senator Ratliff was clearly committed to a thorough and careful



study of all tort reform measures in this comprehensive bill. As a result, the Senate State Affairs Committee spent six weeks hearing testimony and debating HB 4. Many of the components in HB 4 were accepted, and some favorable changes were made. However, Senator Ratliff disagreed with a \$250,000 cap on noneconomic *damages* and substituted a cap ceiling of \$750,000 for any combination of three defendants. This meant that if three physicians were sued, noneconomic *damages* could be up to \$750,000. Because our TAPA research had indicated that a cap of no more than \$250,000 was needed for tort reform to be truly effective, we were in respectful disagreement with this portion of the Senate version of HB 4.

On May 12, 2003, Texas House Democrats took off for Ardmore, Oklahoma, in order to deny a House quorum in the congressional redistricting dispute. While this had nothing to do with tort reform, we now ran the risk of running out of time for the vital House/Senate conference committee and final passage of HB 4. Any bill not passed by the end of the session was dead, and we would have to wait another two years to start the process again. Fortunately, House members returned on May 16, leaving us with seventeen days remaining in the session.

Both House and Senate leaders were firmly committed to their respective versions of the cap. In the last few remaining days, Lt. Governor Dewhurst, Senator Ratliff, Chairman Nixon, Speaker Craddick, Governor Perry and other advocates for tort reform ultimately worked out a compromise. On May 29, 2003, literally three hours before the deadline for appointing the conference committee, the deadlock was broken. The cap for any combination of physicians would be \$250,000 plus the possible addition of up to two hospitals and/or nursing homes at \$250,000 each, for a total of \$750,000. Both House and Senate passed HB 4 on June 2, 2003, and tort reform became law when Governor Perry signed it on June 11, 2003.

During the summer of 2003, Texas trial lawyers stampeded to courthouses across the state to file lawsuits before HB 4 became effective on September 1, 2003. Between June and September, TMLT physicians had claims filed against them at a rate 250 percent greater than normal.

In June 2003, we were facing the next battle — the campaign for the constitutional amendment on noneconomic caps known as Proposition 12. In another cliff hanger vote, the House, and later the Senate, had passed the required resolution to bring Proposition 12 before the electorate, and election day was set for September 13, 2003. If the constitutional amendment failed, then we could not be confident that the \$250,000 cap would survive judicial review. The entire process of validating the cap would be in limbo and take years to resolve.



Governor Perry’s campaign staff organized the “Yes on 12” committee, and TAPA made the first contribution to build the “Yes on 12” war chest. Throughout the summer, TAPA continued to play a key role in its support of the campaign, with TAPA consortium members, including TMA, THA, Texas Osteopathic Medical Association (TOMA) and many hospital systems, essential in grassroots organization across Texas. Healthcare providers spoke out to their patients and to the public in support of Proposition 12. Physicians faced TV cameras and radio microphones and published op-ed newspaper columns.

Initial polls showed that a clear majority of voters supported the cap, but the media campaign heated up in mid-August (reportedly more than \$17 million was spent by both sides, making it the most expensive campaign ever on a state constitutional question), and the race tightened. However, our consistent and powerful message that access to medical care in Texas was at risk ultimately won us a narrow victory margin of 2 percent on September 13, 2003. Not surprisingly, areas of Texas where many people had lost access to care – particularly South Texas and El Paso – voted heavily in favor of Proposition 12.

What impact has our success had for Texas doctors and Texas patients?

- Texas now has the most sweeping tort reform achieved in the United States in decades, and a state constitutional amendment protects the cap.
- TMLT has implemented a 12% across the-board-premium rollback which began on January 1, 2004.
- Other carriers have announced cancellation of rate increases and are working to stabilize rates.

The TAPA consortium model proved to be essential for creating legislative proposals and for providing lobbyists, legal expertise, research and expert witnesses before and during the legislative session. It also seeded and augmented fund raising during the hard fought and closely won constitutional amendment campaign. In November 2003, the TAPA membership agreed to maintain the consortium. Our focus now is to promote, improve and protect medical professional liability tort reform. You can never stop because there is no end to the political process.

The events that brought us tort reform show that citizens, legislators and a governor – all of whom are focused and determined – can make badly needed changes in the law against a powerful and entrenched opposition. Participating in this process has, for me, been a privilege – and it has been a heck of a ride.



The years after tort reform promised to be smooth ones in the medical liability insurance industry in Texas. However, vigilance would be the watchword concerning maintaining these hard won tort reform measures as they would be vulnerable to attack every legislative session. TAPA, TMLT, TMA and others would continue to work together to guard and protect tort reform and continually communicate its importance to Texas physicians.

Under the protection of tort reform, TMLT began to thrive once more and to give back to its policyholders through dividends and rate reductions. TMLT was the first carrier to reduce rates after tort reform, but other carriers have since followed suit and Texas physicians—even those who are not TMLT policyholders—have benefited from the work to achieve tort reform. The Trust continues to be the largest carrier in Texas, protecting more TMA-member physicians than any other medical liability provider.

Growing strong in Texas

2004-present

The passage of tort reform was a major victory for TMLT in 2003; however, it did produce a rush to the courthouse for claims to be filed under the old law. This resulted in additional claims and reserves in 2003. Closing many of these claims in 2004 and incurring fewer new claims led to a \$35 million decline in claim expenses in 2004. TMLT ended 2004 with net income of \$41 million compared to a net loss of \$5 million in 2003.

In TMLT's 2004 annual report, then Texas Department of Insurance Commissioner Jose Montemayor stated, "I am very proud of the efforts by TMLT to maintain a viable market during the recent med-mal crisis in Texas. Those efforts served as an example during some very turbulent times. While I am pleased to say we have turned the corner on that crisis in Texas and the professional liability market has dramatically improved, I'm even more pleased to note that we know we can count on TMLT to be a partner in good times as well as during those more challenging periods."

The years after the achievement of 2003 medical liability reform were punctuated with annual rate reductions by TMLT (the first carrier to reduce rates in Texas) as well as by other carriers both in Texas and nationally in states with tort reform measures. TMLT's rate reductions were: 12% in 2004, 5% in 2005, 5% in 2006, 7.5% in 2007, 6.5% in 2008, an average 4.7% in 2009, and 1% approved for 2010.

In addition, TMLT initiated a dividend program for policyholders which provided them with premium savings: 20% in 2006, 20% in 2007, 22% in 2008, 22.5% in 2009, and 24% in 2010.

According to TMLT's 2009 governing board chairman, Dave W. Kittrell, MD, once the 2010 rate cuts and dividends are factored in, TMLT insured physicians have saved approximately \$519.6 million since the passage of medical liability reform in 2003. These dividends and premium savings were the result of the stabilizing effect medical liability reform—specifically damage caps—had on claims frequency and severity.

Along with improved medical liability premiums, medical liability reform also brought additional medical liability carriers to the state so that physicians had greater choice in their medical liability provider. Some of these carriers were start-up companies while others were well established in other states, seeking to expand into a new market with tort reform in place. In the face of increased competition, TMLT continued to grow. In 2004 post tort reform, TMLT's assets and surplus were at record levels. Assets grew from \$507.6 million in 2003 to \$550.5 million; surplus grew from \$93.9 million to \$147.7 million. At that time, Bohn D. Allen, 2004 president of Texas Medical Association stated, "TMLT is more than a fantastic members-only benefit for Texas Medical Association. From lobbying the legislature to teaching risk management



classes to winning passage of Proposition 12, TMA and TMLT are daily partners for Texas physicians and our patients.”

In 2005, TMLT broke long-standing company records and declared the first policyholder dividend amounting to approximately \$10 million and effective in 2006 for renewing policyholders. The Trust retained over 93% of its policyholders and enjoyed a healthy growth rate of 8%. More cases were taken to trial in 2005 than in any previous year and TMLT won 92 of these 99 cases. The governing board awarded the first TMLT Memorial Scholarships to seven outstanding Texas medical students. In the area of risk management, TMLT announced an increase in the practice review discount to 5% to encourage more physicians to participate. The risk management and claim departments collaborated to produce a DVD to help educate physicians about the importance of taking an active role in their legal defense, especially preparing for deposition—and on the emotional impact a claim or lawsuit has on physicians and their families. The result of this collaboration was the DVD *You’ve Been Sued: Successfully Navigating the Litigation Process* which proved to be a popular seminar series as well as a home study. At the close of 2005, the Trust insured 13,220 TMA-member physicians.

In 2006, TMLT continued to grow at a 7% rate. Surplus had reached the highest level ever in the history of TMLT—\$227 million. By year-end, claim frequency had dropped 50% since tort reform went into effect. The trial win record was 73 of 75 cases taken to trial. These figures represent the highest win percentage and the lowest trial loss record chronicled in TMLT history. TMLT closed 89.73% of claims without indemnity. Record numbers of physicians were applying for licensure in Texas because tort reform was providing a friendlier environment in which to practice medicine. Competition for these new accounts was fierce. The policyholder count at the end of the year was 14,163 and growing. TMLT’s retention rate was an enviable 95%. In August 2006, Tom Cotten resigned as president and CEO and the governing board named Bob R. Fields as acting president and CEO.



*Bob R. Fields
President & CEO
2006 to present*

Two thousand and seven was a legislative year in Texas. During the first six months of the year, TMLT worked with TMA and TAPA to defend 2003 tort reform. Opponents of tort reform successfully passed a bill out of both houses; however, Governor Rick



Risk Manager Stacey Agnew and Senior Risk Management Representative Barbara Rose discuss the value of a practice review with a TMLT-insured physician.

Perry vetoed the bill and tort reform was protected. Fewer outstanding claims in the claims inventory resulted in lower trial activity. TMLT tried 41 cases to defense verdicts and lost eight cases in trial for a win ration of 84%. Medefense payout increased nearly 30% over 2006 and Medefense intake had tripled since 2004. Aware that the Texas Medical Board (TMB) was taking its charge of regulating medical practice in Texas very seriously, the claim and risk management departments collaborated to develop a tool to assist policyholders with understanding the TMB concerning disciplinary actions. The publication *Understanding Your Medefense Coverage* provided TMLT physicians with needed information to understand this process.



2008 Senior Management Team

Back: Jane Holeman, Treg Russell, Gail Nichols, Jill McLain, John Alexander, Dana Leidig, Don Chow

Front: Bob Fields, Ray Demel

Dave W. Kittrell, MD

Dr. Kittrell is an obstetrician/gynecologist practicing in San Antonio. He has been a TMLT policyholder since 1979. He was elected to 2 nine-year terms on the Board of Governors, holding the position of chairman during each term of service.

“I became a policyholder in 1979. At one point, I was sued by a patient. My TMLT claim representative was Bob Fields. When we went to trial, he was there in the courtroom, reassuring me, keeping me calm. I learned firsthand about the quality claim service at TMLT and how important it was for a doctor going through what I did. Later in 1989, a colleague of mine encouraged me to run for the TMLT Governing Board. He and two other physicians wrote me a recommendation letter. Having gone through that lawsuit, I still had some anger about it and I thought maybe running for the TMLT board would help.

There was an ob/gyn named Dan Chester who was secretary of the board at that time. It was his job to call and tell you if you won. He called me up and said ‘you won your election to the board.’ I am sure he did not know who I was, having never met me, but he told me I won by six votes. He also said they knew it was by six votes because they counted them more than once!

He gave me a lecture then, saying that I was expected to be at the board meetings and be there on time. He told me where to come for the meetings. At that time, TMLT offices were in the Farm Credit Bank building on



In 2007, TMLT's assets and surplus grew to all time highs with assets of \$662.3 million and surplus of \$254 million by year-end. TMLT's policy count increased to 14,585. The Trust retained 92.6% of its existing policyholders.

Two thousand eight was marked by an economic collapse in the financial markets. Billions of dollars were lost in the stock market and millions of people lost their jobs. TMLT's conservative investment philosophy protected the Trust from suffering substantial loss and, in fact, enabled the governing board and management to purchase the office building housing the TMLT offices in Austin, Texas. This investment would insure that TMLT had ample office to grow in the future.

Because of the positive impact of 2003 tort reform, claim intake and frequency continued to decline. In 2008, TMLT tried 23 cases to verdict, losing only two of those cases. TMLT closed 85% of cases without indemnity payment and continued to resist nuisance settlements. The Texas Medical Liability Insurance Underwriting Association (JUA) selected TMLT to provide risk management services to JUA policyholders. The JUA is the Texas sponsored insurance program for physicians with limited or no access to other sources of professional liability insurance. In 2008, assets grew to \$667 million and surplus grew to \$275 million. TMLT increased its policy count to 14,986 and retained more than 92% of existing policyholders. TMLT sustained and increased its financial stability during difficult market conditions by responsible pricing and loss reserving practices, and through conservative investment practices. Adhering to sound business management principles will help keep the Trust financially strong and stable for policyholders.

Highway 290. When I arrived for my first board meeting, the building was locked up tight on a Saturday morning. I was rattling doors and peering in windows and I was worried about being arrested. I could see there was a gate at the end of a driveway and, down below the building, I saw cars in a parking garage. I could not get through the gate because you needed an electronic card key to open it. I realized that I did not even know what floor the TMLT offices were on. So, I sat on the hood of my car and waited. Shortly, a lady came walking up behind the gate and asked if I were Dr. Kittrell. I said 'yes' and she said, 'Welcome to TMLT. I have been sent to escort you to the meeting.'

I have been very proud to be a part of this organization over the past thirty years. You are TMLT. It is not the building. It is the people. And the board is very proud of each one of you." ■



2009 TMLT staff



Historical listing of board of governors



Those physicians who were involved in the creation of TMLT formally established that physicians would be involved in the important decisions made by the Trust. A nine-member physician governing board elected by policy-holders has continually worked with TMLT management to guide the Trust along its thirty-year journey. The importance of their dedication and commitment to the success of TMLT and to Texas physicians cannot be overemphasized.

1979

- Richard L.Vardy, MD, chairman
- Presley H. Chalmers, MD, vice chairman
- Ed W. Schmidt, MD, secretary-treasurer
- Walter A. Brooks, MD
- Charles W. Castle, MD
- Milton V. Davis, MD
- C. Kenneth Landrum, MD
- Robert G.Thumwood, MD
- Randolph C. Zuber, MD

1980

- Richard L.Vardy, MD, chairman
- Presley H. Chalmers, MD, vice chairman
- Walter A. Brooks, MD, secretary-treasurer
- Milton V. Davis, MD
- C. Kenneth Landrum, MD
- Richard A. Morton, Jr., MD
- Robert G.Thumwood, MD
- E. Donald Webb, MD
- Randolph C. Zuber, MD

1981

- Presley H. Chalmers, MD, chairman
- Walter A. Brooks, MD, vice chairman
- Robert G.Thumwood, MD, secretary-treasurer
- Milton V. Davis, MD
- C. Kenneth Landrum, MD
- Richard A. Morton, Jr., MD
- Richard L.Vardy, MD
- E. Donald Webb, MD
- Randolph C. Zuber, MD

1982

- Presley H. Chalmers, MD, chairman
- Walter A. Brooks, MD, vice chairman
- Robert G.Thumwood, MD, secretary treasurer
- Milton V. Davis, MD

- M. Dwain McDonald, MD
- Richard A. Morton, Jr., MD
- Richard L.Vardy, MD
- E. Donald Webb, MD
- Randolph C. Zuber, MD

1983

- Walter A. Brooks, MD, chairman
- E. Donald Webb, MD, vice chairman
- Robert G.Thumwood, MD, secretary-treasurer
- Presley H. Chalmers, MD
- Milton V. Davis, MD
- M. Dwain McDonald, MD
- Richard A. Morton, Jr., MD
- Richard L.Vardy, MD
- Randolph C. Zuber, MD

1984

- Walter A. Brooks, chairman
- Robert G.Thumwood, vice chairman
- Richard A. D. Morton, Jr., secretary-treasurer
- James E.Albright, MD
- Presley H. Chalmers, MD
- M. Dwain McDonald, MD
- Richard L.Vardy, MD
- E. Donald Webb, MD

1985

- Walter A. Brooks, MD, chairman
- Robert G.Thumwood, MD, vice chairman
- Richard A. D. Morton, Jr., MD, secretary-treasurer
- James E.Albright, MD
- Daniel A. Chester, MD
- M. Dwain McDonald, MD
- F. Warren Tingley, Jr., MD
- Richard L.Vardy, MD
- E. Donald Webb, MD

1986

Robert G. Thumwood, MD, chairman
 Richard A. D. Morton, Jr., MD, vice chairman
 E. Don Webb, MD, secretary-treasurer
 James E. Albright, MD
 Walter A. Brooks, MD
 Daniel A. Chester, MD
 M. Dwain McDonald, MD
 Ronald C. Prati, MD
 R. Warren Tingley, Jr., MD

1987

E. Donald Webb, MD, chairman
 M. Dwain McDonald, MD, vice chairman
 Daniel A. Chester, MD, secretary-treasurer
 James E. Albright, MD
 Presley H. Chalmers, MD
 Ronald C. Prati, MD
 Martin F. Scheid, MD
 F.W. Tingley, Jr., MD
 Richard L. Vardy, MD

1988

E. Donald Webb, MD, chairman
 M. Dwain McDonald, MD, vice chairman
 Daniel A. Chester, MD, secretary-treasurer
 James E. Albright, MD
 Presley H. Chalmers, MD
 Ronald C. Prati, MD
 Martin F. Scheid, MD
 F.W. Tingley, Jr., MD
 Richard L. Vardy, MD

1989

E. Donald Webb, MD, chairman
 M. Dwain McDonald, MD, vice chairman
 Daniel A. Chester, MD, secretary-treasurer

Walter A. Brooks, MD
 Presley H. Chalmers, MD
 Dave W. Kittrell, MD
 Ronald C. Prati, MD
 Martin F. Scheid, MD
 Richard L. Vardy, MD

1990

M. Dwain McDonald, MD, chairman
 Daniel A. Chester, MD, vice chairman
 Ronald C. Prati, MD, secretary-treasurer
 Walter A. Brooks, MD
 Presley H. Chalmers, MD
 Dave W. Kittrell, MD
 Martin F. Scheid, MD
 Robert G. Thumwood, MD
 Richard L. Vardy, MD

1991

M. Dwain McDonald, MD, chairman
 Daniel A. Chester, MD, vice chairman
 Ronald C. Prati, MD, secretary-treasurer
 Walter Brooks, MD
 Presley Chalmers, MD
 Dave W. Kittrell, MD
 Martin F. Scheid, MD
 Robert G. Thumwood, MD
 Richard L. Vardy, MD

1992

Daniel A. Chester, MD, chairman
 Ronald C. Prati, MD, vice chairman
 Dave W. Kittrell, MD, secretary-treasurer
 Richard A. D. Morton, MD
 Walter A. Brooks, MD
 Presley H. Chalmers, MD
 Martin F. Scheid, MD

Robert G. Thumwood, MD
 E. Donald Webb, MD

1993

Ronald C. Prati, MD, chairman
 Dave W. Kittrell, MD, vice chairman
 Martin F. Scheid, MD, secretary-treasurer
 Presley H. Chalmers, MD
 Robert G. Thumwood, MD
 E. Donald Webb, MD
 Walter A. Brooks, MD
 Richard A. D. Morton, MD
 M. Dwain McDonald, MD

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Ronald C. Prati, MD, chairman
 Dave W. Kittrell, MD, vice chairman
 Martin F. Scheid, MD, secretary-treasurer
 Presley H. Chalmers, MD
 Robert G. Thumwood, MD
 E. Donald Webb, MD
 Walter A. Brooks, MD
 Richard A. D. Morton, MD
 M. Dwain McDonald, MD

1995

Dave W. Kittrell, MD, chairman
 Martin F. Scheid, MD, vice chairman
 Richard A. D. Morton, MD, secretary-treasurer
 Ronald C. Prati, MD
 Presley H. Chalmers, MD
 M. Dwain McDonald, MD
 Robert G. Thumwood, MD
 Walter A. Brooks, MD
 Daniel A. Chester, MD

1996

Dave W. Kittrell, MD, chairman
 Martin F. Scheid, MD, vice chairman
 Richard A. D. Morton, MD, secretary-treasurer
 M. Dwain McDonald, MD
 Daniel A. Chester, MD
 Walter A. Brooks, MD
 Nancy Byrd, MD
 Howard R. Marcus, MD
 Presley H. Chalmers, MD

1997

Dave W. Kittrell, MD, chairman
 Richard A. D. Morton, MD, vice chairman
 Daniel A. Chester, MD, secretary-treasurer
 Walter A. Brooks, MD (Martin F. Scheid filled Dr. Brooks' place after his death)
 Howard R. Marcus, MD
 Nancy Byrd, MD
 Samuel C. Waters, MD
 Robert G. Thumwood, MD
 M. Dwain McDonald, MD

1998

Martin F. Scheid, MD, chairman
 Howard Marcus, MD, vice chairman
 Samuel C. Waters, MD, secretary-treasurer
 Richard C. Geis, MD
 Dennis J. Factor, MD
 Daniel A. Chester, MD
 Nancy Byrd, MD
 Robert G. Thumwood, MD
 M. Dwain McDonald, MD

1999

Martin F. Scheid, MD, chairman
 Howard R. Marcus, MD, vice chairman

Samuel C. Waters, MD, secretary-treasurer
 Richard C. Geis, MD
 Dennis J. Factor, MD
 Daniel A. Chester, MD
 Nancy Byrd, MD
 Robert G. Thumwood, MD
 M. Dwain McDonald, MD

2000

Martin F. Scheid, MD, chairman
 Howard R. Marcus, MD, vice chairman
 Samuel C. Waters, MD, secretary-treasurer
 Richard C. Geis, MD
 Dennis J. Factor, MD
 Daniel A. Chester, MD
 Nancy Byrd, MD
 Robert G. Thumwood, MD
 M. Dwain McDonald, MD

2001

Howard R. Marcus, MD, chairman
 Samuel C. Waters, MD, vice chairman (Dave W. Kittrell, MD filled Dr. Waters' place after his death)
 Dennis J. Factor, MD, secretary-treasurer
 Richard C. Geis, MD
 Daniel A. Chester, MD
 Nancy Byrd, MD
 M. Dwain McDonald, MD
 Martin F. Scheid, MD
 Robert G. Thumwood, MD (Richard A. D. Morton, MD filled Dr. Thumwood's place after his death)

2002

Howard R. Marcus, MD, chairman
 Dennis J. Factor, MD, vice chairman
 Dave Kittrell, MD, secretary-treasurer
 Richard C. Geis, MD
 Daniel A. Chester, MD

Nancy Byrd, MD
 Martin F. Scheid, MD
 Alan C. Baum, MD
 Robert I. Parks, MD

2003

Howard R. Marcus, MD, chairman
 Dennis J. Factor, MD, vice chairman
 Dave W. Kittrell, MD, secretary-treasurer
 Richard C. Geis, MD
 Daniel A. Chester, MD
 Nancy Byrd, MD
 Martin F. Scheid, MD
 Alan C. Baum, MD
 Robert I. Parks, MD

2004

Dennis J. Factor, MD, chairman
 Dave W. Kittrell, MD, vice chairman
 Robert I. Parks, MD, secretary-treasurer
 Howard R. Marcus, MD
 Richard C. Geis, MD
 Daniel A. Chester, MD
 Nancy Byrd, MD
 Alan C. Baum, MD
 Martin F. Scheid, MD (Jimmy L. Strong, MD filled Dr. Scheid's place after his death)

2005

Dennis J. Factor, MD, chairman
 Dave W. Kittrell, MD, vice chairman
 Robert I. Parks, MD, secretary-treasurer
 Stuart D. McDonald, MD
 Richard C. Geis, MD
 Daniel A. Chester, MD
 David G. Joseph, MD
 Alan C. Baum, MD
 Jimmy L. Strong, MD

2006

Dennis J. Factor, MD, chairman
Dave W. Kittrell, MD, vice chairman
Robert I. Parks, MD, secretary-treasurer
Stuart D. McDonald, MD
Richard C. Geis, MD
Cristie Columbus, MD
David G. Joseph, MD
Alan C. Baum, MD
Jimmy L. Strong, MD

2009

Dave Kittrell, MD, chairman
Robert I. Parks, MD, vice chairman
Stuart D. McDonald, MD, secretary-treasurer
Cristie Columbus, MD
Alan C. Baum, MD
David G. Joseph, MD
Jimmy L. Strong, MD
Arthur F. Evans, MD
Donald R. Butts, MD

In Memoriam

Walter A. Brooks, MD
Charles W. Castle, MD
Presley H. Chalmers, MD
Milton V. Davis, MD
Martin F. Scheid, MD
Ed W. Schmidt, MD
Robert G. Thumwood, MD
Richard L. Vardy, MD
Samuel C. Waters, MD
E. Donald Webb, MD

2007

Dave W. Kittrell, MD, chairman
Robert I. Parks, MD, vice chairman
Stuart D. McDonald, MD, secretary-treasurer
Cristie Columbus, MD
Alan C. Baum, MD
David G. Joseph, MD
Jimmy L. Strong, MD
Arthur F. Evans, MD
Donald R. Butts, MD

2008

Dave W. Kittrell, MD, chairman
Robert I. Parks, MD, vice chairman
Stuart D. McDonald, MD, secretary-treasurer
Cristie Columbus, MD
Alan C. Baum, MD
David G. Joseph, MD
Jimmy L. Strong, MD
Arthur F. Evans, MD
Donald R. Butts, MD



2009 Board of Governors

(L-R) : Arthur F. Evans, MD, Alan C. Baum, MD, Donald R. Butts, MD, Bob Fields, Dave W. Kittrell, MD, Robert I. Parks, MD, Stuart D. McDonald, MD, Cristie Columbus, MD, David G. Joseph, MD, Jimmy L. Strong, MD

1979

- TMLT begins issuing policies. Mario Ramirez, MD, is the first policyholder.
- John Lomenzo named president. TMLT employs 15.
- TMLT commits to building a statistical database.
- Reinsurers are Lloyds of London.
- Assets: \$7,657,294; Surplus: \$3,262,573
- TMLT ends the year with 1,134 policyholders

1980

- Marketing department was established. The marketing theme was Strong. And Getting Stronger.
- First year physician 40% discount introduced.
- Published a claims and risk control reporting manual *A Positive Approach to a Strong Defense*.
- TMLT and TMA collaborate on developing a pilot educational video program for effective patient safety and liability control. The TMLT Patient Safety and Risk Control Committee was established.
- Assets: \$13,165,267; Surplus: \$4,244,155
- TMLT ends the year with 1,640 policyholders.

1981

- TMLT offers broader limits of liability, introducing \$2/\$3 million limits.
- In-house claims attorney is hired.
- TMLT strongly enforces its posture of defending defensible claims. Large settlements and awards are commonplace in the US and Texas is not immune; TMLT must anticipate the possibility of developing problems.



- Claims and losses are higher than expected.
- Assets: \$21,164,500; Surplus: \$6,309,298
- TMLT ends the year with 2,100 policyholders.

1982

- TMLT achieves a small net profit.
- A general rate increase was implemented, reclassified anesthesiologists from Class 5 to 5A.
- Conducted the Trust's first loss prevention seminars in regional Texas cities, extending an 8% premium credit to attending policyholders.
- TMA and TMLA collaborate on a second loss prevention film.
- TMLT continues to resist frivolous claims.
- Assets: \$29,898,000; Surplus: \$8,466,000
- TMLT ends the year with 2,600 policyholders.



1983

- TMLT celebrates its fifth anniversary.
- First partial return on surplus deposit issued.
- Liability premiums nationwide are escalating; TMLT remains stable.
- Claims severity is higher than expected.
- Assets: \$40,501,000; Surplus: \$9,460,000
- TMLT ends the year with 2,900 policyholders.

1984

- AMA special report prepared by the Special Task Force on Professional Liability and Insurance indicates more claims are being filed against

physicians than ever before. A medical liability insurance availability crisis is developing.

- TMLT implements a sizable premium increase based on claims data and the projection of a worsening liability situation in Texas.
- To date, TMLT has returned about \$1.2 million in surplus to policyholders.
- TMLT implements a management control system to handle loss adjustment expenses.
- TMLT analyzes their policyholder data to identify major causes of claims.
- TMA and TMLT collaborate to introduce additional medical liability prevention films for physicians.
- Assets: \$53,235,000; Surplus: \$10,490,000
- TMLT ends the year with 3,419 policyholders.

1985

- TMLT continues to strengthen reserves in the interest of maintaining long range financial stability. Premium rates increased significantly.
- Claims and lawsuits are rapidly growing in frequency and severity. Judicial inflation and legal costs are a major portion of paid losses.
- The reinsurance market has become restrictive.
- There is a demanding need for tort reform expanding throughout the US.
- Assets: \$71,608,000; Surplus: \$10,150,000.
- TMLT ends the year with 3,795 policyholders.

1986

- TMLT's operating expense ratio is less than 10%, showing the company is operating efficiently.

- TMLT increased premiums because of the volatility of the medical liability arena.
- The largest growth in numbers of policyholders recorded to date. TMLT ends the year with 4,440 policyholders.
- Assets: \$88,090,000; Surplus: \$12,203,000

1987

- Policyholders received a rate increase.
- TMLT spearheaded a data project with two other carriers showing that claim severity and costs were escalating.
- Collaborated with TMA to promote tort reform.
- Policyholder count continues to grow. TMLT ends the year with 4,721 policyholders.
- Assets: \$111,145,000; Surplus: \$16,826,000

1988

- Rate increase was approximately 50% of the 1987 rate increase.
- 75% of claims closed without indemnity payment.
- TMLT focuses on expanding risk management services.
- Advertising slogan “Together with you, we are Partners in Trust.”
- Tenth year of uninterrupted policyholder growth. TMLT ends the year with 5,082 policyholders.
- Assets: \$137,681,000; Surplus: \$19,682,000

1989

- TMLT celebrates its 10th anniversary.
- Rates are reduced for a number of specialties.
- Retirement age was lowered for claims-made policies.
- Monthly premium payment option is introduced.
- Win ratio in the courtroom of 90%.

- Policyholder count reaches 5,128.
- Assets: \$164,278,000; Surplus: \$23,913,000

1990

- Rates were again reduced for many medical specialties.
- Cost of tail coverage reduced.
- Cost reduced for partnership policies
- Master Group policy was introduced.
- Medical liability arena continues to be explosive.
- Policyholder count reaches 5,326.
- Assets: \$194,218,000; Surplus: \$28,779,000

1991

- Introduced special individual physician discount program based on loss experience.
- President John Lomenzo retires; Sam T. Branham is hired as the new president and CEO.
- Occurrence Plus insurance was introduced.
- Partial return of surplus was made to policyholders.
- Rates held steady without any increase.
- Policyholder count is 5,675.
- Assets: \$215,965,000; Surplus: \$35,795,000

1992

- TMLT receives full endorsement from the Texas Medical Association (TMA).
- TMLT receives full endorsement from the Texas Academy of Family Physicians and becomes a charter member of the Golden Circle Educational Grant Program.
- TMLT rating territories expanded from 2 to 5.
- Claims and Underwriting departments were reorganized and expanded.

- Marketing committee was established.
- TMLT added 867 new policyholders.
- Assets: \$237,174,000; Surplus: \$37,946,000

1993

- TMLT had a win record in the courtroom of 94%.
- Communications, Marketing, and Risk Management departments reorganized as Business Development.
- New policies issued increased 23%.
- Assets: \$299,537,000; Surplus: \$46,079,000

1994

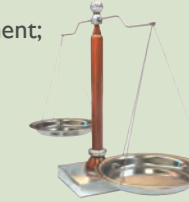
- TMLT’s 15th anniversary — policyholder count exceeds 7,500.
- TMLT earns the endorsement of the Dallas, Tarrant, and Travis county medical societies.
- TMLT added 1,400 new policyholders.
- Group accounts increased by 40%.
- Assets: \$208,297,000; Surplus: \$42,653,000

1995

- Texas Medical Insurance Company (TMIC) becomes active.
- The Texas Department of Insurance (TDI) orders a rate rollback for regulated carriers. TMLT participates voluntarily.
- TMLT takes leadership role in pursuing tort reform.
- 87% of claims closed without indemnity payment; 94% win record in the courtroom.
- TMLT added 1,141 new policyholders.
- Assets: \$347,000,000; Surplus: \$72,545,000
- Sam Branham resigns.

1996

- Tom Cotten is named president and chief executive officer.
- TMLT becomes a Gold Corporate Affiliate of the Texas Medical Group Management Association.
- TMIC offers a complete line of liability products for physicians in managed care organizations.
- Claim severity increases.
- 87% of claims close without indemnity payment; 94% win record in the courtroom.
- Policyholder count is 8,432.
- Assets: \$332,283,000; Surplus: \$83,611,000



1997

- TMLT moves headquarters to Barton Oaks Plaza, Building V.
- Medefense coverage was added at no additional cost to policyholders.
- TMLT web site is launched.
- TMLT receives provisional accreditation from the Accreditation Council for Continuing Medical Education (ACCME).
- Policyholder count reaches 9,046.
- Assets: \$331,812,000; Surplus: \$92,911,000

1998

- TMLT receives initial rating from A.M. Best Company of A- excellent, the first such rating for a Texas domiciled medical liability company.
- TMLT appoints agents for the first time to assist in insurance marketing efforts.
- Policyholder count reaches 9,555.
- Assets: \$331,795,000; Surplus: \$94,611,000

1999

- TMLT celebrates its 20th anniversary

- TMLT earns the endorsement of the Harris and Bexar county medical societies.
- Claim frequency and severity continue an upward trend.
- TMLT 2000 campaign launches, alerting TMLT policyholders that a medical liability crisis is looming.
- TMLT announces rate increases averaging 13%.
- TMLT becomes fully accredited by the ACCME.
- Policyholder count reaches 10,068.
- Assets: \$307,207,000; Surplus: \$73,286,000

2000

- TMLT participates in TMA’s first medical liability data study to evaluate the three largest carriers in Texas. The study confirms that claim frequency and severity are escalating.
- The Texas Department of Insurance (TDI) finds that regulated medical malpractice companies in Texas lost a total of \$103.5 million in 1999. TMLT posted an \$11 million loss in 1999 as well.
- The policyholder count reaches 10,017.
- Assets: \$307,531,000; Surplus: \$65,659,000

2001

- TMLT participates in TMA’s second data study. Results show 1 in 4 physicians faced a malpractice claim in 2000.
- The TDI finds that regulated medical malpractice companies in Texas lost a total of \$229 million in 2000. TMLT lost \$7 million.
- TMLT joins the TMA in the formation of a medical liability consortium — the Texas Alliance for Patient Access (TAPA) — to pursue medical liability reform in 2003.
- TMLT’s annual report was presented online only. No print edition was issued to policyholders.
- Assets: \$333,905,000; Surplus: \$22,906,000

January 2002

- The TDI announces the number of medical liability carriers in Texas dropped from 17 to 4 in one year. TMLT continues writing business for all specialties in all areas of the state.

April 5, 2002

- Texas Governor Rick Perry announces a plan to solve the medical liability crisis in Texas. Among the governor’s suggestions, capping noneconomic damages at \$250,000.

May 6, 2002

- House Committee on Insurance holds a public hearing on medical liability insurance. TMLT staff testify before the committee.

July 2002

- In the face of a decline in surplus due to claim frequency and severity, TMLT announces surplus call to policyholders.

September 2002

- TMLT staff serve on the TAPA legislative committee to develop a health care liability reform agenda modeled after California’s MICRA statute.

December 2002

- Policyholder count reaches 10,489.
- Assets: \$428,018,000; Surplus: \$67,710,000

2003

January 24, 2003

- Governor Perry declares medical liability reform an emergency issue for the 78th Texas Legislature.

June 2, 2003

- The Texas Legislature passes House Bill 4, including a \$250,000 cap on noneconomic damages.

June 2003

- The historic “rush to the courthouse” begins. From June to October 2003, the TMLT claim department received 1,489 lawsuits, compared with 523 lawsuits received June to October 2002.

Summer 2003

- The *Wall Street Journal* publishes an editorial calling the Texas medical liability reforms, “Ten-Gallon Tort Reform.”

September 2, 2003

- TMLT announces it will reduce rates by 12% if the voters pass Proposition 12, the constitutional amendment allowing the legislature to set caps on noneconomic damages.

September 13, 2003

- Proposition 12 passes, ensuring the medical liability reform measures enacted in 2003 will withstand judicial scrutiny. TMLT announces rate reductions of 12%, to take effect January 1, 2004.

October 2003

- TMLT awarded Accreditation with Commendation by the ACCME.

December 31, 2003

- TMLT ends 2003 with 10,922 policyholders.
- Assets: \$507,614,000; Surplus: \$93,941,000

2004

- TMLT celebrates its 25th anniversary.
- TMLT announces another 5% rate reduction to take effect January 1, 2005.
- Policyholder count reaches 12, 246.
- Assets: \$550,505,000; Surplus: \$147,675,000z

2005

- TMLT awards \$35,000 in medical student scholarships in the first TMLT Memorial Scholarship competition.

October 2005

- TMLT Board of Governors votes to pay policyholders a 5% dividend credit upon renewal based on Trust earnings and strong capital position. The dividend amounts to approximately \$10 million.

- TMLT again reduces rates by 5% effective January 1, 2006.

- The practice review discount is increased to 5%.

- Policyholder count reaches 13,220.

- Assets: \$588,706,000; Surplus: \$202,414,000

2006

- *You’ve Been Sued: Successfully Navigating the Litigation Process*, TMLT’s first DVD-based CME program is released by the TMLT Risk Management Department.

August 2006

- Tom Cotten resigns. Bob Fields is named Acting President and Chief Executive Officer.

September 2006

- TMLT awards \$40,000 in Texas medical school scholarships.

October 2006

- TMLT Board of Governors votes to pay policyholders a 20% dividend credit upon renewal. The dividend amounts to approximately \$35 million.

- TMLT announces another 7.5% rate reduction effective January 1, 2007.

December 31, 2006

- TMLT wins 73 of 75 cases taken to trial. Indemnity payout is reduced by \$25 million. This represents the highest win percentage record and the lowest trial loss record in TMLT history.

- Policyholder count is 14,163.

- Assets: \$654,436,000; Surplus: \$227,665,000

2007

July 2007

- Bob Fields is named President and Chief Executive Officer.

September 2007

- TMLT awards \$40,000 in Texas medical school scholarships.

October 2007

- TMLT Board of Governors votes to pay policyholders a 22% dividend credit upon renewal. The dividend amounts to approximately \$35 million.

- TMLT announces another 6.5% rate reduction effective January 1, 2008.

December 2007

- Policyholder count is 14,485.

- Assets: \$662,384,000; Surplus: \$254,042,000

2008

January 2008

- The IN RE WATSON case was filed in Dallas, marking the first federal constitutional challenge to the Texas \$250,000 damage cap.

- October 2008

- TMLT Board of Governors votes to pay policyholders a 22.5% dividend credit upon renewal.

- TMLT announces an average 4.7% rate reduction effective January 1, 2009.

December 2008

- Policyholder count reaches 14,986.

- Assets: \$666,974,000; Surplus: \$275,075,000

2009

September 2009

- TMLT Board of Governors votes to pay policyholders a 24% policyholder dividend upon renewal. The dividend amounts to approximately \$36 million and is the largest percentage dividend in Trust history.

- TMLT announces a 1% rate reduction effective January 1, 2010.

- Policy count exceeds 15,300 and growing.

A

s you can see, the story of TMLT is, mainly, a story about people. The attorney who created our company as a trust, Ace Pickens, once told me that the difference between TMLT and all the other companies who failed to grow or survive during these past 30 years, was the quality of its people.

I have had the privilege of knowing almost all of these great leaders during my 23 ½ years with TMLT and I could not agree more with Mr. Pickens.

For those physician leaders in the TMA who created TMLT back in the mid-1970s . . . Thank you for your vision of what you wanted this company to be and thank you for all your efforts to make your vision a reality.

For all the physician board members who took the baton of leadership from these founding fathers . . . Thank you for keeping us on course during these many years.

For all the CEO’s and talented insurance staff members of TMLT who worked so hard to grow the company, achieve changes in the legal environment, and defend our policyholders over the past three decades . . . Thank you for your creativity, perseverance, and dedication.

And, finally, for all the thousands of TMLT policyholders who have entrusted their defense and well being to our company . . . Thank you for believing in us, and thank you for your business.

We look forward to serving your needs and growing this company in service and excellence in the future.



Bob R. Fields
President & CEO





30 year anniversary employee meeting



30 year anniversary employee meeting

2009 TMLT defense council



OUR VISION

TMLT is the most respected and preferred provider of medical professional liability coverage and related products in Texas. Through the efforts of our team of qualified professionals and physician insureds, we sustain TMLT's premier position in quality of coverage, service, market share, and financial integrity.

OUR PURPOSE

Our purpose is to make a positive impact on the quality of health care for Texans by educating, protecting, and defending physicians. We provide peace of mind to our policyholders and a supportive work environment for our team members.

OUR MISSION

Our mission is to be on the leading edge of industry change to provide a standard of coverage and service to our policyholders by which all others are compared.





