



James E. Mercer, DDS
Chairman of the Board

PO Box 210738
Columbia, SC 29221

Accountability Report Fiscal Year July 1, 2006 – June 30, 2007

Section I – Executive Summary

The South Carolina Medical Malpractice Patients' Compensation Fund (PCF) is a state agency, which was created by the General Assembly in 1976 for the specific purpose of providing medical malpractice coverage in excess of South Carolina healthcare provider's basic or primary insurance coverage. The PCF is authorized by Sections 38-79-410 through 38-79-490 of the South Carolina Code of Laws. The PCF is self-supportive through annual member fees and assessments, when appropriate. The PCF currently receives no federal, state or other funding. The PCF operates under the direction of a thirteen-member Board of Governors. The PCF contracts with the SC Joint Underwriting Association to provide a professional insurance brokerage and risk management services with the firm of Marsh USA, Inc., that provides underwriting services, claims & legal services to the PCF and its Board of Governors.

With the passing of S.83 *The Medical Malpractice Tort Reform*, the responsibility of the management of the funds of the PCF has been transferred to the Board of Governors of the PCF. The funds are deposited into two accounts, a Treasury account and an Investment Account. The Operating Fund of the PCF remains with the State Treasurer. The Operating Fund with the State Treasurer holds the funds of the PCF Budget. All accounts are interest bearing accounts. The Board of Governors is charged with closely monitoring and managing of all accounts.

The PCF issues certificates of membership and collects membership fees. All South Carolina licensed health care providers may participate in the Fund and maintain the participation by remitting to the Board the appropriate membership fees and deficit assessments as are required by the Board on or before the provider's membership anniversary date. Annual fees are set by the PCF Board of Governors on an annual basis effective June 1st of each year. Furthermore, the PCF monitors claims and lawsuits against its members, which are investigated, handled and

defended by the basic insurance carrier. The PCF pays any portion of settlements and/or judgments that are in excess of the member's basic coverage up to the member's limits of coverage. The PCF affords the same coverage that is afforded by the member's basic insurance policy, except for the amounts of liability coverage, which vary depending on the requests of the members. The PCF statute requires a minimum limit of \$200,000 per claim and \$600,000 annual aggregate of all claims under the member's basic coverage.

The PCF continues to make many positive changes under the direction of the Board of Governors. These positive changes consist of the following:

- *Approval of a \$25,000.00 contribution to the Senate's actuary study for the Birth Related Injury Fund*
- *Continual updating of the PCF Manual of Rules and Rates and the PCF Plan of Operations*
- *Approval of claims-made coverage for members interested*
- *Approval of a shared limit endorsement which allows the individual practitioner and his professional association to share one limit*
- *Approved 9.2% rate increase for the lower limits of coverage (1Million/3Million; 3Million/6million; 5Million/7Million; and 10Million/12Million)*
- *Approved a 15% increase for unlimited coverage (the lowest increase in five years)*
- *Approved and implemented membership payment, renewals and new membership applications through the PCF website (www.scpcf.com)*
- *Continues to offer limits of coverage for members ranging from \$1,000,000 per occurrence/\$3,000,000 per annual aggregate up to unlimited coverage*
- *Became a supporting partner of the 5 million Lives Campaign*
- *Approved the Risk Management Contract through the SC Hospital Association for risk assessments to PCF member hospitals*
- *Approved joint partnership with the SC Joint Underwriting Association for risk assessments of physician practices through SC Medical Association*
- *Established a customer service survey published on the PCF website*
- *Continues to support customer focused service to all PCF members*

The mission of the PCF:

“To provide excess medical liability coverage to its members who are South Carolina licensed healthcare providers at an affordable cost. The objective is to better serve the citizens of South Carolina through a viable and adequately funded malpractice program for physicians, dentists, hospital and other healthcare facilities. The PCF Board of Governors is committed to strengthening and preserving the Patients' Compensation Fund in order to assure that the licensed healthcare providers of South Carolina have adequate liability and litigation protection.”

PCF's vision is to be the premier provider of excess professional liability insurance and risk management services for the licensed healthcare providers of the state of South Carolina. Our values include:

- Focus on the needs of our members.
- Support and respect all healthcare providers and related relationships.
- Establish a culture of consistency and fairness in our performance.
- Provide leadership with knowledge-based decisions and operate with integrity.
- Embrace change through continuous improvement.
- Work together as a team.
- Make a difference in the community.
- Utilize best business practices.

The PCF provides customer services to its members through enrollment of new members, renewal of current members, collection of fees and assessments and payment of claims. It provides credentialing information to hospitals and managed care organizations in a prompt and accurate fashion.

Assessment

The PCF Board of Governors again determined that a premium assessment was **not** necessary during this fiscal year. The last assessment was in June 2000. The statute grants the Board the authority to make assessments under Section 38-79-450 of the Code of Laws of South Carolina, 1976.

Rate Increase

Following an actuarial review, which was conducted at the direction of the South Carolina Department of Insurance, the PCF Board of Governors voted to implement the following rate increases for the varying limits of coverage:

- \$1,000,000 per occurrence/\$3,000,000 annual aggregate – 9.2% increase
- \$3,000,000 per occurrence/\$6,000,000 annual aggregate – 9.2% increase
- \$5,000,000 per occurrence/\$7,000,000 annual aggregate – 9.2% increase
- \$10,000,000 per occurrence/\$12,000,000 annual aggregate – 9.2% increase
- Unlimited coverage – 15% increase

Approximately 5% of the increase for the unlimited coverage is to be apportioned to assist in reducing the PCF's deficit. This increase was based on the actuary's recommendation and was approved by the PCF Board of Governors. The Board of Governors considered a number of factors in their deliberations for a rate increase, including reducing the PCF's deficit, competitive place in the commercial market, actuarial review and providing affordable protections for the healthcare providers in the State of South Carolina. Also included in the consideration of the rate increase this year was the potential future effect of Tort Reform. In a comparative study of rates for Anesthesiologist, the PCF Board approved only a 3.2% increase for this specialty for the lower limits of coverage. This action supports the Board desire to stay competitive in their rates while maintaining adequate rates.

The PCF Board continues to surcharge any licensed healthcare providers who have had issues with regards to their State Board licensing. This surcharge applies to criminal activity, sanctions,

license revocation or restrictions of the physician's license to practice medicine. The surcharge will remain with the member for a ten (10) year period and is reduced after five (5) years. An inquiry is made to the State Board of Medical Examiners on each new member who applies to the PCF.

The PCF Board of Governors continues to review the surcharge for experience rating. A member is surcharge based on frequency and amounts of paid claims. The length of time of the surcharge remains for 10 years.

Section II – Business Overview

Effective April 1, 2007, the PCF Board of Governors elected James E. Mercer, DDS as the new Chairman of the Board. Dr. Richard Kennedy was elected to the position of Vice Chairman and Bruce MacKay was re-elected as Secretary-Treasurer.

Dr. Edward Catalano has served as Board Chairman for seven (7) years. With his replacement comes his retirement from the PCF Board of Governors. Dr. Catalano served the PCF through its years of upheaval following the Legislative Audit Review. The PCF Board appreciates his strong, sound leadership and will sorely miss his presence on the Board of Governors.

The Patients' Compensation Fund now functions with a staff of five full-time equivalent employees. Included are two Administrative Assistants, one Program Coordinator, one Program Manager and the Executive Director.

At the close of the fiscal year, the PCF had a membership total of 6320. This includes one nursing home, 44 clinics, 4 hospitals, 709 professional associations, 4,068 physicians, 804 dentists and oral surgeons, 338 nurses and techs, 210 physicians' assistants, 119 CRNAs, 23 pharmacists and other healthcare providers. The PCF paid a total of \$42,361,839.47 for claims, settlements and judgments during the fiscal year. This is an estimated decrease of 5% from last fiscal year. The PCF collected \$39,561,105.92 in membership fees which constitutes an approximate decrease of 8% from last fiscal year.

The PCF is an organization that works extensively with legal counsel for claims defense, expert witnesses, and claims investigations, all in conjunction with the primary carrier. The effective selection, coordination and management of these professionals are critical to the success of the PCF. It requires professionals with special skills and a high work ethic. For all of the PCF claims that went to trial, this past fiscal year we have seen 95% of the claims result in defense verdicts. As previously stated our total claim payouts decreased 5%.

This year we have seen a 25% decrease in actual case reserves. This along with the 5% decrease in claim payments has improved the economic outlook of the Fund.

There has been a slight drop in our physician membership which we believe is due to the continuing practice of South Carolina hospitals purchasing physician practices. This, along with the decrease in PCF limits, accounts for the 8% decrease in membership fees

Section III – Leadership

The Board of Governors is composed of three physicians, two dentists, two hospital representatives, two insurance representatives, two attorneys, and two representatives of the general public, all appointed by the Governor. The appointed members serve a term of six years. Currently we are awaiting the replacement of one physician member and one at-large member. The Governor recently appointed the defense attorney member and one at large member.

The Board continues to amend its Plan of Operation and Manual of Rules and Rates for efficient administration of the Fund, consistent with the provisions of the Plan of Operations and Article 5 of the enabling legislation.

Strategic Planning

A Strategic Planning Committee continues to meet for the purpose of extensive planning for the future of the PCF. The Strategic Planning Committee was established in April 2005.

The Board continues ongoing revisions to the Plan of Operation, Underwriting Manual of Rules and Rates and Claims Handling Procedures. The Board continues to review and considers legislative changes, which will allow for the more efficient operation and management of the Fund. One initiative that the Board is supporting is clarification and/or exclusion in the PCF Governing statute as it relates to the PCF's requirement of offering unlimited coverage to PCF members.

The plan of operation details procedural information that provides for the economic, fair and nondiscriminatory administration and for the prompt and efficient provision of excess medical malpractice insurance. The plan contains other provisions including, but not limited to, assessment of all members for expenses, deficits, losses, reasonable underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers and procedures for determining the amounts of insurance to be provided by the Fund. The plan of operation and any amendments to the plan are subject to the approval of the Director of the Department of Insurance or his designee.

Customer Focus

The Fund provides customer services to its members through enrollment of new members, renewal of current members, collection of fees and assessments, payment of claims and membership inquiries. It provides credentialing information to hospitals and managed care

organizations. The Board is pleased to roll out the interactive portion of the PCF website to facilitate payment of membership fees (annual and quarterly), confirm coverage and apply through the PCF website.

The Board continues to authorize the revision of the membership agreement and the development of applications to better serve its members. The Board continues to allow its members to pay their annual membership fee on a quarterly basis, with a small handling fee.

Physicians and dentists that attend the South Carolina Medical Association and South Carolina Dental Association Risk Management Seminar, which is sponsored by the South Carolina Medical Malpractice Liability Insurance Joint Underwriting Association (JUA), receive a discount in their annual membership fee. The discount is equivalent to a maximum of 25% of the base premium, up to a maximum of \$2,000. It is a one-time discount fee. The discount does not apply to a physician's professional association.

The healthcare providers are credentialed by hospitals, insurance companies and managed care organizations. In order to obtain hospital privileges and participate in managed care organizations, healthcare providers must show proof of professional liability insurance coverage, as well as any claims history. The PCF receives approximately 6,000 requests for this information annually and the PCF provides these requests to its members with a sense of urgency. The PCF website now allows for approved hospitals, insurance companies and managed care individuals to confirm coverage through the website. Obtaining claims information continues to require a signed authorization from the PCF member.

Also provided to our members at no charge is Locum Tenens coverage for physicians who have to be away from their practice for up to 45 days per member year. This coverage extends the member coverage to their substitute physician.

This year a Customer Service Survey has been added to the PCF website. This survey is reviewed regularly for customer comments as it relates to additions to our website as well as ways to better serve our PCF members.

Information and Analysis

The Agency has upgraded its computers and technology equipment throughout the period. This includes the purchase of new computers, monitors, needed software and a new server. The Board approved moving our server back on-site. Also approved was the addition and control of email received at the PCF. This has greatly improved our efficiency in continuing to serve the PCF customers and eliminated some processing issues. The Agency continues to utilize the services of an independent vendor for programming purposes, which are critical to the ongoing service efforts based on customer needs.

The PCF continues to update the website with current information focusing on changes in the medical malpractice industry. The website can be accessed at www.scpf.com. An important part of our website is the interactive portion of the website that allows new members to apply on-line and current members to pay their membership fees on line and verify their coverage. It also provides access to hospitals and managed care organizations that require updated

membership information. The PCF data is updated daily to provide members and other approved groups access to current PCF membership information.

The PCF entered into an agreement with SC Portal to facilitate the transfer of PCF funds from the PCF website to the PCF Treasury account. The SC Portal has been instrumental in establishing the sc.gov website. For a minimal charge (\$1.00 per transaction) to our members the SC Portal manages the fund transfers.

Approval has been given by the PCF Board to research new software programs to support the PCF database. Historically, we have had problems with “real time” reporting and have had difficulty obtaining correct data for year end reports. Our current program is an access database and met the needs of the PCF when it was first developed. Because of the expansion of rating and policy processes we feel the need to change the platform for easier access, case management documentation and report processing. The PCF IT Committee will be responsible for selection of the software vendor and making a recommendation on the new software for full board approval.

Human Resources Focus

As previously stated, the Agency now consists of five full-time employees. The Director has filled all vacant positions with current and/or part-time employees. She, along with the Board of Governors, continues to closely monitor the employees’ ability to meet the demands and needs of its members. All required OHR reporting is completed in a timely manner.

The PCF Executive Director was nominated and chosen to enroll in the Certified Public Manager (CPM) Certification program through the State Office of Human Resources. She graduated from the CPM program in this past May. Her CPM project consisted of the development and implementation a PCF Customer Service Survey. The survey focuses on the mission and vision of the PCF as it relates to our external customers. This survey is now available on the PCF interactive website as well as random mailing to PCF members and former members that leave the PCF during the current fiscal year. We anticipate that this survey will serve to measure the performance of the PCF staff as it relates to our customer focused initiatives.

For the first time the PCF held a staff retreat. The meetings focused on time management, team building, customer service and improving the day-to-day operations of the Fund. The two day retreat was held at Hickory Knob State Park. Because of the positive results annual retreats are being considered.

Management Controls

Following the Legislative Audit Council’s report of January 2000, a new PCF Board of Governors was appointed. The PCF has implemented the following management controls to ensure the proper administration of the Fund:

- Written policies and procedures
- No longer grant retroactive coverage after a claim is filed

- All information from primary insurer is verified including proper documentation of loss dates, settlement amounts and coverage before payment is made by the Fund
- Controls implemented to ensure accuracy in its computer database
- Implementation of proper computer training to assure all employees have the necessary skills to service our members
- Proper procedures established to ensure timely reporting of claims by the basic carrier and its members
- PCF reports all claims to the National Practitioner Database as required
- PCF does not use proxies for voting and quorums. Confidential matters are discussed in Executive Session. Minutes are taken for all Board Committee Meetings
- One PCF Board members appointment is awaiting executive approval
- By statute, the PCF has authority to determine amount of insurance to be provided. The PCF implements variable limits effective July 1, 2003. The PCF continues to offer the option of unlimited liability to its members
- The promotion of the Program Manager to fill the position of Executive Director on September 4, 2003

New Initiatives

The PCF continues to be involved in initiatives of the SC Hospital Association which include the 5 Million Lives Campaign, the Patient Safety Committee and the American Society for Healthcare Risk Management. Along with these initiatives, the PCF is involved with the development and improvement of Bariatric Surgery Guidelines.

A new initiative is the development and implementation of guidelines of the “Sorry Works” program which supplements the passage of the SC Unanticipated Medical Outcome Reconciliation Act. The PCF is working in a joint effort with the Palmetto Health Liability Insurance Program (PHLIP) and the SC Joint Underwriting Association to role out a Sorry Works program that conforms with the Reconciliation Act. The intent is to have two pilot programs in different areas of the state

Business Results

The principal challenge of the PCF is to retain current members and at the same time, increase premiums to reduce the loss reserves liability. Revenue is needed to maintain agency solvency, but there is a delicate balance, as a significant loss in members would result in a dramatic increase in premiums for those members who remain in the Fund. The other significant challenge is to manage the claims process effectively and coordinate same with the primary carriers for satisfactory resolution of all claims.

The goal of the PCF is to provide medical professionals with effective and cost efficient medical malpractice liability coverage, while ensuring that the PCF is in a financially sound position to pay all of its liabilities. The PCF continues to meet all financial obligations while remaining on a pay-as-you-go basis.

Accountability Report Appropriations/Expenditures Chart

Base Budget Expenditures and Appropriations

Major Budget Categories	FY 05-06 Actual Expenditures		FY 06-07 Actual Expenditures		FY 07-08 Appropriations Act	
	Total Funds	General Funds	Total Funds	General Funds	Total Funds	General Funds
Personal Service	\$ 263,480	\$ -	\$ 253,106	\$ -	\$ 320,880	\$ -
Other Operating	\$ 614,027		\$ 617,419		\$ 677,915	
Special Items						
Permanent Improvements						
Case Services						
Distributions to Subdivisions						
Fringe Benefits	\$ 71,833		\$ 65,145		\$ 83,375	
Non-recurring						
Total	\$ 949,339	\$ -	\$ 935,669	\$ -	\$ 1,082,170	\$ -

Other Expenditures

Sources of Funds	FY 05-06 Actual Expenditures	FY 06-07 Actual Expenditures
Supplemental Bills	\$ -	\$ -
Capital Reserve Funds	\$ -	\$ -
Bonds	\$ -	\$ -

Major Program Areas

Program Number and Title	Major Program Area Purpose (Brief)	FY 05-06 Budget Expenditures	FY 06-07 Budget Expenditures	Key Cross References for Financial Results*
1327 Membership Services	Provides underwriting and membership services to PCF members	State: Federal: Other: 484,163.00 51% Total: % of Total Budget: 51%	State: Federal: Other: 477,192.00 51% Total: % of Total Budget: 51%	N/A
1328 Risk Management Services	Contract through South Carolina Hospital Association and South Carolina Medical Association to provide risk evaluations of member Physicians and Hospitals	State: Federal: Other: 56,960.00 6% Total: % of Total Budget: 6%	State: Federal: Other: 56,140.00 6% Total: % of Total Budget: 6%	N/A
1329 Claims Services	Oversight management of Basic Carrier's claims services. Evaluate PCF claims for settlement.	State: Federal: Other: 85,440.00 9% Total: % of Total Budget: 9%	State: Federal: Other: 84,210.00 9% Total: % of Total Budget: 9%	N/A
1330 Administration	Direct management of all day to day operations of the agency.	State: Federal: Other: 142,401.00 15% Total: % of Total Budget: 15%	State: Federal: Other: 140,350.00 15% Total: % of Total Budget: 15%	N/A
1331 Contractual Services	Services contracted with the SC Joit Underwriting Association for claims and underwriting services	State: Federal: Other: 180,375.00 19% Total: % of Total Budget: 19%	State: Federal: Other: 177,777.00 19% Total: % of Total Budget: 19%	N/A

Below: List any programs not included above and show the remainder of expenditures by source of funds.

Remainder of Expenditures:	State: Federal: Other: Total: % of Total Budget:	State: Federal: Other: Total: % of Total Budget:
-----------------------------------	---	---

* Key Cross-References are a link to the Category 7 - Business Results. These References provide a Chart number that is included in the 7th section of this document.

Strategic Planning

Program Number and Title	Supported Agency Strategic Planning Goal/Objective	Related FY 06-07 Key Agency Action Plan/Initiative(s)	Key Cross References for Performance Measures*
1327 Membership Services	Updating the PCF Manual of Rules and Rates with Board approved changes. Consideration of legislative changes to eliminate unlimited coverage.	To maintain the highest degree of customer service to the PCF members to maintain our membership base.	N/A
1328 Risk Management Services	Risk Management services to reduce potential risks to the PCF members by evaluation of physician practices and hospital policies.	Attempt to reduce claims/risk associated with the treatment of the patients of the PCF members. This will ultimately reduce claim payouts and increase the balance and stability of the Fund	N/A
1329 Claims Services	Ongoing communication with the Claims Division of the Basic carrier. Periodic claims reserve reviews. Continued monthly communication with the PCF Claims Committee	To maintain stability and increase to balance of PCF funds to insure stability in the future.	N/A
1330 Administration	Continue close oversight of internal employments practices, human resources issues	To maintain employee satisfaction with little to no reduction in the PCF workforce.	N/A
1331 Contractual Services	Maintain oversight and review of services contracted through this agency	To maintain the highest degree of services to the PCF members.	N/A

* Key Cross-References are a link to the Category 7 - Business Results. These References provide a Chart number that is included in the 7th section of this document.