



AUDITOR GENERAL

WILLIAM O. MONROE, CPA



OFFICE OF INSURANCE REGULATION

CLOSED CLAIM DATABASE

Operational Audit

SUMMARY

Our audit included an examination of the effectiveness of the Office of Insurance Regulation (OIR) procedures for reasonably ensuring the accuracy and completeness of the Closed Claim Database (CCD) during the period January 7, 2003, through February 29, 2004. As noted below, our audit disclosed several concerns relating to the effectiveness of the OIR procedures:

Finding No. 1: A substantial number of database records contained either incomplete or incorrect data. Absent correction of these errors, the database will produce misstated and incomplete reports.

Finding No. 2: No methodology was in place to verify that all closed claims were reported by insurers and self-insurers. Absent policies and procedures to address the detection of unreported closed claims, the OIR lacks reasonable assurance of the completeness of the closed claim database.

BACKGROUND

Section 627.912, Florida Statutes, as amended, requires insurers and self-insurers to report information relating to closed medical malpractice claims to the Office of Insurance Regulation (OIR). To maintain a means for recording, summarizing, and reporting the information received, the OIR administers the closed claim database (CCD), which has, until recently, consisted of two separate systems: the Insurer Closed Claim (ICC) System, in operation from 1975 to 1998, which was used to record closed claim information

submitted by insurers on paper forms and subsequently entered into the ICC system via key-punched data cards; and the Department Closed Claim System (DCCS), in operation from 1998 through mid-2004, which consisted of closed claim information submitted by insurers on computer diskettes for upload into the DCCS.

Recent efforts by the Florida Legislature to address medical malpractice insurance issues disclosed concerns regarding the availability, completeness, and accuracy of medical malpractice closed claims information. In an effort to address these concerns, Section 82, Chapter 2003-416, Laws of Florida, provided a \$1.45 million 2003-04 fiscal year appropriation. According to a Senate Banking and Insurance Committee bill analysis, a total of \$700,000 of this funding was to be allocated for the re-engineering and upgrading of the DCCS to an Internet Web-enabled system encompassing more comprehensive controls and edits.

A purchase order was issued on February 2, 2004, in the amount of \$535,000 to re-engineer and Web-enable the current DCCS. (The data stored on the ICC System [1975 to 1998 closed claim data] will not be migrated to the new system.) The project was completed on July 1, 2004. The new system is known as the Professional Liability Claims Reporting (PLCR) System.

Along with the annual financial reports filed by insurers, the PLCR System will be a primary source of

the information used to produce the annual report required of the OIR by Section 627.912(6)(b), Florida Statutes, as amended by Chapter 2003-416, Laws of Florida. According to the statute, the annual report must be prepared by October 1 of each year, beginning in 2004, and must include:

- An analysis of closed claim reports of prior years, in order to show trends in the frequency and amounts of claims payments, the itemization of economic and non-economic damages, the nature of the errant conduct,¹ and such other information as the OIR determines is illustrative of the trends in closed claims.
- An analysis of the state of the medical malpractice insurance market in Florida, including an analysis of the financial reports of those insurers with a combined market share of at least 80 percent for the prior calendar year.
- A comparison of the National Association of Insurance Commissioners' loss and profitability ratios for medical malpractice in Florida compared to other states.
- A summary of the rate filings for medical malpractice which have been approved for the prior calendar year, along with an analysis of the trend of direct and incurred losses as compared to prior years.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Data Migration

An important step in the design and implementation of a new system, such as the PLCR System, is the migration of data from the existing system to the new system. Should the data from the old system be inaccurate, incomplete, or otherwise deficient, the usefulness of the new system will be adversely impacted. In recognition of the importance of the quality of the old system's data, the PLCR System project appropriately included a deliverable that required the contractor to analyze the existing professional liability closed claim collection system and

databases. OIR indicated that the analysis was completed by the contractor and discussed with OIR staff during Joint Application Development sessions. The OIR advised us that a written report describing the analysis was not required of the contractor, although the OIR did prepare a memorandum describing the results of the analysis.

A May 3, 2004, OIR Memorandum for the Record entitled Migration of Data to the Professional Liability Claims Reporting (PLCR) System stated, “. . . data stored in the DCCS system, which comprises approximately 8,200 records, has been determined to be very good as a result of intensive data research and analysis. Only 200 of a total of 8,200 records, or approximately 2.4% of these records, have been found to contain questionable data, resulting from these records containing multiple insureds for a single claim.” Based on the recommendation of the contractor, OIR management concluded that the data stored on the DCCS would be migrated into the PLCR System and that the 200 records would be flagged so that they will be clearly identified in the results of any searches of the PLCR System database that are initiated by system users.

As a part of our audit, we evaluated the accuracy of the DCCS information that was transferred to the PLCR System. In addition to the errors identified in the OIR Memorandum, our audit tests disclosed a substantial number of other data fields containing errors. We found that these data fields were either incorrect, improperly formatted, or lacking data. Absent correction of these database errors, the PLCR System will produce misstated and incomplete reports when the DCCS data is utilized.

For example, one of the required elements of the OIR's annual report is an analysis of the trends in the nature of the “errant conduct” which precipitated the submission of the closed claim. As shown in Table 1, audit analysis of the 8,918 records as of February 29, 2004, revealed that information necessary to a complete analysis of this topic was not available in the database.

¹Errant conduct, as defined by the OIR, is the medical event or nonevent leading to the filing of a medical malpractice lawsuit.

As another example, the Claims by Licensed Professional Report, an OIR-defined mission-critical report to be produced by the PLCR System, will also be affected by the types of errors disclosed by our audit tests. As shown in Table 2, our analysis disclosed numerous instances in which data fields contained incorrectly formatted or erroneous practitioner license numbers and names.

TABLE 1

Data field	Number of records missing information or containing non-descriptive information
Final diagnosis for which treatment was sought	126
Diagnostic Code	6,574
Description of the operation, diagnostic, or treatment procedure rendered causing the injury	1,031
Description of any misdiagnosis made of the patient's actual condition	458
Description of the principal injury giving rise to the claim	88

TABLE 2

Discrepancy	Number
Practitioner's license number did not match the Department of Health (DOH) database	17
First and last names reversed	4
Practitioner name not listed in DOH database	7
License number format incorrect	48
Typographical error in license number	13
Closed claim submitted without the practitioner's license number	26

Recommendation: We recommend that the OIR obtain a more thorough analysis of the DCCS database, fully evaluate the potential impact of the errors disclosed, and make a concerted effort to correct all critical DCCS database errors and omissions.

Finding No. 2: Detection of Unreported Claims

As indicated in the **Background** section of this report, Section 627.912, Florida Statutes, requires medical malpractice insurers and self-insurers authorized under Section 627.357, Florida Statutes, to report to the OIR any closed claim or action for damages for personal injuries. Section 627.912, Florida Statutes, also requires that fines be assessed for failure to report closed claim information to the OIR.

Our search for policies and procedures designed by the OIR to reasonably ensure the reporting of all closed claims disclosed:

- No methodology was in place to verify that all closed claims were reported by insurers and recorded in the DCCS.
- The PLCR System implementation plan did not include provisions that address the risk that self-insured practitioners may fail to report the required information.

Absent policies and procedures to address the detection of unreported closed claims, the OIR lacks reasonable assurance of the completeness of the closed claim database. As explained in succeeding paragraphs, our audit disclosed indications that all closed claims may not have been reported by insurers.

As a part of our audit, we compared the closed claim information shown in the DCCS for insurers for the calendar years 2001 through 2003 to the amounts shown as Direct Losses Paid² for each insurer in the National Association of Insurance Commissioners (NAIC) database. Due to timing and reporting differences, the NAIC Direct Losses Paid data and the DCCS amounts will not be equal. However, over a three-year period, one would expect to find that

² "Direct Losses Paid", as defined by the OIR, are the amounts paid during a fiscal period for the benefit of claimants.

insurers reporting direct losses to the NAIC would also have closed claims that should have been reported and recorded in the DCCS.

Contrary to this expectation, as shown by Table 3, we found that, based on the NAIC database, 24 insurers reported Direct Losses Paid in each of the three years included in our analysis, but according to the DCCS, did not, during any of the three years included in our analysis, report any closed claims. For these 24 insurers, for the three-year period 2001 through 2003, the direct losses paid, as recorded in the NAIC database, totaled \$324 million.

TABLE 3

Total Direct Losses Paid (2001-2003)	Number of insurers reporting to NAIC Direct Losses Paid but no closed claims in DCCS (2001-2003)
Under \$500,000	1
Between \$500,000 and \$2,499,999	8
Between \$2,500,000 and \$7,499,999	1
Between \$7,500,000 and \$14,999,999	5
Over \$15,000,000	9
Total	24

Source: Department Closed Claim System (DCCS) and the National Association of Insurance Commissioners (NAIC) database.

Recommendations:

We recommend:

- The OIR draft rules to require that insurers submit, on an annual basis, a reconciliation of the number and amounts of closed claims reported to the OIR to the amount of “Direct Losses Paid” reported to the NAIC.
- During the triennial on-site examinations of domestic insurers, required pursuant to Section 624.316, Florida Statutes, the OIR verify the accuracy and completeness of closed claim submissions.
- To provide additional assurance that claims are reported by self-insurers, the OIR obtain information from DOH that

would enable the OIR to monitor the existence and status of claims.

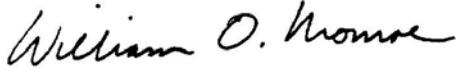
OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our audit was to evaluate the accuracy and completeness of the Department Closed Claim System (DCCS) as of February 29, 2004. Our audit included an evaluation of relevant internal controls, interviews of Office staff, the application of detailed analytical procedures to DCCS data, and limited comparisons of DCCS data to related court records.

As a part of our audit, we also obtained an understanding of the processes used by the OIR to begin implementation of a new closed claim system, the Professional Liability Claims Reporting (PLCR) System. As the new system, as of the close of our audit, had not been put into production, the scope of our audit did not address PLCR System design or the effectiveness of PLCR System controls, beyond those also relevant to the DCCS.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



William O. Monroe, CPA
Auditor General

OFFICE'S RESPONSE

In a letter dated September 17, 2004, the Director of the Office of Insurance Regulation provided responses to our preliminary and tentative findings. This letter is included in its entirety at the end of this report.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable *Government Auditing Standards* issued by the Comptroller General of the United States. This audit was conducted by Leo Luttig, CPA, and supervised by David Vick, CPA, Audit Coordinator. Please address inquiries regarding this report to Don Hancock, CPA, Audit Manager, via email at donhancock@aud.state.fl.us or by telephone at (850) 487-9037.

This report, as well as other audit reports prepared by the Auditor General, can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.



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September 17, 2004

Mr. William O. Monroe, CPA
Auditor General
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G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Re: Preliminary and Tentative Audit Findings – Audit of the Closed Claim Database, Office of Insurance Regulation

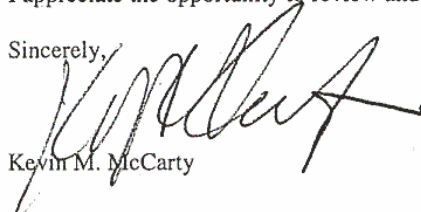
Dear Mr. Monroe:

This letter is being forwarded to you in response to your letter of August 20, 2004, pursuant to Section 11.45(4)(d), Florida Statutes.

The Office of Insurance Regulation has reviewed the background information, findings and recommendations that were forwarded to us in an enclosure to your letter of August 20, 2004. The enclosed information, comments and responses are keyed to your letter to the extent that this could reasonably be achieved.

I appreciate the opportunity to review and respond to the preliminary and tentative findings.

Sincerely,


Kevin M. McCarty

LEM/aec

Enclosure

cc: Tom Gallagher, Chief Financial Officer, Department of Financial Services
Paul Mitchell, Chief of Staff, Department of Financial Services

...
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Information and comments prepared by the Office of Insurance Regulation in response to the Auditor General's audit of the Closed Claim Database Office of Insurance Regulation

The information and comments that follow are keyed to the preliminary and tentative audit findings and recommendations that were forwarded to the Office of Insurance Regulation in an enclosure to the Auditor General's letter of August 20, 2004.

It should be noted that in early 2004 the Office of Insurance Regulation initiated the design, development and implementation of a new closed claim reporting system. Features included in this new system, which is known as the Professional Liability Claims Reporting (PLCR) System, will eliminate missing fields in closed claims reporting and also provide capabilities for identifying non-compliance among reporting entities.

Finding No. 1: Data Migration

The Office of Insurance Regulation **agrees** with the Auditor General's recommendation with regard to this finding.

The Office of Insurance Regulation is currently developing tables that will contain data that was reported to the closed claim database during the period 1994 to 2004. Data will be forwarded to reporting entities for their review, correction and validation. Closed claim data that was reported to the Office of Insurance Regulation for dates prior to 1994 will be housed in a separate database and this data will be provided to the public upon request. Owing to the changing insurance environment over the years, review, correction and validation of closed claims data for periods prior to 1994 will not be attempted inasmuch as this would be a very cumbersome and costly endeavor for reporting entities. Obviously, it will not be possible to obtain or verify closed claim data for those reporting entities that are no longer in business.

The Office of Insurance Regulation will require reporting entities to certify in writing that closed claims data forwarded to them has been reviewed, corrected and validated. Moreover, reporting entities will be advised that closed claims data, including validated and corrected data, submitted to the Office of Insurance Regulation may be subject to an on-site audit of data and related source documents by the Office of Insurance Regulation.

Finding No. 2: Detection of Unreported Claims

The Office of Insurance Regulation **agrees** with the Auditor General's recommendations with regard to this finding.

The Office of Insurance Regulation has developed several capabilities to support detection of un-reported claims. First, reporting entities are required to forward a notification of "no claims submitted" to the Office of Insurance Regulation for any calendar year in which no claim has been experienced by those entities. In this regard, an exception report will be produced each year by the PLCR System that will list all reporting entities that failed to report a claim or failed to forward a notification of "no claims submitted" to the Office of Insurance Regulation. Second, reporting entities must complete a reconciliation form each year that reflects reconciliation of closed claims data reported to the PLCR System with closed claims data that they report on their financial statements. Any discrepancies between closed claims data in the PLCR System and closed claims data in related financial statements must be fully explained by reporting entities, including the identification of, and reasons for, specific claims not being reported to the Office of Insurance Regulation. Finally, an interface between the PLCR System and a Department of Health database is being developed that, when implemented, will permit the staff of the Office of Insurance Regulation to determine which healthcare practitioners are self-insured and should therefore be reporting claims data to the Office of Insurance Regulation. The Office of Insurance Regulation will run exception reports to identify those practitioners who fail to report as required and forward these exception reports to the Department of Health for appropriate regulatory corrective action.

The Office of Insurance Regulation will verify the accuracy and completeness of closed claims submissions during triennial on-site examinations of domestic insurers that are required by Section 624.316, Florida Statutes.

The Office of Insurance Regulation is currently developing an internal Professional Liability Claims Reporting Policies and Procedures Manual that will provide policy and procedural direction with regard to:

- Performing reviews of professional liability claims to determine that they are accurate and complete;
- Determining whether submission of data concerning professional liability claims by insurers has been made in accordance with relevant legislation and direction from OIR;
- Performing analyses of professional liability claims trends, including developing related supporting documentation and reports;
- Performing analyses of professional liability claims data that are submitted to OIR, using professional liability claims data that are stored in the PLCR System's databases, both periodic and ad hoc reports produced by the PLCR System, relevant data from other agencies' data bases, and relevant reports from other agencies;
- Measuring and reporting results associated with professional liability claims data, using information concerning claims data that are submitted to OIR – that is, information concerning data input processing, identification of those entities that have not submitted data in a timely manner, identification of those entities that have been found to have submitted inaccurate or incomplete professional claims data, information concerning overall professional liability claims program operations, and information concerning penalties awarded to those entities that are found to be in noncompliance with professional liability claim program requirements;
- Ensuring that reporting requirements specified by legislation, for example, Chapter 2003-416, Florida Statutes and Senate Bill 2D, are satisfied;
- Ensuring that reports are distributed to all concerned, including those that are specified in relevant legislation, rules and administrative directives;
- Ensuring that detailed reporting criteria are fully documented for each pre-programmed report that is produced by the PLCR System, including the data source(s) for each such report;
- Ensuring that professional liability claims are accorded appropriate consideration with respect to OIR operational, tactical and strategic planning; and
- Ensuring that compliance with the provisions of this policy and procedure manual is achieved and that any desired deviations from policies and procedures that are contained in this manual are brought to the immediate attention of the Deputy Director, Forms and Rates for review and approval prior to implementing such deviations.