



AUDITOR GENERAL

WILLIAM O. MONROE, CPA



OFFICE OF INSURANCE REGULATION

PROFESSIONAL LIABILITY CLAIMS REPORTING SYSTEM

Operational Audit

SUMMARY

In audit report No. 2005-031, we disclosed concerns relating to the accuracy and completeness of the Closed Claim Database (CCD) maintained by the Office of Insurance Regulation (OIR). Our follow-up audit for the period March 1, 2004, through February 28, 2006, and selected actions through October 12, 2006, disclosed that the OIR has taken steps to implement the recommendations of audit report No. 2005-031. However, additional actions were necessary:

Finding No. 1: The OIR has been unable to resolve issues relating to missing and erroneous data in the Professional Liability Claims Reporting (PLCR) System.

Finding No. 2: The OIR should continue efforts to implement procedures to detect unreported closed claims.

BACKGROUND

Section 627.912, Florida Statutes, requires insurers and self-insurers to report information relating to closed medical malpractice claims to the Office of Insurance Regulation (OIR). For each claim, the information to be reported by insurers and self-insurers includes information such as:

- The names and health care provider professional license numbers of all defendants involved in the claim.
- The date and amount of judgment or settlement, if any, including the itemization of the verdict.

- In the case of a settlement, the injured person's incurred and anticipated medical expense, wage loss, and other expenses.
- The name of the institution, if any, and the location within the institution at which the injury occurred.
- The final diagnosis for which treatment was sought or rendered, including the patient's actual condition.
- A description of the misdiagnosis made, if any, of the patient's actual condition.
- The operation, diagnostic, or treatment procedure causing the injury.
- A description of the principal injury giving rise to the claim.
- The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future.

As a means for recording, summarizing, and reporting the information received and the preparation of an annual report, the OIR maintains the Professional Liability Claims Reporting (PLCR) System.¹

With respect to the annual report, Section 627.912(6)(b), Florida Statutes, requires the OIR prepare the report and that the report include the following:

- An analysis of closed claim reports of prior years, in order to show trends in the frequency and amount of claims payments, the itemization of economic and noneconomic damages, the nature of the

¹ Previously the Closed Claim Database (CCD)

errant conduct, and such other information as the office 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 of the net written premium in the state for medical malpractice for the prior calendar year, including a loss ratio analysis for medical malpractice written in Florida and a profitability analysis of each such insurer.
- A comparison of the ratios for medical malpractice in Florida compared to other states, based on financial reports filed with the National Association of Insurance Commissioners and such other information as the OIR deems relevant.
- A summary of the prior year's approved rate filings for medical malpractice, along with an analysis of the trend of direct and incurred losses as compared to prior years.

FINDINGS AND RECOMMENDATIONS

In audit report No. 2005-031, we disclosed several matters that adversely impacted the OIR's ability to generate accurate and complete reports on closed medical malpractice claims. As disclosed below in findings Nos. 1 and 2, although OIR has taken several steps to enhance the accuracy and completeness of its reports, additional actions were necessary.

Finding No. 1: Database Correction and Validation

In audit report No. 2005-031, we reported on the accuracy and completeness of the Closed Claim Database (CCD) information that was transferred to the PLCR System. Our audit tests disclosed a substantial number of data fields that were either incorrect, improperly formatted, or lacking data. We recommended that the OIR make a concerted effort to correct all critical database errors and omissions, because absent correction of the database errors, the PLCR System would not support accurate and complete reporting.

The OIR, in its September 17, 2004, response to this finding stated that reporting entities would be required to certify their review, correction and validation of the updated data. During February 2005, the OIR sent to the reporting entities information to be reviewed, corrected, and validated. Our review disclosed that:

- The OIR did not maintain tracking logs or listings identifying all reporting entities to which data was sent for review, correction, and validation. Absent the logs or listings, the OIR could not identify all entities provided information for review, correction, or validation or identify for follow-up those entities that had not responded. Subsequent to our request for a list of these reporting entities, the OIR requested that a contractor recreate the listing of these 201 reporting entities.
- In response to our July 11, 2006, request, the OIR provided documentation identifying only 32 entities (16 percent response rate) which had certified their data as reviewed, corrected, and validated. As of July 11, 2006, none of the reviewed, corrected, and validated data had been entered into the PLCR System.
- The information to be corrected and validated consisted of historical data fields that were missing data or contained erroneous data. However, when identifying the fields containing potentially erroneous data, emphasis was not placed on identifying incongruous relationships among the data fields.

In the OIR's response to our memorandum, OIR staff stated that, "The review and evaluation of the activities and processes associated with attempting to update the closed claim data revealed that, owing to the numerous shortfalls in these activities and processes that have recently come to light, this Office [OIR] will pursue a revised approach to accomplish the historical claims data updates."

The revised approach specified by the OIR included the following:

- Review all previously employed editing criteria on a field-by-field basis for purposes of ensuring that all editing criteria are complete, including relationship editing criteria that are deemed to be necessary.

- Execute refined editing criteria, including appropriate relational editing criteria, against all historical closed claim data, create error records for each entity having errors, review error records and initiate appropriate corrective action, prepare error records for each affected entity and forward requests to each affected entity for corrective action.
- Maintain logs and complete listings that will permit tracking of all data exchanges between the OIR and each of the affected entities.
- Assemble and evaluate responses received from all entities, ensuring that data updates are complete and acceptable.
- Update the database, using edited, purified historical closed claims received from each affected entity, and follow up on any errors or omissions observed during the updating process.

Recommendation: We recommend that the OIR follow through on the revised approach to the data correction and validation.

Finding No. 2: Database Completeness

In audit report No. 2005-031, we reported that, absent policies and procedures to address the detection of unreported closed claims, the OIR lacked the assurance of the completeness of the CCD.

The OIR in its September 17, 2004, response to this finding stated that it had developed several capabilities to support detection of unreported claims. These capabilities included:

- Requiring reporting entities to forward a notification of “no claims submitted” to the OIR for any calendar year for which there was no claim experienced. An exception report was to be produced each year by the PLCR System that listed all reporting entities that failed to report a claim or failed to forward a notification of “no claims submitted” to the OIR.
- Reporting entities were to complete a reconciliation of closed claims data reported to the PLCR System with the closed claims data in their financial statements. Any discrepancies were to be fully explained.

- The creation of an interface between the OIR and a Department of Health (DOH) database that would permit the OIR to determine which healthcare practitioners were self-insured and should be reporting claims data to the OIR. The OIR was to run exception reports to identify those self-insured practitioners who failed to report as required and forward these exception reports to the DOH for appropriate action.

OIR indicated that the interface between the PLCR System and DOH has been completed, but the interface has been limited to OIR verification of physician license numbers and DOH research of closed claims. We also found that on February 24, 2006, the OIR had published proposed amendments to Office of Insurance Regulation, Rule 69O-171.003, Florida Administrative Code. The proposed amendments require reporting entities to submit a notification of “no claims submitted” and a reconciliation of the closed claims data reported to the PLCR System to entity financial statements. Several reporting entities have challenged the implementation of these amendments, and as of October 12, 2006, they had not been adopted.

Recommendation: We recommend that the OIR continue efforts to implement procedures to detect unreported closed claims.

OBJECTIVES, SCOPE, AND METHODOLOGY

This operational audit focused on a follow-up of the findings included in audit report No. 2005-031, Closed Claim Database. Our specific objectives were to:

- Obtain an understanding and assess the effectiveness of OIR’s internal controls over the areas of data completeness, data accuracy and data reporting related to the Professional Liability Claims Reporting System.
- Evaluate OIR’s compliance with selected controlling laws and other guidelines.

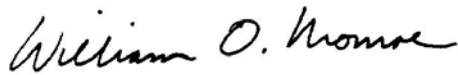
In conducting our audit, we obtained an understanding of governing laws and guidelines. We also reviewed OIR manuals, interviewed personnel, performed tests of compliance with applicable laws and rules, performed tests of pertinent records, and

conducted tests of the effectiveness of relevant OIR controls.

Our audit included examinations of various transactions occurring during the period March 1, 2004, through February 28, 2006, and selected actions taken through October 12, 2006.

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

MANAGEMENT RESPONSE

In a letter dated January 18, 2007, the Commissioner provided responses to our findings. The letter is included in its entirety at the end of this report as Appendix A.

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 *Generally Accepted Government Auditing Standards*. This audit was conducted by Donna M. Edwards, and supervised by Allen G. Weiner, CPA. Please address inquiries regarding this report to Kathryn Walker, CPA, Audit Manager, via e-mail at kathrynwalker@aud.state.fl.us or by telephone at (850)487-9085.

This report and 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 (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

APPENDIX A
MANAGEMENT RESPONSE



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY
COMMISSIONER

**FINANCIAL SERVICES
COMMISSION**

CHARLIE CRIST
GOVERNOR

ALEX SINK
CHIEF FINANCIAL OFFICER

BILL McCOLLUM
ATTORNEY GENERAL

CHARLES BRONSON
COMMISSIONER OF
AGRICULTURE

January 18, 2007

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

Re: Auditor General Letter Dated December 22, 2006 – Preliminary and Tentative Findings – Office of Insurance Regulation Professional Liability Claims Reporting System

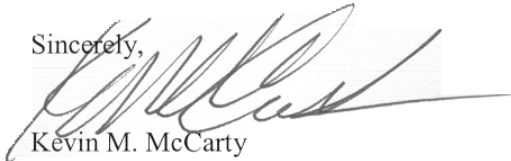
Dear Mr. Monroe:

This letter is being forwarded to you in response to referenced preliminary and tentative findings.

The Office of Insurance Regulation has reviewed the summary, background information and findings and recommendations that were forwarded to us as an enclosure to the referenced letter. Our responses are included in bold print in the enclosure to this letter.

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

Sincerely,



Kevin M. McCarty

LH/aec

Enclosure

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APPENDIX A
MANAGEMENT RESPONSE (CONTINUED)

Management Responses to Auditor General's Preliminary and Tentative Audit Findings – Professional Liability Claims Reporting System

Finding No. 1: Database Correction and Validation

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APPENDIX A
MANAGEMENT RESPONSE (CONTINUED)

- Maintain logs and complete listings that will permit tracking of all data exchanges between the OIR and each of the affected entities.
- Assemble and evaluate responses received from all entities, ensuring that data updates are complete and acceptable.
- Update the database, using edited, purified historical closed claims received from each affected entity, and follow up on any errors or omissions observed during the updating process.

Recommendation: We recommend that the OIR follow through on the revised approach to the data correction and validation.

Response: This Office agrees with this recommendation and will implement the revised approach to data correction and validation.

Finding No. 2: Database Completeness

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**APPENDIX A
MANAGEMENT RESPONSE (CONTINUED)**

Recommendation: We recommend that the OIR continue efforts to implement procedures to detect unreported closed claims.

Response: This Office agrees with this recommendation and will implement procedures to detect unreported closed claims.