



ANNUAL REPORT
Per SCR 111 of 2007

BY

**LOUISIANA PATIENT'S
COMPENSATION FUND**

October 1, 2012

BOBBY JINDAL
GOVERNOR



State of Louisiana
PATIENTS' COMPENSATION FUND

DIVISION OF ADMINISTRATION

P.O. BOX 3718
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September 27, 2012

Honorable David Heitmeier, Chairman, Senate Committee on Health and Welfare
Honorable Scott M. Simon, Chairman, House Committee on Health and Welfare
Honorable Dan Morrish, Chairman, Senate Committee on Insurance
Honorable Gregory Cromer, Chairman, House Committee on Insurance

RE: Senate Concurrent Resolution No. 111
Regular Session, 2007

Dear Honorable Chairmen:

In accordance with SCR 111 of 2007, the Louisiana Patient's Compensation Fund Oversight Board (PCF) submits the attached annual report on the status of the PCF. The Resolution mandates a report that contains actuarial data showing growth rates, increases/decreases in exposures and assets, actuarial analysis of the financial health of the fund and the prediction of the unfunded liability be provided to the Legislature by October 1st each year

Overall, the Fund continues to make progress in reducing the unfunded liability. The current indications show the PCF's level of assets to liabilities far exceeds the statutorily required minimum level. As of December 31, 2011, actuarially estimated liabilities were \$777,000,000 and assets were \$669,576,202, resulting in an unfunded liability of approximately \$107,423,798. This represents a decrease of \$30,000,000 in the unfunded liability from the prior year. As of August 31, 2012, assets were \$742,708,467 closing the unfunded gap based on year end liability to \$35,000,000.

As a result of recent legislative and actuarial reforms, rates were reduced for physicians and hospitals for fiscal years 2011 and 2012 and hospitals in 2013. Physicians will have a small increase in fiscal year 2013 effective September 2, 2012. All PCF surcharges are based upon the actuarial study by class and each class pays for its own losses. The current rate should still allow for further reduction of the PCF's unfunded liability by an estimated \$20,000,000 to \$25,000,000 and should come very close to being fully funded by the end of fiscal year 2013.

In 2011 the voters approved Constitutional Amendment No. 3 clarifying the Fund is not state general funds and the state is not responsible for its losses. In March of this year the Supreme Court ruled the Medical Malpractice Act and the cap for general damages contained therein to be constitutional. This ruling relieved the huge pressures and uncertainty placed upon the Fund and the health care providers of the state that have been looming for several years.

An investment consultant has been retained to advise the Board on increasing investment income to help keep rates lower for the health care providers and to further reduce the unfunded liability.

The total surcharges and filing fees last fiscal year totaled \$166,173,853. Investment income earned was \$12,587,693. The total for administrative and claims expenditures was \$121,588,858, which was \$17,687,927 below budget. The administrative budget for the current fiscal year is \$4,749,081 and the claims budget is \$130,000,000. The T.O. for the agency includes 3 unclassified positions and 47 classified positions. There are 9 Board members.

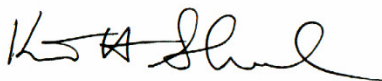
In accordance with Act 182 of the 2011 Regular Session, a copy of the report has been submitted to the David R. Poynter Legislative Research Library for distribution and record keeping. The PCF's website, doa.louisiana.gov/pcf, contains more information, including minutes from Board meetings, financial information and rate information.

The Board has made a commitment to continue to manage the PCF as efficiently as possible and to meet all statutory obligations relative to medical malpractice claims. Should there be any other information you feel would be helpful or any questions you may have, please do not hesitate to call.

Sincerely,



Clark R. Cossé III, J.D.
Chairman



Ken Schnauder, CPCU, AIC
Executive Director

- c: Members of Senate Committee on Health and Welfare
- Members of House Committee on Health and Welfare
- Members of Senate Committee on Insurance
- Members of House Committee on Insurance
- Members of Senate Committee on Judiciary A
- Members of House Committee on Civil Law and Procedure

LOUISIANA PATIENT'S COMPENSATION PCF

During the 1975 legislative session, **Act 817** (R.S. 40:1299.41 *et seq*), was passed which created the Louisiana Patient's Compensation Fund (PCF) to provide coverage to private health care providers in Louisiana. The purpose of Act 817 is to ensure that a stable and affordable market exists for malpractice insurance and thereby affording practitioners in the state an affordable and reliable cover for their claims and to provide claimants with a reliable and solvent fund for redress of their injuries. The original Act provided a statutory cap on total liability of \$500,000. It also provided for the Medical Review Panel process, which is the first step in pursuing a claim against a health care provider and provides patients and providers with a required and early non-binding opinion as to the claim.

In 1984, the statute was amended to allow for the payment of all related medical expenses. This change allowed those patients with more severe injuries to have medical expenses paid by the PCF on an ongoing basis. This provision also reduces the payments that were being made or could have been made by Medicare and Medicaid, which lessens the burden to these programs.

In the 1990 legislative session, the statute was revised to create the Patient's Compensation Fund Oversight Board (Board). The creation of the Board gave providers greater input, and also greater responsibility, in the operation of the PCF, since members are from the provider groups that pay into the PCF.

The financial status of the PCF has significantly improved since 1990 under the leadership of the Board. There were large premium increases over the past 20 years to ensure the fiscal integrity of the PCF. From 1990 to present, there were 17 rate increases, resulting rates going up by about 540%.

Health care providers who choose to enroll in the PCF remain responsible for the first \$100,000 of each claim, either through an insurance company or as a self-insured provider. With the payment of the proper surcharge to the PCF coverage is provided for the second layer of \$400,000 plus all related medical expenses. Participation in the PCF is not mandatory. There are over 17,000 private health care providers enrolled in the PCF. Expert testimony has estimated the value of the PCF cover when including the value of medical payments to be over \$1 million.

An annual actuarial study is done to determine the adequacy of rates compared to current and expected liabilities. The recommendations of the actuary are utilized by the Board to establish the rates necessary to cover estimated liabilities for the upcoming year and to ensure the statutory asset level is maintained.

The PCF now substantially exceeds the mandated statutory minimum of assets to liabilities. The actuary has estimated the PCF's liabilities, both claims already filed and those expected to be incurred in 2012, at approximately \$777,000,000. Currently the PCF's assets are approximately \$742,000,000. The Board's actions have resulted in a steady and impressive increase in funds and a decrease in the unfunded liability, while at the same time attempting to keep surcharge rates at predictable and affordable levels for private health care providers. This effort is vital to this State as the Board continues to guarantee a source of medical malpractice coverage that is reasonable and thus encourages health care providers to continue to practice in Louisiana and serve our citizens.

BOBBY JINDAL
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State of Louisiana
PATIENTS' COMPENSATION FUND

July 13, 2012

From: Lorraine LeBlanc
Executive Director

RE: New Rates for PCF effective 9/2/12

In accordance with the annual actuarial study, the PCF Oversight Board determined there was justification to lower the PCF surcharge rates for hospitals and CRNAs. Most other providers will see a small increase.

The actual percentages that will be incorporated as of 9/2/12 are as follows:

Hospitals	- 5.6%
Nursing Homes	+ 1.2% for Skilled beds + 1.1% for Intermediate beds
Assisted Living	+ 1.0%
CRNA	- 8.0%
Dentist	+ 3.6%
Advanced Practice Nurses	+ 3.6% (Nurse Practitioner, Nurse Midwife, Physician's & Surgeon's Assistant, and Clinical Nurse Specialist)
Physicians Class 1A	+ 1.0%
Physicians Class 1,2A,2,3,4,5,7,8	+ 3.6%
Physicians Class 6	+ 6.2%
Oral Surgeon	+ 3.6%

The "other" classes will remain the same at 93% of the primary premium.

The minimum rate is still \$250.

The overall rate increase is +1.3%.

October 1, 2012

EXHIBITS

AND

EXPLANATIONS

Exhibit 1

Unfunded Liability

Prior to August 15, 2010, the calculation of the Statutory minimum funding level found in La R.S. 40:1299.44.A.(6)(a) required a surplus of 30% of the total of the surcharges collected, expenses and reserves (estimated amount of exposures pending and occurred but not reported). The Fund met this requirement for the last several years. This formula treated revenue as a liability and thus the UAL was felt to be exaggerated.

The statute now requires the PCF to maintain assets sufficient to provide at least 30% of the actuarially calculated liabilities and eliminated the treatment of revenue as a liability. As of December 31, 2011, based on actuarially calculated liabilities, the Fund has 87% of the necessary assets to cover these estimated liabilities.

The chart shows the estimated PCF liability, according to annual actuarial reports, compared to the funds and investments held at the Treasurer's office. The difference would be considered the true estimated unfunded liability. These amounts are based on calendar year data. The UAL was reduced by \$30,000,000 in 2011.

ESTIMATED LIABILITIES

(Claim & legal reserves + IBNR)

ASSETS

(Cash & investments)

Unfunded Liabilities

(Difference)

12/2000:	\$383,600,000	\$ 84,880,890	\$298,719,110
12/2005:	\$675,300,000	\$253,275,810	\$422,024,190
12/2006:	\$737,500,000	\$364,752,401	\$372,747,599
12/2007:	\$756,200,000	\$431,217,706	\$324,982,294
12/2008:	\$738,000,000	\$494,585,500	\$243,414,500
12/2009:	\$773,400,000	\$576,373,243	\$197,026,757
12/2010:	\$771,400,000	\$633,745,844	\$137,654,156
12/2011:	\$777,000,000	\$669,576,202	\$107,423,798

*all figures as of December 31st of each year.

As of 7/1/12 assets totaled over \$ 742,000,000, showing a further reduction in the UAL

Exhibit 2a & 2b
Financial Summaries

These two exhibits are documents that are put on the Board's website each month, along with the general minutes from each Board meeting. They show the monthly expenditures and collections, interest earned, and fund balance at the end of the month. These items, as well as other information, are on the Board's website as our part of being a transparent state agency.

FINANCIAL DATA FOR BOARD
FY 2012 - 2013
September 6, 2012

REVENUE	SURCHARGE	FILING FEES
FY Gross Collection	\$20,750,969	\$49,300
FY Refunds Issued	-\$104,712	-\$4,000
FY Net	\$20,646,257	\$45,300
Prior Year Cash Carryover		\$734,262,614
YTD Interest Earned		\$1,352,515
YTD Net Surcharge Collected		\$20,646,257
YTD Net Filing Fees Collected		\$45,300
YTD Operating Expenses		-\$624,937
YTD Claim Expenses		-\$12,973,282
YTD Fund Balance		\$742,708,467
Operating Services - Budget:		\$4,749,081
Expended		-\$624,937
Balance		4,124,144
Claims Settlement- Budget:		\$130,000,000
Expended		-\$12,973,282
Balance		\$117,026,718
CLAIM SETTLEMENTS:		
All prior Month Approved Claims Not Paid		\$1,075,432
Current Month Claims For Approval		\$5,428,311
Total		\$6,503,743

Monthly LAPCF Revenue Collections

FISCAL YEAR	FY 2011 - 2012	FY 2010 - 2011	FY 2009 - 2010
	NET Surcharge Collections		
JULY	10,768,513.58	12,084,783.10	13,359,268.43
AUGUST	10,983,620.08	11,214,908.22	8,272,904.31
SEPTEMBER	6,703,394.54	3,423,893.13	7,895,761.34
OCTOBER	17,066,163.49	17,335,203.33	18,096,458.97
NOVEMBER	12,601,419.50	16,387,794.91	12,498,979.06
DECEMBER	21,750,474.85	13,605,123.44	30,866,340.29
JANUARY	35,390,892.74	37,600,108.04	37,556,810.90
FEBRUARY	21,489,452.20	30,250,143.81	24,441,404.14
MARCH	2,486,861.13	1,764,064.27	6,652,337.80
APRIL	7,701,722.65	5,855,079.63	5,132,470.48
MAY	3,907,571.80	3,751,612.60	5,049,177.07
JUNE	15,004,766.26	14,379,345.65	16,951,293.97
TOTAL	165,854,852.82	167,652,060.13	186,773,206.76
	NET Filing Fee Collections		
JULY	26,200.00	23,500.00	26,300.00
AUGUST	25,500.00	22,650.00	26,000.00
SEPTEMBER	27,500.00	21,300.00	19,800.00
OCTOBER	46,500.00	22,000.00	23,900.00
NOVEMBER	25,700.00	25,750.00	21,400.00
DECEMBER	23,000.00	29,100.00	23,200.00
JANUARY	24,000.00	27,900.00	27,350.00
FEBRUARY	18,600.00	21,300.00	21,300.00
MARCH	25,100.00	32,950.00	25,200.00
APRIL	21,900.00	22,900.00	26,050.00
MAY	28,500.00	22,200.00	27,300.00
JUNE	26,500.00	26,900.00	21,250.00
TOTAL	319,000.00	298,450.00	289,050.00
	Monthly Interest Earnings		
JULY	861,957.28	671,944.25	481,795.00
AUGUST	548,818.50	634,635.50	804,606.92
SEPTEMBER	2,030,087.56	761,444.50	546,745.05
OCTOBER	1,183,326.00	512,175.00	542,812.00
NOVEMBER	1,104,292.00	1,250,095.00	431,587.11
DECEMBER	599,278.00	481,957.00	608,275.19
JANUARY	947,434.50	639,973.50	504,322.67
FEBRUARY	395,117.50	369,415.17	863,065.50
MARCH	1,290,201.00	1,353,190.42	608,317.50
APRIL	1,610,094.00	999,991.21	393,699.16
MAY	1,416,453.06	1,236,401.65	853,779.00
JUNE	600,634.00	594,076.00	815,258.00
TOTAL	12,587,693.40	9,505,299.20	7,454,263.10
Total Collections	178,761,546.22	177,455,809.33	194,516,519.86

Exhibit 3

Medical Review Panels

The number of requests for medical review panels received by the PCF during each calendar year is shown in this exhibit. As you will note, the numbers steadily increased from 1977 through 2000, then in 2001 there was a spike. This was the result of 750 filings dealing with prescribing a drug and all were dismissed within a year without payments by the PCF. In August 2003, a filing fee was instituted. Since that time there has been a decrease in panels filed. Hurricane Katrina also appears to have had an impact on the number of panel requests filed. Overall, the number of requests filed and the number of individual providers named in requests have decreased during the past five years. Frequency seems to have leveled out at this time. For each of the last five years approximately 1600 requests for panels have been filed.

Number of Panels Filed Per Calendar Year - Past 20 Years

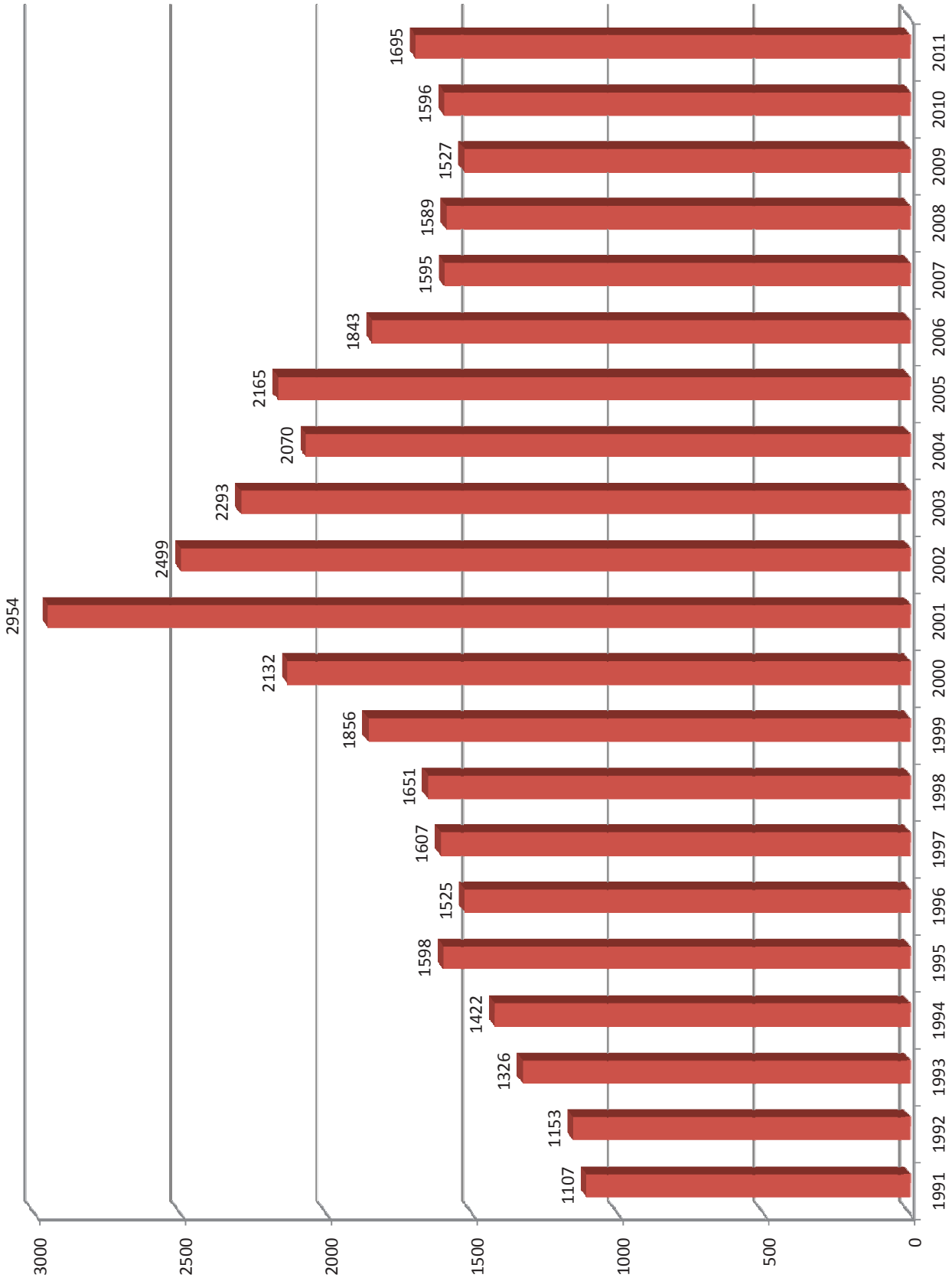


Exhibit 4

Claims

The PCF claims staff is limited in what they can do relative to a complaint since the PCF is not involved in the initial litigation. The PCF only becomes involved if there is a settlement in which additional monies are demanded from the PCF or when a judgment exceeds the primary layer of \$100,000. Defense attorneys are only assigned when an adjuster is unable to reach a settlement with the plaintiff or when litigation or discovery through the court is necessary. Less than 1% of the PCF claims incur any defense costs. The working relationship between all parties helps to reduce legal costs associated with claims and often reduces the time necessary to complete the process and compensate the injured parties.

The claims report shows the number of claims open, closed, closed without payment, pending by year and future medical claims pending by year. It also shows the amount spent in legal defense costs and judicial interest. Updated reports are put on the PCF's website following the monthly Board meeting.

The pending claims in January 2004 totaled almost 12,000. Since then, the PCF started pushing harder to obtain the information necessary to close older claims. Often the claims had been closed for years, but none of the parties involved notified the PCF. Pending claims now stay under 5000. It generally takes about 2 years for a claim to complete the medical review panel process and an additional 2 to 3 years for a final conclusion of the claim. The PCF's goal is to shorten the timeframe by at least a year through increased communication and cooperation between the other parties and the PCF.

Panel and Claim Report through August 2012

Report Run: As Of 9/4/2012

Claims and Panels - Opened and Closed

	Past month	Average Month*	This year	Reserve Type	Estimated Exposures	EOY 2011
Panels Filed	101	138	928	Future Medical	Current	Past Month
Panels Closed	102	122	927	Litigation	\$66,868,887	\$71,009,001
Claims Opened	101	122	877	Medical	\$6,157,500	\$6,280,601
Claims Closed	94	128	914	Total	\$148,818,722	\$153,633,086
					\$221,845,109	\$230,922,688

*Average Month based on calendar year 2011

Claims Closed With Payment - 19

Litigation and Interest Payment Breakdown

	Past Month	Current Year	Prior Year Total
Interest	\$202,272	\$2,303,113	\$3,228,299
Litigation	\$330,206	\$2,273,290	\$3,060,045

Open Claims By Year Filed

Date Filed	Claims Open	Percentage of Total	Count at Primary Level
1989	1	0.0%	1 out of 1 at Primary Level
1992	3	0.1%	2 out of 3 at Primary Level
1993	2	0.0%	2 out of 2 at Primary Level
1994	3	0.1%	3 out of 3 at Primary Level
1995	4	0.1%	2 out of 4 at Primary Level
1996	4	0.1%	
1997	6	0.1%	
1998	11	0.2%	
1999	22	0.4%	
2000	28	0.6%	
2001	38	0.8%	
2002	61	1.2%	
2003	80	1.6%	
2004	104	2.1%	
2005	141	2.9%	
2006	211	4.3%	
2007	209	4.2%	
2008	351	7.1%	
2009	565	11.5%	
2010	1025	20.8%	
2011	1347	27.4%	
2012	708	14.4%	
Total Open Claims	4924	100.0%	

Future Medical Claims By Year

Date Filed	Open Claims
1977	1
1981	1
1984	4
1985	10
1986	5
1987	6
1988	4
1989	6
1990	5
1991	10
1992	5
1993	4
1994	4
1995	8
1996	5
1997	4
1998	9
1999	10
2000	8
2001	7
2002	8
2003	9
2004	11
2005	11
2006	6
2007	8
2008	6
2009	4
2010	2
2011	1
Total Open Future Med	182

Exhibit 5

Claim Payments

The following chart show the payments made for the calendar years indicated. As shown, the number of claims paid and the total amount paid has increased. Delays in resolving claims by the primary parties (plaintiff attorneys, defense attorneys and insurance companies) often results in the PCF paying a substantial amount in interest, and unnecessarily delays compensation to the injured party. To avoid such increased costs, the PCF encourages mediations and joint settlements as a means of resolving claims expeditiously and reducing costs.

Settlements and Judgments Over the Years

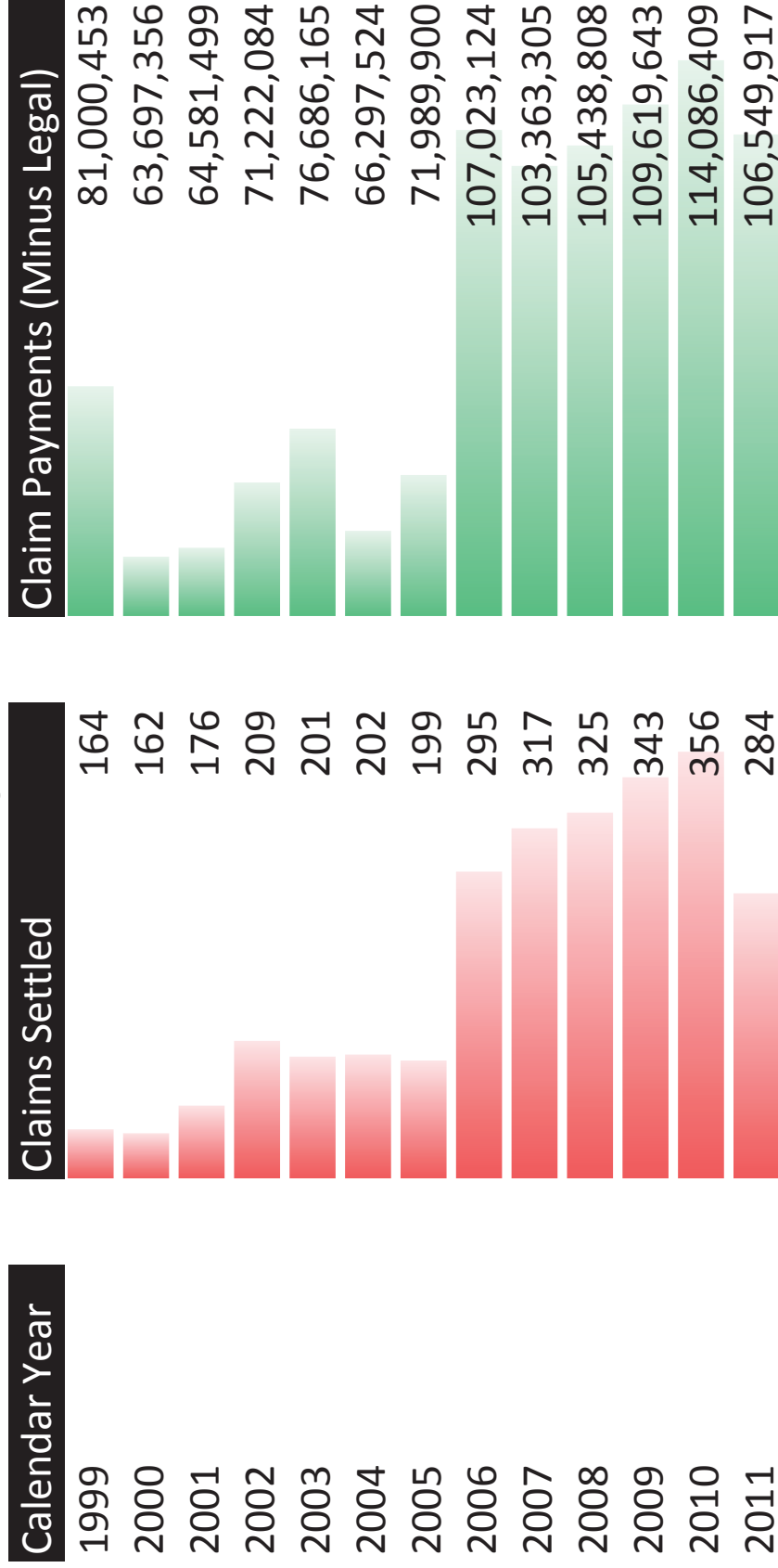


Exhibit 6

Future Medicals

The Act was amended in 1984 to “uncap” related medical expenses and benefits.

Currently the PCF pays ongoing medical expenses on 182 patients in the amount of approximately \$1,734,000 per month.

The PCF began using a fee schedule in November 2001 which has resulted in significant savings to the PCF at no cost to the patients or their families. The reductions by the PCF are born by the health care providers that are providing the services.

Medical expenses include not only physician visits, prescriptions and hospitalizations, but also handicapped equipped vehicles, specialized wheelchairs, adaptive computer equipment, home modifications, and payments to family members and others for providing care in the home.

Since the addition of unlimited Future Medical expenses, the PCF has paid approximately \$284,000,000 in medical expenses.

10 Years of Past and Future Medical Payments

Calendar Year	Past Medical	Future Medical	Grand Total
2002	\$ 7,184,104.87	\$ 13,123,532.39	20,307,637.26
2003	\$ 6,920,993.57	\$ 14,545,453.49	21,466,447.06
2004	\$ 10,375,379.04	\$ 12,234,595.39	22,609,974.43
2005	\$ 8,200,622.63	\$ 13,108,269.64	21,308,892.27
2006	\$ 16,879,655.99	\$ 16,599,432.25	33,479,088.24
2007	\$ 16,912,980.12	\$ 13,733,611.02	30,646,591.14
2008	\$ 26,960,700.28	\$ 16,182,093.32	43,142,793.60
2009	\$ 27,077,706.73	\$ 17,474,868.20	44,552,574.93
2010	\$ 19,729,194.46	\$ 19,257,698.37	38,986,892.83
2011	\$ 20,700,324.00	\$ 20,808,070.00	41,508,394.00
10 Year Totals:	\$ 160,941,661.69	\$ 157,067,624.07	283,863,810.54

Exhibit 7a & 7b

Rates & Enrollments

The Oversight Board assumed management of the PCF in late 1990. The results of the annual actuary studies have been done since that time resulting in significant increases in rates. Rate changes from 1989 to present have resulted in huge increases amounting to an increase of 540% in what private health care providers must pay for coverage. In 2010 the annual actuarial study revealed rates could be reduced for the first time. The decrease would still provide additional funds to further reduce the unfunded liabilities. The overall rate reduction for all classes of providers combined was 13% in 2010. The 2011 actuarial report revealed rates could be reduced further, although only an overall 4.3%. This reduction still provided funds that would be applied to lower the unfunded liabilities. In 2012 the actuarial study indicated an overall increase of just 1.3% with the physician average increase of 3.6% and hospitals a 5.6% decrease.

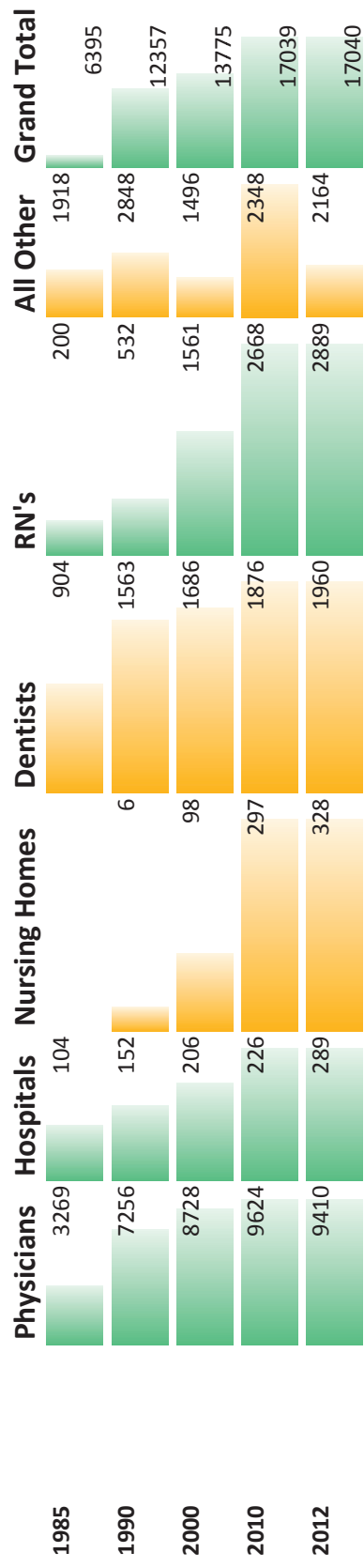
It should be noted that the number of enrolled providers shown in the chart does not include medical support staff, such as nurses or lab & x-ray techs, or individual providers if they are included in a group that work part-time, such as emergency physician groups. The actual number of health care providers covered by the PCF would be substantially larger if these providers were included in the totals.

Sample Rates Over the Years (for PCF Layer only)

Occurrence Coverage

Specialty	1990	2007	2012
Hospital (per bed)	\$ 591	\$ 2,843	\$ 2,836
Internist	2,261	8,164	8,291
Gen.Surg	7,856	28,294	28,735
OB/GYN	10,273	41,349	39,009

Enrolled Providers in the Louisiana Patient's Compensation Fund



Louisiana Patient's Compensation Fund

For more information please go to
www.doa.louisiana.gov/pcf

The PCF web site will contain the report to the legislature as mandated by SCR 111

For more information, you can also contact:

- Ken Schnauder, CPCU, AIC, Executive Director
ken.schnauder@la.gov
Phone 225-362-5262
- Mr. Clark Cossé, J.D. PCF Board Chairman
ccosse@lhaonline.org
Phone 225-928-0026

Louisiana Patient's Compensation Fund
Annual Report per SCR 611 of the 2007 Regular Session
October 1, 2012

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