



**ANNUAL REPORT**  
**Per SCR 111 of 2007**

**BY**

**LOUISIANA PATIENT'S COMPENSATION FUND**  
**OVERSIGHT BOARD**

**October 1, 2022**



**John Bel Edwards**

GOVERNOR

**State of Louisiana**  
**PATIENTS' COMPENSATION FUND**

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September 26, 2022

Honorable Fred Mills, Chairman, Senate Committee on Health and Welfare  
Honorable Larry Bagley, Chairman, House Committee on Health and Welfare  
Honorable Kirk Talbot, Chairman, Senate Committee on Insurance  
Honorable Mike Huval, 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 1<sup>st</sup> each year.

The Fund Oversight Board has eliminated 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, 2021, actuarially estimated claims liabilities were \$985,000,000 on an undiscounted basis with total liabilities of \$1,055,000,000; assets were \$1,257,483,171 resulting in a surplus of assets exceeding liabilities of approximately \$202,483,171.

Since inception of the Fund in 1975, over \$3 billion in claims have been paid.

Effective September 2, 2022 the Board voted to keep overall surcharge rates unchanged from 2021 given the financial stability of the Fund and the uncertainty of the effects the pandemic will have on the healthcare system. Claims frequency has been down 25% during the pandemic.

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 solidify the financial integrity of the Fund. Investments have been allocated into a conservative portfolio which is monitored daily.

The revenue from surcharges and filing fees for fiscal year 2021-22 totaled \$155,145,603. Investment income earned was \$34,374,657. The total for administrative and claims expenditures was \$127,658,614 which was well below budget. The administrative budget for the current fiscal year is \$8,625,382 and the claims budget is \$150,000,000 for a total agency budget of \$158,625,382. The T.O. for the agency includes 2 unclassified positions and 53 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, <http://www.doa.la.gov/Pages/pcf/Index.aspx>, contains more information, including minutes from Board meetings, financial information and rate information.

The Board has made a commitment to continue managing 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 contact us.

Sincerely,



Christopher M. Foret, MD  
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 FUND

### PCF

During the 1975 legislative session, **Act 817** (R.S. 40:1231.1 *et seq*) was passed which created the Louisiana Patient's Compensation Fund (PCF). The Act was created to provide coverage to private health care providers in Louisiana, ensuring that a stable and affordable market existed for malpractice insurance and thereby keeping practitioners in the state. Second, the Act was to create a viable fund for compensating claimants. 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.

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 for life.

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 greater responsibility, in the operation of the PCF since members represent the provider groups that pay into the PCF.

The financial status of the PCF has significantly improved since 1990 under the leadership of the Oversight Board. There were large premium increases from 1990 to 2010 to ensure the fiscal integrity of the PCF, resulting in surcharge rates increasing by 540%. Since 2010 rates have stabilized and been reduced by over 30%. Rates have remained unchanged for the last 2 years.

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. Coverage is provided for the second layer of \$400,000 plus all related medical expenses with the payment of the proper surcharge to the PCF. Participation in the PCF is not mandatory. There are over 27,000 private health care providers enrolled in the PCF.

An annual actuarial study is done to determine the adequacy of surcharge 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 actuary has estimated the PCF's liabilities, both claims already filed and those expected to be incurred in 2022, at approximately \$985,000,000 on an undiscounted basis. Currently the PCF's assets as of August 31, 2022, are approximately \$1,250,000,000. The Board's actions have resulted in a steady increase in assets and an elimination of the unfunded liability while at the same time have kept surcharge rates at predictable and affordable levels for private health care providers. This effort is vital to the State of Louisiana 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.

**John Bel Edwards**

GOVERNOR



**State of Louisiana**  
**PATIENTS' COMPENSATION FUND**

EXECUTIVE OFFICE

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July 8, 2022

From: Ken Schnauder, CPCU, AIC  
Executive Director

**RE: New Rates for the PCF effective 9/2/2022**

In accordance with the annual actuarial study, the PCF Oversight Board determined given the current crisis placed upon the health care industry during the pandemic, there was justification for no rate changes for any health care providers this year. The effective rates will remain unchanged from the current rate structure.

**October 1, 2022**

**EXHIBITS**

**AND**

**EXPLANATIONS**

# ***Exhibit 1***

## ***Liability Funding***

For years the Fund was under funded by hundreds of millions of dollars. The Insurance Commissioner and insurance carriers were concerned with the possible insolvency of the Fund and wanted drastic rate increases to make the Fund able to satisfy the liabilities estimated by actuarial studies.

Currently and for the past 5 years the Fund has assets exceeding the actuarial estimated liabilities. Current liabilities as of December 31, 2021 are \$1,054,600,000 (undiscounted) and the assets are approximately \$1.25 billion.

The Oversight Board decided in 2016, with the formal approval of actuaries, to keep asset levels at estimated liabilities, on an undiscounted basis, plus one year of expense budget. Current asset levels meet this financial goal.

***Exhibit 1a & 1b***  
***Financial Summaries***

These two exhibits are documents posted on the PCF website each month, along with the general minutes from each Board meeting. They show the monthly expenditures and collections, investment income earned, and fund balance at the end of the month on a cash basis. These items as well as other information can be found on the PCF website <https://www.doa.la.gov/Pages/pcf/Index.aspx>

**FINANCIAL DATA FOR BOARD**  
**Current FY Year 2022-2023**  
**August 31, 2022**

<b>Fiscal Year 2022-2023 Budget</b>	<b>\$158,625,382</b>
Actuarial Estimated Liabilities	984,600,000
Estimated Unearned Surcharges	70,000,000
<b>Fund Balance Target</b>	<b>\$1,213,225,382</b>

<b>REVENUE</b>	<b>SURCHARGE</b>	<b>FILING FEES</b>
FY Gross Collection	\$16,873,140	\$68,900
FY Refunds Issued	-\$51,346	-\$2,050
<b>FY Net</b>	<b>\$16,821,794</b>	<b>\$66,850</b>

<b>Prior Year Cash Carryover</b>	<b>\$1,264,624,255</b>
YTD Investment Income, as of 7/31/2022	\$1,932,166
YTD Net Surcharge Collected	\$16,821,794
YTD Net Filing Fees Collected	\$66,850
YTD Operating Expenses	-\$747,425
YTD Claim Expenses	-\$13,665,875
<b>YTD Fund Balance</b>	<b>\$1,269,031,765</b>

<b>Operating Services - Budget:</b>	<b>\$8,625,382</b>
Expended	-\$747,425
<b>Balance</b>	<b>\$7,877,957</b>

<b>Claims Settlement- Budget:</b>	<b>\$150,000,000</b>
Expended	-\$13,665,875
<b>Balance</b>	<b>\$136,334,125</b>

<b>CLAIM SETTLEMENTS:</b>	
All prior Month Approved Claims Not Paid	\$4,255,000.00
Current Month Approvals	\$7,276,688.00
<b>Total</b>	<b>\$11,531,688.00</b>

**Monthly LAPCF Revenue Collections**

<b>FISCAL YEAR</b>	<b>FY 2021-2022</b>	<b>FY 2020-2021</b>
	<b>NET SURCHARGE COLLECTIONS</b>	
July	10,839,380.61	11,761,631.46
August	6,029,038.77	4,796,459.58
September	8,467,708.81	9,335,444.81
October	16,061,536.38	19,969,150.80
November	14,952,290.78	9,381,301.35
December	27,459,122.18	28,014,275.55
January	12,055,313.81	11,785,660.01
February	27,888,337.03	28,373,529.13
March	4,373,651.25	5,570,883.33
April	6,099,038.05	3,897,693.39
May	4,064,010.15	7,636,486.22
June	16,651,070.55	12,944,208.91
<b>Total</b>	<b>154,940,498.37</b>	<b>153,466,724.54</b>
	<b>NET FILING FEE COLLECTIONS</b>	
July	16,100.00	21,100.00
August	12,000.00	18,400.00
September	16,205.00	22,600.00
October	19,300.00	23,000.00
November	19,000.00	20,200.00
December	17,000.00	31,500.00
January	13,200.00	14,700.00
February	15,300.00	14,100.00
March	22,100.00	21,000.00
April	20,400.00	19,000.00
May	18,200.00	13,700.00
June	16,300.00	17,100.00
<b>Total</b>	<b>205,105.00</b>	<b>236,400.00</b>
	<b>MONTHLY INVESTMENT INCOME</b>	
July	1,733,776.00	5,656,214.00
August	5,801,807.00	2,170,077.00
September	3,665,019.00	4,254,628.00
October	2,190,912.00	3,120,821.00
November	2,480,262.00	4,014,887.00
December	7,519,353.00	7,486,629.00
January	2,254,302.00	2,070,313.00
February	1,869,676.00	3,481,830.00
March	3,082,188.00	8,153,395.00
April	1,871,890.00	2,045,004.00
May	(1,605,001.00)	2,296,198.00
June	3,510,473.00	3,487,472.00
<b>Total</b>	<b>34,374,657.00</b>	<b>48,237,468.00</b>
<b>Total Collections</b>	<b>189,520,260.37</b>	<b>201,940,592.54</b>

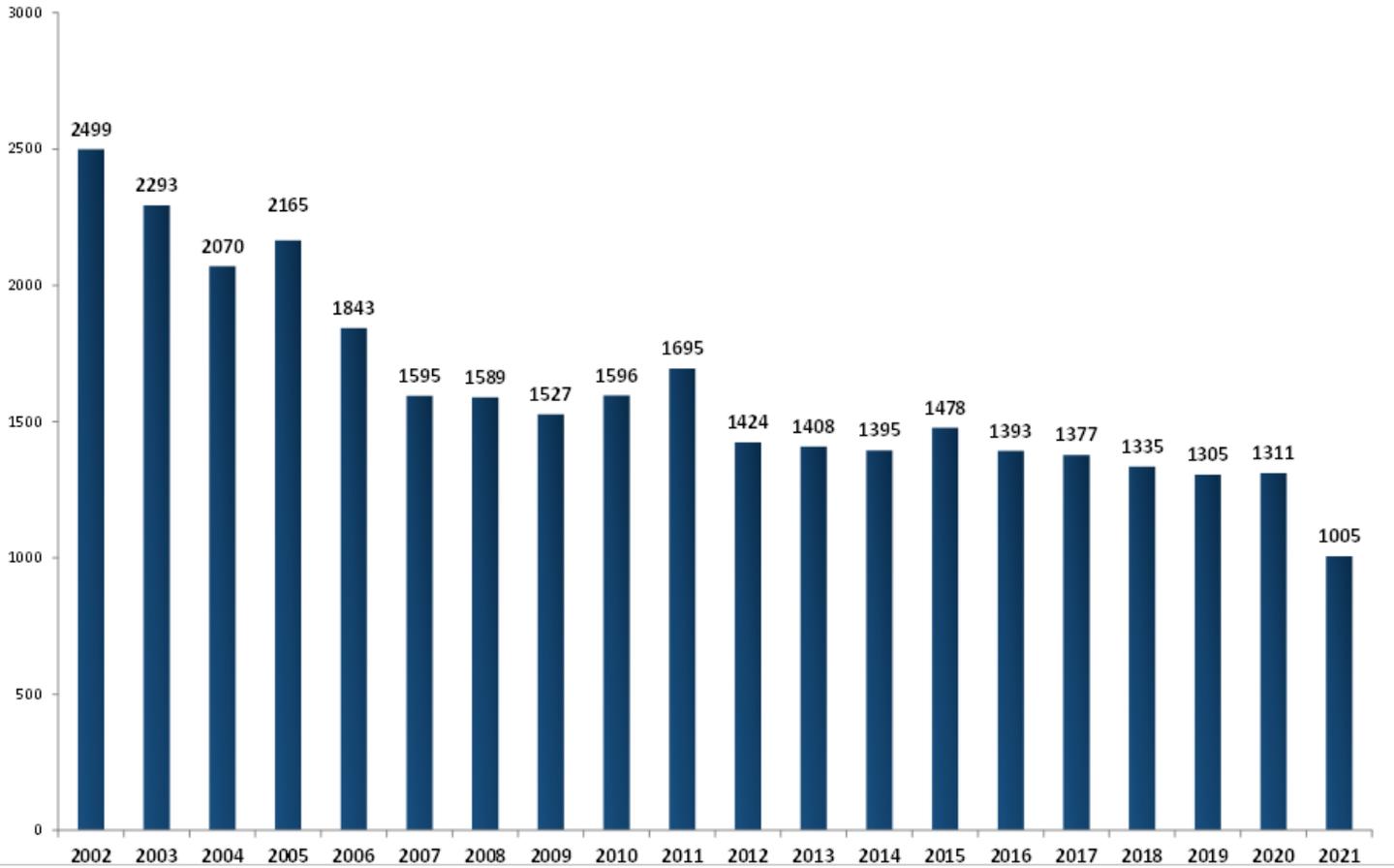
## ***Exhibit 2***

### ***Medical Review Panels***

The number of requests for medical review panels received by the PCF during each calendar year is shown in this exhibit. The number of panels filed steadily increased from 1977 through 2000. In August 2003, a filing fee was instituted. Since that time there has been a decrease in panels filed.

The average annual panels filed over the last 10 years, is approximately 1400 per year. The number of panels filed in 2021 were down approximately 25% due to the effects of the pandemic. In 2022 panel filings are trending more toward pre-pandemic numbers.

## Number of Panels Filed per Calendar Year - Past 20 Years



## ***Exhibit 3***

### ***Claims***

The PCF claims staff is limited in what they can do relative to a panel 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 5% 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 posted on the PCF's website following the monthly Board meeting.

The pending claims in January 2004 totaled almost 12,000. Since then, the PCF has been proactive in obtaining the information and cooperation from involved parties to close claims. Pending claims are now under 4000. It generally takes 1 to 2 years for a claim to complete the medical review panel process and an additional 2 to 3 years to conclusion of the claim.

Since inception of the Fund in 1975 there have been over \$3 billion in claim payments made.

Panel and Claim Report through August 2022

Report Run: 8/30/2022

Claims and Panels - Opened and Closed				Estimated Exposures			
	August	Average Month*	This Year	Reserve Type	Current	Past Month	EOY 2021
Panels Filed	161	84	800	Future Medical	\$56,146,650	\$56,692,866	\$63,488,860
Panels Closed	98	101	767	Litigation	\$3,188,297	\$2,828,287	\$2,708,388
Claims Opened	208	79	737	General Damages	\$137,963,424	\$137,472,429	\$148,305,800
Claims Closed	82	100	756	Total	\$197,298,371	\$196,993,582	\$214,503,048

Claims Closed With Payment - 21

\*Average Month based on calendar year 2021

Litigation and Interest Payment Breakdown

	August	Current Year	Prior Year Total
Interest	\$0	\$501,618	\$1,805,066
Litigation	\$173,463	\$1,180,346	\$1,919,713

Open Claims By Year Filed		
Date Filed	Open Claims	Percentage of
1995	1	0.03%
1997	1	0.03%
1998	1	0.03%
2000	2	0.05%
2001	1	0.03%
2002	1	0.03%
2004	5	0.13%
2005	2	0.05%
2006	4	0.10%
2007	8	0.20%
2008	14	0.35%
2009	7	0.18%
2010	22	0.55%
2011	31	0.78%
2012	42	1.05%
2013	67	1.68%
2014	95	2.38%
2015	145	3.63%
2016	166	4.15%
2017	254	6.35%
2018	343	8.58%
2019	524	13.11%
2020	804	20.12%
2021	785	19.64%
2022	662	16.56%
Total Open Claims:	3987	100.0%

For the month of  
23 claims are presented  
for approval at a total of:  
\$7,276,688

Future Medical Claims By Year	
Date Filed	Open Claims
1977	1
1981	1
1982	1
1985	5
1986	4
1987	5
1988	3
1989	3
1990	4
1991	6
1992	3
1993	1
1994	3
1995	5
1996	3
1997	3
1998	8
1999	8
2000	5
2001	6
2002	6
2003	5
2004	12
2005	4
2006	7
2007	5
2008	4
2009	4
2010	6
2011	2
2012	4
2013	4
2014	1
2015	3
2016	3
2017	2
2018	13
Total Open Future	163

## ***Exhibit 4***

### ***Claim Payments***

The following chart shows the payments made for the calendar years indicated. As shown, the number of claims paid and the total amount paid peaked in 2010 and showed a significant decline in 2011 and leveled off for a number of years thereafter. 2018, 2019 and 2020 have seen a significant increase in the severity of claims mainly driven by the medical costs involved. Frequency is still low, but severity continues to be of concern.

Delays in resolving claims by the primary parties (plaintiff attorneys, defense attorneys and insurance companies) often result in the PCF paying a substantial amount in judicial 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 for all involved parties. This is a win for all involved and today, the vast majority of claims are settled globally and in a much shorter timeframe.

Year	Claims Settled	Claim Payments (Minus Legal)	Average Per Claim
2002	209	\$71,222,084	\$340,776
2003	201	\$76,686,165	\$381,523
2004	202	\$66,297,524	\$328,206
2005	199	\$71,989,900	\$361,758
2006	295	\$107,023,124	\$362,790
2007	317	\$103,363,305	\$326,067
2008	325	\$105,438,808	\$324,427
2009	343	\$109,619,643	\$319,591
2010	356	\$114,086,409	\$320,467
2011	284	\$106,549,917	\$375,176
2012	286	\$99,875,425	\$349,215
2013	276	\$101,828,300	\$368,943
2014	288	\$93,028,105	\$323,014
2015	328	\$81,612,364	\$248,818
2016	268	\$74,346,073	\$277,411
2017	284	\$87,526,089	\$308,190
2018	321	\$117,821,750	\$367,045
2019	310	\$105,717,417	\$341,024
2020	273	\$104,049,589	\$381,134
2021	215	\$75,892,875	\$352,990

## ***Exhibit 5***

### ***Future Medicals***

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

Currently the PCF pays ongoing medical expenses on 163 patients in the amount of approximately \$2,000,000 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. Reductions by the PCF are created by decreased payment to health care providers 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 in excess of \$600,000,000 in future medical expenses. Since 2019 the medical expenses account for over 50% of the total claim payment expenses.**

### Past and Future Medical Report

Calendar Year	Past Medical	Future Medical	Grand Total
2010	\$19,729,194	\$19,257,698	\$38,986,892
2011	\$20,700,324	\$20,808,070	\$41,508,394
2012	\$23,143,778	\$18,018,971	\$41,162,749
2013	\$31,191,636	\$22,525,600	\$53,717,236
2014	\$30,022,848	\$26,165,950	\$56,188,798
2015	\$18,648,276	\$19,925,109	\$38,573,385
2016	\$20,437,267	\$29,322,042	\$49,759,309
2017	\$28,098,470	\$23,179,782	\$51,278,252
2018	\$42,828,182	\$34,971,922	\$77,800,104
2019	\$39,670,293	\$45,357,806	\$85,028,099
2020	\$38,640,931	\$38,642,951	\$77,283,882
2021	\$27,901,671	\$25,232,985	\$53,134,656

## ***Exhibit 6a & 6b***

### ***Rates & Enrollments***

The Oversight Board assumed management of the PCF in late 1990. The recommendations of the annual actuary studies have been implemented since that time resulting in significant increases in rates until 2010. Rate changes from 1989 to 2010 resulted in huge increases amounting to an increase of 540% in what private health care providers paid 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 at the time. The overall rate reduction for all classes of providers combined was 13% in 2010. Since then, there was an overall rate reduction every year for all providers until 2018 wherein a 1.2% overall increase was implemented and in 2019 a 7.8% overall increase was implemented. Rates have remained unchanged for the past 3 years.

The Fund is now fully funded; therefore, the goal will be to maintain current rate levels and reduce or increase rates whenever actuarially sound to do so but keeping asset levels, relative to liabilities, where they currently stand.

It should be noted the number of enrolled providers shown in the chart does not include medical support staff such as nurses or lab and x-ray techs. The actual number of individual health care providers covered by the PCF would be substantially larger if these individual providers were included in the totals.

**Sample Rates Over Time**  
**Occurrence Coverage**  
**(For PCF Layer Only)**

<b>Specialty</b>	<b>1990</b>	<b>2007</b>	<b>2022</b>
Hospital (Per Bed)	\$591	\$2,843	\$3,437
Internist	\$2,261	\$8,164	\$6,058
General Surgery	\$7,856	\$28,294	\$22,284
OB/GYN	\$10,273	\$41,349	\$23,484

### Enrolled Providers in the Louisiana Patient's Compensation Fund

Based on Fiscal Year

	Physician FTE	Dentists	APRN's	Nursing Homes	Hospitals	All Others	Total
1985	3955	904	200	0	104	1918	7081
1990	8780	1563	532	6	152	2948	13981
2000	10561	1686	1561	98	206	1496	15608
2010	11634	1876	2668	297	226	2348	19049
2014	10848	1894	3816	260	229	3550	20597
2017	12949	1976	5042	277	219	3386	23849
2018	11544	1905	5399	285	224	3350	22707
2019	13640	1859	4801	281	211	3361	24153
2020	12808	1830	4301	285	204	3416	22844
2021	13836	1780	4636	297	218	6258	27025
2022	14061	1964	5689	287	212	5571	27784

# Louisiana Patient's Compensation Fund

For more information please go to

<http://www.doa.la.gov/Pages/pcf/Index.aspx>

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](mailto:ken.schnauder@la.gov)  
Phone 225-342-5312
- Dr. Christopher M. Foret, PCF Board Chairman  
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Phone 985-898-4001