



ANNUAL REPORT

Per SCR 111 of 2007

BY

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

October 1, 2020

John Bel Edwards
GOVERNOR



State of Louisiana
PATIENTS' COMPENSATION FUND

DIVISION OF ADMINISTRATION

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September 23, 2020

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 Chad Brown, 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.

The Fund Oversight Board has eliminated the unfunded liability. The current indications show the Fund's level of assets to liabilities far exceeds the statutorily required minimum level. As of December 31, 2019, actuarially estimated liabilities were \$934,000,000 on an undiscounted basis and assets were \$1,115,526,523 resulting in a surplus of assets exceeding liabilities of approximately \$181,526,523 which is an increase of 20% from last year.

Effective September 2, 2020 the Board voted to keep surcharge rates unchanged from 2019 given the current crisis in the health care industry due to 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 19-20 totaled \$151,204,392. Investment income earned was \$48,469,973. The total for administrative and claims expenditures was \$169,797,356 which exhausted the original approved budget of \$137,887,693. The budget was increased by the Board to \$172,887,693 at the June 4, 2020 meeting due to an unexpected and significant increase in claims expenditures. The administrative budget for the current 20-21 fiscal year is \$8,144,385 and the claims budget is \$150,000,000 for a total agency budget of \$158,144,385. The T.O. for the agency includes 2 unclassified positions and 52 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%.

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 23,000 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 2020, at approximately \$934,000,000 on an undiscounted basis. Currently the PCF's assets as of August 31, 2020, are approximately \$1,200,000,000. 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 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.

John Bel Edwards
GOVERNOR



State of Louisiana
PATIENTS' COMPENSATION FUND

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June 15, 2020

From: Ken Schnauder, CPCU, AIC
Executive Director

RE: New Rates for the PCF effective 9/2/2020

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, 2020

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 3 years the Fund has assets exceeding the actuarial estimated liabilities. Current liabilities as of December 31, 2019 are \$934,000,000 (undiscounted) and the assets are approximately \$1.2 billion.

The Oversight Board decided in 2016, with the blessing 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 2020-2021
August 31, 2020

Fiscal Year 2020-2021 Budget	\$158,144,385
Actuarial Estimated Liabilities	933,900,000
Fund Balance Target	\$1,092,044,385

REVENUE	SURCHARGE	FILING FEES
FY Gross Collection	\$16,960,896	\$42,300
FY Refunds Issued	-\$402,805	-\$2,800
FY Net	\$16,558,091	\$39,500

Prior Year Cash Carryover	\$1,135,053,906
YTD Investment Income, as of 07/31/2020	\$5,656,214
YTD Net Surcharge Collected	\$16,558,091
YTD Net Filing Fees Collected	\$39,500
YTD Operating Expenses	-\$938,916
YTD Claim Expenses	-\$14,941,072
YTD Fund Balance	\$1,141,427,724

Operating Services - Budget:	\$8,144,385
Expended	-\$938,916
Balance	\$7,205,469

Claims Settlement- Budget:	\$150,000,000
Expended	-\$14,941,072
Balance	\$135,058,928

CLAIM SETTLEMENTS:	
All prior Month Approved Claims Not Paid	\$8,476,205.00
Current Month Approvals	\$4,680,393.00
Total	\$13,156,598.00

Monthly LAPCF Revenue Collections

FISCAL YEAR	FY 2019-2020	FY 2018-2019
July	10,761,788.22	11,245,536.05
August	6,637,617.80	4,795,364.52
September	7,607,064.99	9,533,789.10
October	19,454,481.48	18,214,000.07
November	9,847,099.37	7,954,052.38
December	20,225,169.38	18,158,347.97
January	18,553,580.66	37,753,453.42
February	26,788,741.51	2,875,669.96
March	6,650,353.48	5,318,995.15
April	3,923,206.45	4,791,445.09
May	4,470,047.04	5,962,771.67
June	16,285,242.09	13,298,553.72
Total	151,204,392.47	139,901,979.10
July	17,395.00	19,400.00
August	23,700.00	33,300.00
September	24,000.00	17,400.00
October	26,300.00	23,900.00
November	21,000.00	24,700.00
December	31,900.00	24,000.00
January	26,500.00	27,500.00
February	20,900.00	17,900.00
March	23,700.00	17,900.00
April	18,900.00	28,325.00
May	17,700.00	23,475.00
June	25,600.00	21,605.00
Total	277,595.00	279,405.00
July	2,346,917.00	2,192,397.00
August	2,868,004.00	2,485,743.00
September	3,276,965.00	3,000,980.00
October	2,030,346.00	1,914,340.00
November	7,561,470.00	2,733,160.00
December	7,057,456.00	4,773,499.00
January	5,438,535.00	2,241,228.00
February	4,580,370.00	2,617,933.00
March	3,634,732.00	2,794,750.00
April	4,093,148.00	2,159,917.00
May	2,494,519.00	4,327,050.00
June	3,087,512.00	3,570,145.00
Total	48,469,974.00	34,811,142.00
Total Collections	199,951,961.47	174,992,526.10

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. 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 the prescribing of 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. Overall, the number of requests, filed and the number of individual providers named in requests have decreased during the past seven years. Frequency seems to have leveled out at this time. In 2019 there were the fewest panels filed since 1994.

The average annual panels filed over the last eight years, is approximately 1400 per year.

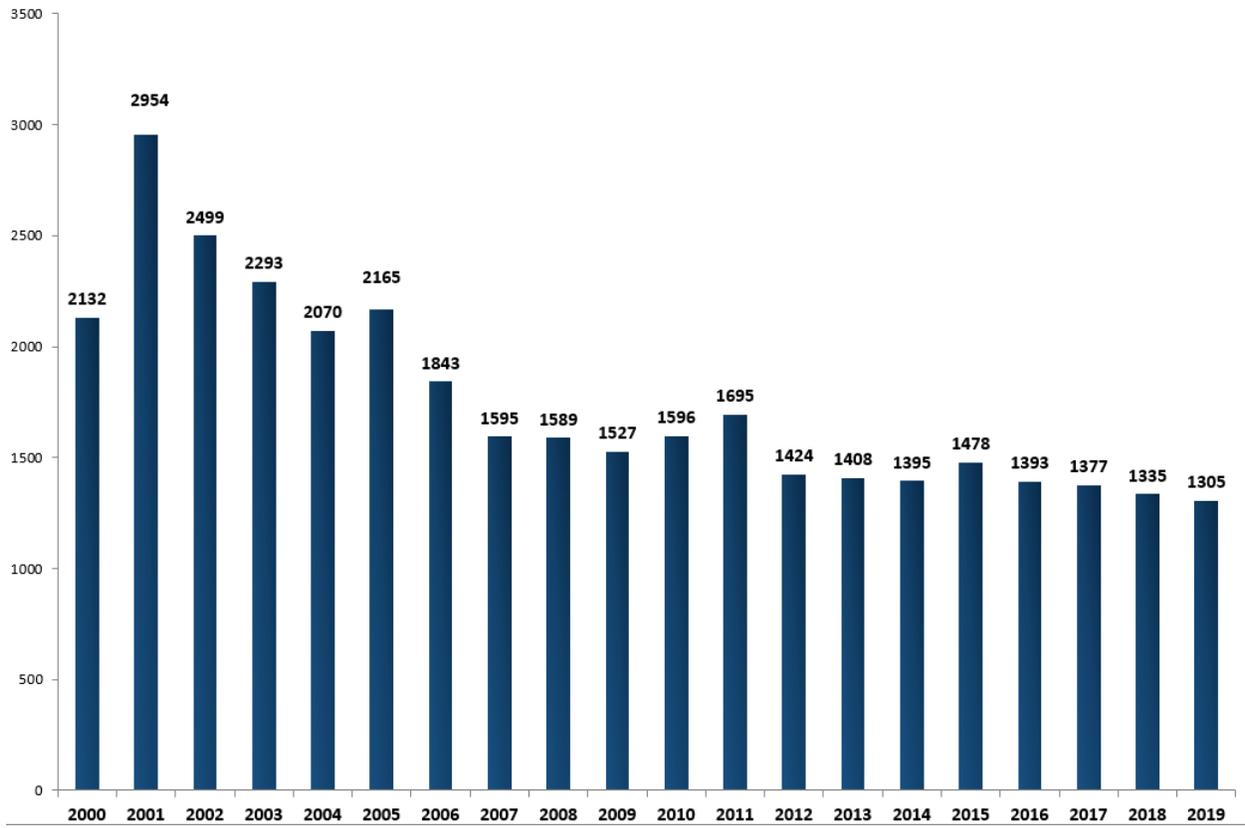


Figure 1Exhibit 2

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 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 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 has been proactive in obtaining the information and cooperation from involved parties to close claims. Pending claims are now under 4300. 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.

Panel and Claim Report through August 2020

Report Run: 9/1/2020

Claims and Panels - Opened and Closed			
	August	Average Month*	This Year
Panels Filed	52	103	804
Panels Closed	83	116	829
Claims Opened	68	97	726
Claims Closed	92	110	769

Claims Closed With Payment - 17

*Average Month based on calendar year 2019

Reserve Type	Estimated Exposures		
	Current	Past Month	EOY 2019
Future Medical	\$70,857,308	\$69,530,316	\$78,471,686
Litigation	\$3,327,080	\$3,268,688	\$3,144,366
General Damages	\$149,301,236	\$150,365,476	\$149,397,745
Total	\$223,485,624	\$223,164,480	\$231,013,797

Litigation and Interest Payment Breakdown

	August	Current Year	Prior Year Total
Interest	\$52,275	\$425,983	\$831,529
Litigation	\$68,341	\$1,096,282	\$2,508,773

Open Claims By Year Filed		
Date Filed	Open Claims	Percentage of Total
1995	1	0.02%
1997	1	0.02%
1998	1	0.02%
2000	2	0.05%
2001	2	0.05%
2002	1	0.02%
2003	2	0.05%
2004	6	0.14%
2005	4	0.09%
2006	10	0.23%
2007	11	0.26%
2008	27	0.63%
2009	14	0.33%
2010	42	0.98%
2011	58	1.36%
2012	89	2.08%
2013	117	2.74%
2014	180	4.21%
2015	282	6.60%
2016	381	8.92%
2017	589	13.78%
2018	811	18.98%
2019	997	23.33%
2020	635	14.86%
Total Open Claims:	4273	100.0%

For the month of
15 claims are presented
for approval at a total of:
\$4,680,393

Future Medical Claims By Year	
Date Filed	Open Claims
1977	1
1981	1
1982	1
1984	1
1985	7
1986	5
1987	5
1988	3
1989	4
1990	4
1991	9
1992	3
1993	3
1994	3
1995	5
1996	4
1997	3
1998	8
1999	9
2000	7
2001	7
2002	6
2003	6
2004	12
2005	6
2006	6
2007	6
2008	5
2009	4
2010	7
2011	2
2012	4
2013	5
2014	1
2015	3
2016	2
2017	2
2018	13
Total Open Future	183

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 now the vast majority of claims are settled globally and in a much shorter timeframe.

Settlements and Judgments Over the Years

Year	Claims Settled	Claim Payments (Minus Legal)	Average Per Claim
2001	176	\$64,581,499	\$366,940
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

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 183 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 \$500,000,000 in medical expenses. In 2019 medical expenses were over 50% of the total claim payment expenses.

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

Exhibit 7a & 7b

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 has been 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. This year rates remain unchanged.

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 & x-ray techs. The actual number of 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)**

Specialty	1990	2007	2020
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	11847	1894	3816	260	229	3340	21386
2017	12949	1976	5042	277	219	3386	23849
2020	12808	1830	4301	285	204	3416	22844

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:

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