



# **ANNUAL REPORT**

**Per SCR 111 of 2007**

**BY**

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

**October 1, 2018**

# Patient's Compensation Fund

State of Louisiana

Division of Administration

JOHN BEL EDWARDS  
GOVERNOR



P.O. Box 3718  
BATON ROUGE, LA 70821  
(225) 342-5200  
(866) 469-9555

September 14, 2018

Honorable Fred Mills, Chairman, Senate Committee on Health and Welfare  
Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare  
Honorable John Smith, Chairman, Senate Committee on Insurance  
Honorable Kirk Talbot, 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 to 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, 2017, actuarially estimated liabilities were \$918,000,000 on an undiscounted basis and assets were \$1,078,517,338 resulting in a surplus of assets exceeding liabilities of approximately \$160,517,338.

Effective September 2, 2018 the Board implemented an overall increase in surcharge rates of 1.2% which was a mixture of some healthcare providers receiving increases and some decreases.

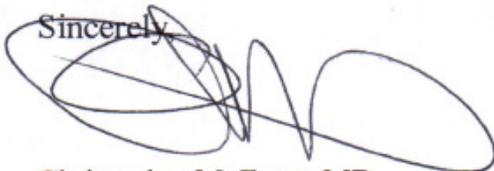
An investment consultant has been retained to advise the Board on increasing investment income to help keep rates lower for the health care providers and to further solidify the financial integrity of the Fund. Investments have been allocated into a conservative portfolio which is monitored daily.

The revenue from surcharges and filing fees last fiscal year totaled \$137,024,054. Investment income earned was \$37,744,663. The total for administrative and claims expenditures was \$144,934,478 which was over our original approved budget of \$137,134,76. The budget was increased by the Board to \$157,134,761 at the May 3, 2018 meeting due to an unexpected and significant increase in claims expenditures. The administrative budget for the current fiscal year is \$7,307,693 and the claims budget is \$130,000,000 for a total agency budget of \$137,307,693. The T.O. for the agency includes 2 unclassified positions and 52 classified positions. There are 9 Board members.

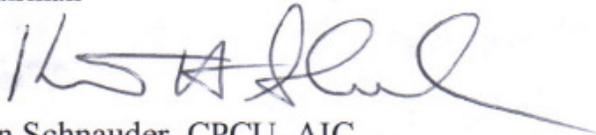
In accordance with Act 182 of the 2011 Regular Session, a copy of the report has been submitted to the David R. Poynter Legislative Research Library for distribution and record keeping. The PCF's website, <http://www.doa.la.gov/Pages/pcf/Index.aspx>, contains more information, including minutes from 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. This provision also reduced the payments that were being made or could have been made by Medicare and Medicaid, lessening the burden to those 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 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 about 540%. Since 2010 rates have stabilized and been reduced by almost 50%.

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 22,000 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 2018, at approximately \$918,000,000 on an undiscounted basis. Currently the PCF's assets as of August 31, 2018, are approximately \$1,080,000,000. The Board's actions have resulted in a steady and impressive increase in funds 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



EXECUTIVE OFFICE  
P.O. BOX 3718  
BATON ROUGE, LA 70821  
(225) 342-5200  
pcf@la.gov  
www.doa.louisiana/pcf

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

July 20, 2018

From: Ken Schnauder, CPCU, AIC  
Executive Director

RE: New Rates for the PCF effective 9/2/18

In accordance with the annual actuarial study, the PCF Oversight Board determined there was justification for the following rate changes for all healthcare providers enrolled as stated below.

The actual percentage changes as of 9/2/2018 will be as follows:

Hospitals	<b>6.8%</b>
Nursing Homes	<b>-0.90%</b>
CRNA	<b>- 2.7%</b>
Dentists and Oral Surgeons	<b>4.7%</b>
Advanced Practice Nurses (Nurse Practitioner, Nurse Midwife, Physician's & Surgeon's Assistant, Clinical Nurse Specialist)	<b>-1.9%</b>
Chiropractors and Optometrists	<b>-1.9%</b>
Physicians Class 1A	<b>- 4.0%</b>
Physicians Class 1, 2, 3, 5, 7, 8	<b>-1.9%</b>
Physicians Class 2A, 4, 6	<b>2.4%</b>

The "all other" classes will have a 1.1% decrease to .67% of the primary premium.

The minimum rate is still \$250.

The overall rate increase is **1.2%**

**October 1, 2018**

**EXHIBITS**

**AND**

**EXPLANATIONS**

## ***Exhibit 1***

### ***Liability Funding***

Prior to August 15, 2010, the calculation of the Statutory minimum funding level found in La R.S. 40:1231.1 required a surplus of 30% of the total of the surcharges collected, expenses and reserves (estimated amount of exposures pending and incurred 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, 2017, based on actuarially calculated liabilities, the Fund has over 117% of the necessary assets to cover these estimated liabilities as shown by the following chart.

<b><u>ESTIMATED LIABILITIES**</u></b>	<b><u>ASSETS</u></b>	<b><u>Unfunded Liabilities</u></b>
(Incurred Claims & legal + IBNR)	(Cash & investments)	(Difference)
<b>12/2000:</b> \$383,600,000	\$84,880,890	<b>\$298,719,110</b>
<b>12/2005:</b> \$675,300,000	\$253,275,810	<b>\$422,024,190</b>
<b>12/2006:</b> \$737,500,000	\$364,752,401	<b>\$372,747,599</b>
<b>12/2007:</b> \$756,200,000	\$431,217,706	<b>\$324,982,294</b>
<b>12/2008:</b> \$738,000,000	\$494,585,500	<b>\$243,414,500</b>
<b>12/2009:</b> \$773,400,000	\$576,373,243	<b>\$197,026,757</b>
<b>12/2010:</b> \$771,400,000	\$633,745,844	<b>\$137,654,156</b>
<b>12/2011:</b> \$777,000,000	\$669,576,202	<b>\$107,423,798</b>
<b>12/2012:</b> \$787,000,000	\$776,325,715	<b>\$10,674,285</b>
<b>12/2013:</b> \$788,500,000	\$833,108,462	\$44,608,462
<b>12/2014:</b> \$756,000,000	\$900,285,387	\$144,285,387
<b>12/2015:</b> \$765,500,000	\$972,841,069	\$207,341,069
<b>12/2016:</b> \$765,200,000	\$1,023,440,104	\$258,240,104
<b>12/2017:</b> \$769,800,000	\$1,078,517,338	\$308,717,338

\*all figures as of December 31<sup>st</sup> of each year

\*\* Liabilities are stated on a **discounted basis**

***Exhibit 2a & 2b***  
***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. These items as well as other information can be found on the PCF website as our part of being a transparent state agency.



### Monthly LAPCF Revenue Collections

Fiscal Year	FY 2017-2018	FY 2016-2017
	Net Surcharge Collections	
July	11,822,440.15	12,804,299.39
August	6,627,936.44	6,576,215.96
September	7,060,024.66	8,313,522.74
October	13,787,590.52	14,145,881.43
November	13,375,546.95	12,502,937.55
December	20,592,706.60	19,985,959.07
January	17,075,856.04	24,287,652.32
February	20,191,008.65	20,473,006.22
March	3,515,818.84	4,267,672.64
April	5,779,018.11	5,727,750.24
May	5,611,758.48	6,096,972.62
June	11,300,148.44	13,709,035.15
<b>Total</b>	<b>136,739,853.88</b>	<b>148,890,905.33</b>
	Net Filing Fee Collections	
July	27,400.00	22,600.00
August	24,600.00	18,000.00
September	22,005.00	27,300.00
October	22,595.00	24,700.00
November	18,800.00	26,100.00
December	18,600.00	20,500.00
January	26,300.00	25,100.00
February	19,000.00	20,100.00
March	23,100.00	28,830.00
April	25,205.00	22,170.00
May	28,095.00	20,200.00
June	28,500.00	32,200.00
<b>Total</b>	<b>284,200.00</b>	<b>287,800.00</b>
	Monthly Investment Income	
July	2,136,195.00	(4,636,897.00)
August	1,846,064.00	2,100,756.00
September	2,847,596.00	2,179,835.00
October	2,271,913.00	1,333,957.00
November	2,857,404.00	1,926,138.00
December	6,614,826.00	4,065,995.00
January	2,452,955.00	1,346,978.00
February	2,147,389.00	1,828,161.00
March	6,002,072.00	2,081,475.00
April	2,169,449.00	1,166,332.00
May	2,703,289.00	2,649,500.00
June	3,695,509.00	2,196,706.00
<b>Total</b>	<b>37,744,661.00</b>	<b>18,238,936.00</b>
<b>Total Collections</b>	<b>\$ 174,768,714.88</b>	<b>\$ 167,417,641.33</b>

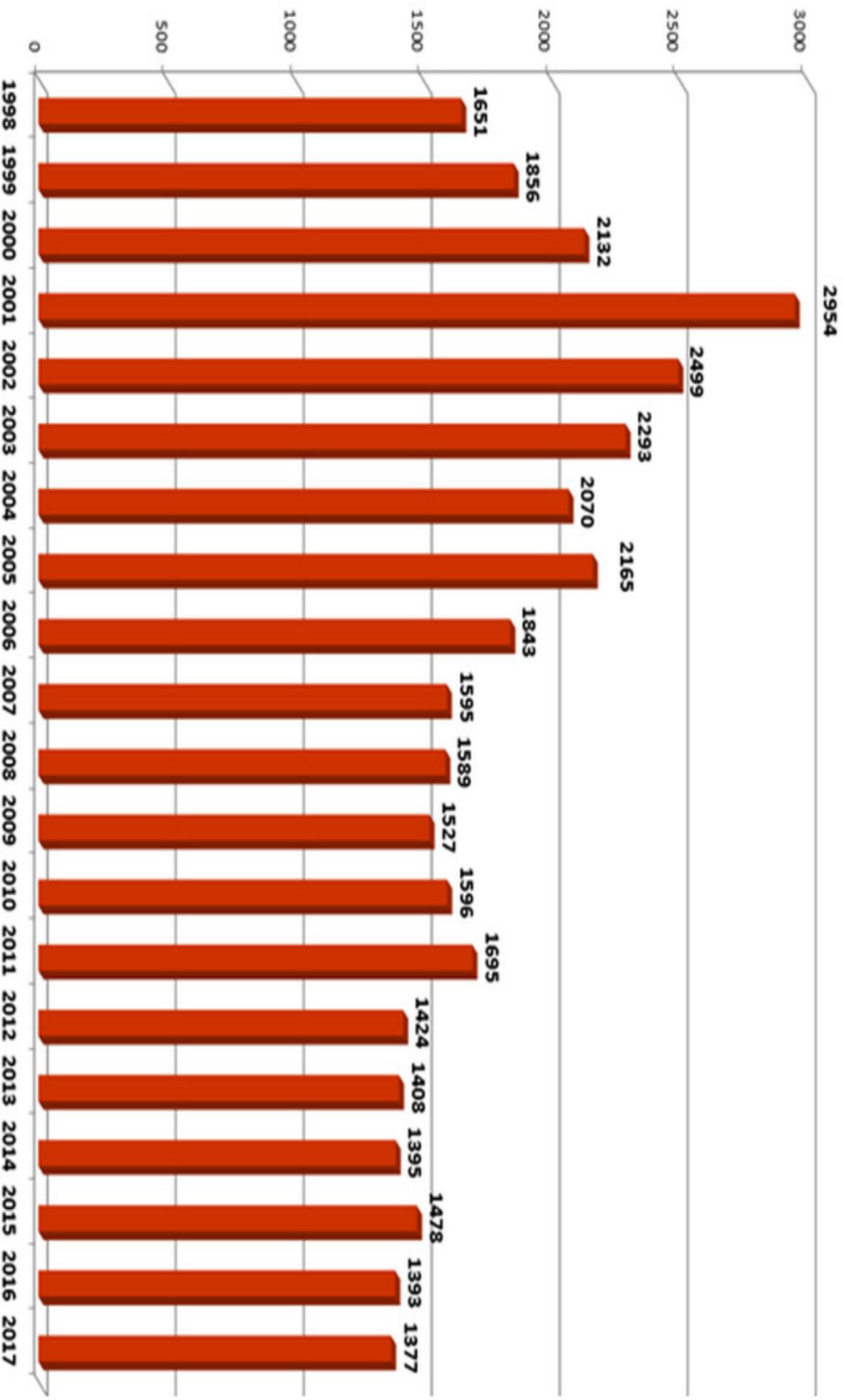
## ***Exhibit 3***

### ***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 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 five years. Frequency seems to have leveled out at this time. In 2017 there were the fewest panels filed since 1994.

The average annual panels filed over the last five years, is approximately 1425 per year.

# 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 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 4500. 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 2018

Report Run: 9/5/2018

Claims and Panels - Opened and Closed			
	August	Average Monthly*	This Year
Panels Filed	101	112	873
Panels Closed	142	114	981
Claims Opened	112	104	796
Claims Closed	178	125	963

Claims Closed With Payment - 44  
\*Average Month based on calendar year 2017

Litigation and Interest Payment Breakdown				Estimated Exposures		
	August	Current Year	Prior Year Total	Current	Past Month	EOY 2017
Interest	\$146,622	\$1,212,312	\$1,106,363	\$67,238,187	\$67,697,498	\$68,868,519
Litigation	\$230,980	\$1,702,780	\$3,650,495	\$3,353,136	\$3,500,409	\$4,192,605
				\$162,094,465	\$152,073,083	\$145,114,188
				<b>Total</b>	<b>\$223,270,990</b>	<b>\$218,175,312</b>

For the month of September  
35 claims are presented  
for approval at a total of:  
\$16,190,741

Open Claims By Year Filed			
Date Filed	Open Claims	Percentage of Total	
1995	1	0.02%	
1997	1	0.02%	
1998	1	0.02%	
1999	2	0.04%	
2000	3	0.07%	
2001	4	0.09%	
2002	3	0.07%	
2003	7	0.16%	
2004	10	0.22%	
2005	16	0.36%	
2006	16	0.36%	
2007	21	0.47%	
2008	35	0.79%	
2009	42	0.94%	
2010	86	1.93%	
2011	131	2.94%	
2012	181	4.06%	
2013	264	5.92%	
2014	400	8.97%	
2015	615	13.80%	
2016	844	18.93%	
2017	1068	23.96%	
2018	700	15.70%	
<b>Total Open Claims:</b>	<b>4458</b>	<b>100.00%</b>	

Future Medical Claims By Year	Open Claims
1977	1
1981	1
1982	1
1984	2
1985	7
1986	5
1987	5
1988	3
1989	4
1990	4
1991	10
1992	3
1993	3
1994	3
1995	6
1996	4
1997	3
1998	8
1999	8
2000	7
2001	7
2002	6
2003	6
2004	8
2005	13
2006	7
2007	6
2008	7
2009	5
2010	4
2011	6
2012	3
2013	5
2014	2
2015	1
2016	2
2017	1
<b>Total Open Future Medi:</b>	<b>172</b>

## ***Exhibit 5***

### ***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 have leveled off since then. 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 also 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. 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
2000	162	\$63,697,356	\$393,194
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

## ***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 173 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. 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 in excess of \$500,000,000 in medical expenses.**

## 10 Years of Past and Future Medical Payments

<b>Calendar Year</b>	<b>Past Medical</b>	<b>Future Medical</b>	<b>Grand Total</b>
2008	\$26,960,700	\$16,182,093	\$43,142,793
2009	\$27,077,707	\$17,474,868	\$44,552,575
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

## ***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. Rate changes from 1989 to 2010 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. Since then there has been an overall rate reduction every year for all providers until 2018 wherein a 1.2% overall increase was implemented.

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.

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 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 individual providers were included in the totals.

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

<b>Specialty</b>	<b>1990</b>	<b>2007</b>	<b>2018</b>
Hospital (Per Bed)	\$591	\$2,843	\$3,124
Internist	\$2,261	\$8,164	\$5,656
General Surgery	\$7,856	\$28,294	\$20,314
OB/GYN	\$10,273	\$41,349	\$21,927

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

Based on Fiscal Year

	Physicians	Dentists	APRN's	Nursing Homes	Hospitals	All Others	Total
1985	3269	904	200	0	104	1918	6395
1990	7256	1563	532	6	152	2948	12457
2000	8728	1686	1561	98	206	1496	13775
2010	9624	1876	2668	297	226	2348	17039
2014	10848	1894	3816	260	229	3340	20387
2017	10932	1976	5042	277	219	3386	21832

## **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  
[foretc@bellsouth.net](mailto:foretc@bellsouth.net)  
Phone 985-898-4001