



ANNUAL REPORT

Per SCR 111 of 2007

BY

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

October 1, 2019

John Bel Edwards
GOVERNOR



State of Louisiana
PATIENTS' COMPENSATION FUND

DIVISION OF ADMINISTRATION

P.O. BOX 3718
BATON ROUGE, LA 70821
(225) 342-5200
(866) 469-9555
pcf@la.gov
www.doa.la.gov/pcf

September 26, 2019

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 be provided to the Legislature by October 1st each year.

The Fund Oversight Board has eliminated the unfunded liability. The current indications show the PCF's level of assets to liabilities exceeds the statutorily required minimum level. As of December 31, 2018, actuarially estimated liabilities were \$956,000,000 on an undiscounted basis and assets were \$1,104,899,302 resulting in a surplus of assets exceeding liabilities of approximately \$148,899,302 which is a 7% decrease from last year.

Effective September 2, 2019 the Board implemented an overall increase in surcharge rates of 7.8% with all providers receiving an increase.

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 18-19 totaled \$140,181,384. Investment income earned was \$34,811,142. The total for administrative and claims expenditures was \$151,243,263 which exhausted our original approved budget of \$137,307,693. The budget was increased by the Board to \$152,307,693 at the May 2, 2019 meeting due to an unexpected and significant increase in claims expenditures. The administrative budget for the current fiscal year is \$7,887,693 and the claims budget is \$130,000,000 for a total agency budget of \$137,887,693. 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.

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 40%.

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 24,000 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 2019, at approximately \$956,000,000 on an undiscounted basis. Currently the PCF's assets as of August 31, 2019, are approximately \$1,100,000,000. 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



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 23, 2019

From: Ken Schnauder, CPCU, AIC
Executive Director

RE: New Rates for the PCF effective 9/2/19

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 09/02/2019 will be as follows:

Hospitals	+9.4%
Nursing Homes	+5.6%
CRNA	+3.0%
Dentists and Oral Surgeons	+9.6%
Advanced Practice Nurses (Nurse Practitioner, Nurse Midwife, Physician's & Surgeon's Assistant, Clinical Nurse Specialist)	+7.1%
Chiropractors, Optometrists and Pharmacists	+7.1%
Physicians Class 1, 2A, 2, 3, 7, 8	+7.1%
Physicians Class 4, 6	+9.7%
Physicians Class 1A, 5	+4.5%

The "all other" classes will have a 7.1% increase to 72% of the primary premium.

The minimum rate is still \$250.

The overall rate increase is +7.8%

October 1, 2019

EXHIBITS

AND

EXPLANATIONS

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, 2018 are \$956,000,000 (undiscounted) and the assets are approximately \$1.1 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. These items as well as other information can be found on the PCF website

<https://www.doa.la.gov/Pages/pcf/Index.aspx> as our part of being a transparent state agency.

FINANCIAL DATA FOR BOARD
Current FY Year 2019-2020
August 31, 2019

REVENUE	SURCHARGE	FILING FEES
FY Gross Collection	\$17,896,411	48,400\$
FY Refunds Issued	-\$497,005	-\$7,305
FY Net	17,399,406\$	\$41,095
Prior Year Cash Carryover		\$1,104,899,302
YTD Investment Income, as of 7/31/2019		\$2,346,917
YTD Net Surcharge Collected		\$17,399,406
YTD Net Filing Fees Collected		\$41,095
YTD Operating Expenses		-\$794,590
YTD Claim Expenses		-\$24,427,059
YTD Fund Balance		\$1,099,465,071
Operating Services - Budget:		\$7,887,693
Expended		-\$794,590
Balance		\$7,093,103
Claims Settlement- Budget:		\$130,000,000
Expended		-\$24,427,059
Balance		\$105,572,941
CLAIM SETTLEMENTS:		
All prior Month Approved Claims Not Paid		\$6,252,951.00
Current Month Approvals		\$6,467,000.00
Total		\$12,719,951.00

Monthly LAPCF Revenue Collections

FISCAL YEAR	FY 2018-2019	FY 2017-2018
	NET SURCHARGE COLLECTIONS	
JULY	11,245,536.05	11,822,440.15
AUGUST	4,795,364.52	6,627,936.44
SEPTEMBER	9,533,789.10	7,060,024.66
OCTOBER	18,214,000.07	13,787,590.52
NOVEMBER	7,954,052.38	13,375,546.95
DECEMBER	18,158,347.97	20,592,706.60
JANUARY	37,753,453.42	17,075,856.04
FEBRUARY	2,875,669.96	20,191,008.65
MARCH	5,318,995.15	3,515,818.84
APRIL	4,791,445.09	5,779,018.11
MAY	5,962,771.67	5,611,758.48
JUNE	13,298,553.72	11,300,148.44
TOTAL	139,901,979.10	136,739,853.88
	NET FILING FEE COLLECTIONS	
JULY	19,400.00	27,400.00
AUGUST	33,300.00	24,600.00
SEPTEMBER	17,400.00	22,005.00
OCTOBER	23,900.00	22,595.00
NOVEMBER	24,700.00	18,800.00
DECEMBER	24,000.00	18,600.00
JANUARY	27,500.00	26,300.00
FEBRUARY	17,900.00	19,000.00
MARCH	17,900.00	23,100.00
APRIL	28,325.00	25,205.00
MAY	23,475.00	28,095.00
JUNE	21,605.00	28,500.00
TOTAL	279,405.00	284,200.00
	MONTHLY INVESTMENT INCOME	
JULY	2,192,397.00	2,136,195.00
AUGUST	2,485,743.00	1,846,064.00
SEPTEMBER	3,000,980.00	2,847,596.00
OCTOBER	1,914,340.00	2,271,913.00
NOVEMBER	2,733,160.00	2,857,404.00
DECEMBER	4,773,499.00	6,614,826.00
JANUARY	2,241,228.00	2,452,955.00
FEBRUARY	2,617,933.00	2,147,389.00
MARCH	2,794,750.00	6,002,072.00
APRIL	2,159,917.00	2,169,449.00
MAY	4,327,050.00	2,703,289.00
JUNE	3,570,145.00	3,695,509.00
TOTAL	34,811,142.00	37,744,661.00
Total Collections	174,992,526.10	174,768,714.88

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 2018 there were the fewest panels filed since 1994.

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

20 Years of Panels Filed

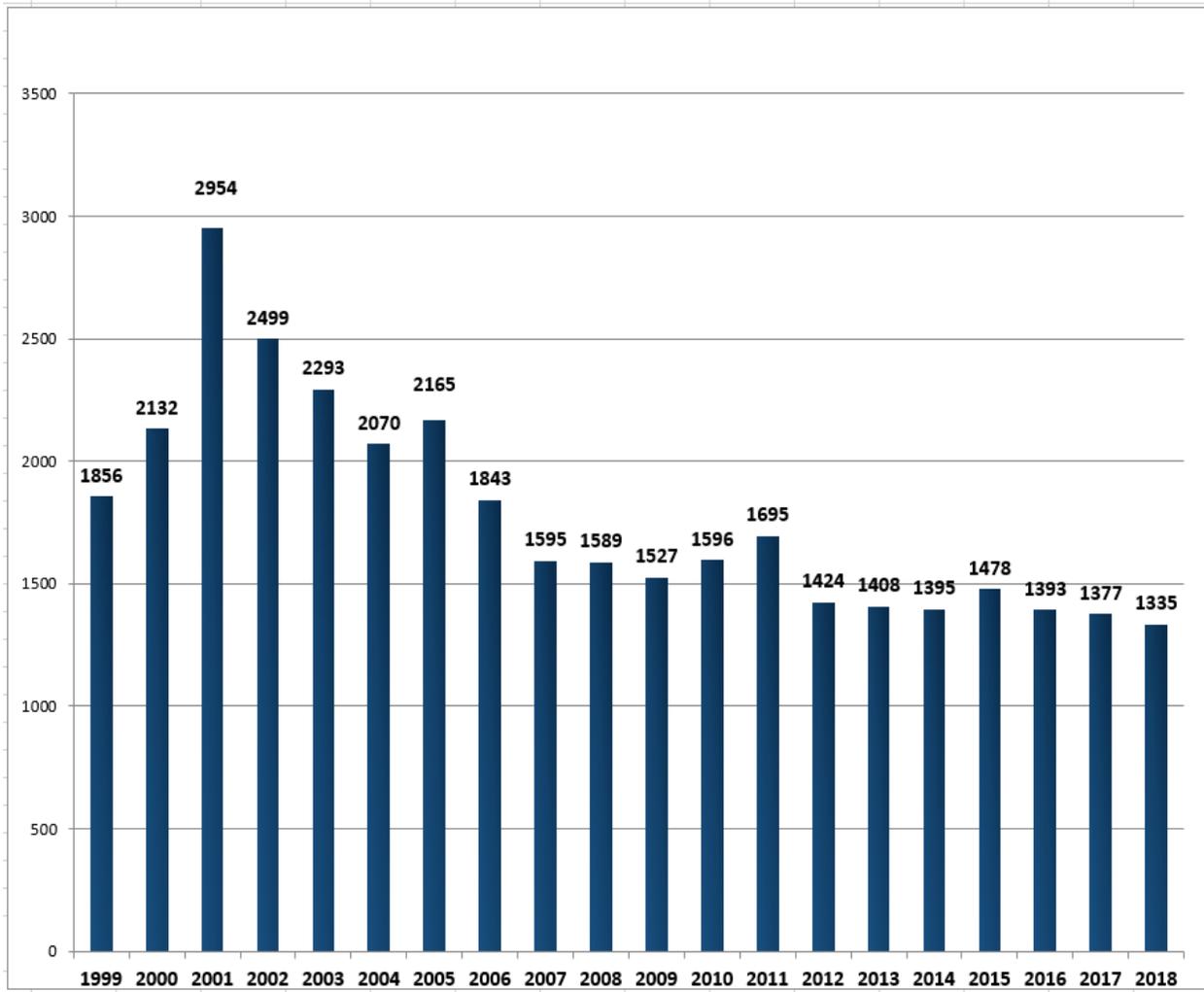


Figure 1Exhibit 2

Exhibit 3

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 4400. 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 2019

Report Run: 9/3/2019

Claims and Panels - Opened and Closed				Estimated Exposures			
	August	Average Month*	This Year	Reserve Type	Current	Past Month	EOY 2018
Panels Filed	82	112	827	Future Medical	\$70,850,901	\$71,576,002	\$68,868,519
Panels Closed	115	114	893	Litigation	\$3,385,523	\$3,447,688	\$4,192,605
Claims Opened	91	104	789	General Damages	\$155,709,408	\$155,187,173	\$145,114,188
Claims Closed	95	125	883	Total	\$229,945,832	\$230,210,863	\$218,175,312

Claims Closed With Payment - 24

*Average Month based on calendar year 2018

Litigation and Interest Payment Breakdown

	August	Current Year	Prior Year Total
Interest	\$0	\$484,260	\$1,420,170
Litigation	\$146,592	\$1,697,853	\$2,431,674

Open Claims By Year Filed

Date Filed	Open Claims	Percentage of
1995	1	0.02%
1997	1	0.02%
1998	1	0.02%
1999	1	0.02%
2000	3	0.07%
2001	2	0.05%
2002	1	0.02%
2003	2	0.05%
2004	8	0.18%
2005	9	0.21%
2006	15	0.35%
2007	16	0.37%
2008	30	0.69%
2009	23	0.53%
2010	56	1.29%
2011	77	1.77%
2012	120	2.76%
2013	182	4.19%
2014	257	5.92%
2015	396	9.12%
2016	560	12.90%
2017	853	19.65%
2018	1036	23.86%
2019	684	15.75%
Total Open Claims:	4342	100.0%

For the month of September
15 claims are presented
for approval at a total of:
\$6,467,000

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	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	13
2005	7
2006	6
2007	6
2008	5
2009	4
2010	7
2011	2
2012	5
2013	3
2014	1
2015	4
2016	1
2017	1
2018	13
Total Open Future	184

Exhibit 4a & b

Claim Payments

The following charts show 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 and 2019 have seen a significant increase in the severity of claims mainly driven by the medical costs involved. Frequency is still very low, but severity continues to be of concern.

The second chart shows claims in excess of one million dollars, indicating the severity issues mentioned above.

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
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
2018	321	\$117,821,750	\$367,045

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 184 patients in the amount of approximately \$2,500,000 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. In 2018 medical expenses were over 50% of the total claim payment expenses.

Calendar Year	Past Medical	Future Medical	Grand Total
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
2018	\$42,828,182	\$34,971,922	\$77,800,104

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 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.

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	2019
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
2019	13640	1859	4801	281	211	3361	24153

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
Phone 225-342-5312
- Dr. Christopher M. Foret, PCF Board Chairman
foretc@bellsouth.net
Phone 985-898-4001