

January 10, 2017

- To: Chairman Dwight A. Loftis Representative Nathan Ballentine Representative Kirkman Finlay
- From: Terry A. Coston Executive Director
- Re: SC Patients' Compensation Fund

Please allow this memorandum to supplement the 2017/18 Budget Request of the SC Patients' Compensation Fund ("PCF").

History:

The PCF is a state fund that was established by statute in 1976 during a time in the state's history when all of the medical malpractice insurance carriers left the state. This resulted in physicians unable to secure sufficient malpractice coverage to protect them from claims/lawsuits filed against them. The PCF was established as an excess fund that now requires its members to have primary coverage of \$200,000 per claim/\$600,000 annual aggregate (the original statute required \$100,000 per claim/\$300,000 annual aggregate). The PCF provided unlimited excess coverage to licensed healthcare providers up until 2009 when the PCF Board of Governors eliminated the unlimited coverage. We now provide five different limits of coverage that are inclusive of the primary limit:

\$1Million per claim/\$3 Million annual aggregate
\$2Million per claim/\$4 Million annual aggregate
\$3Million per claim/\$6 Million annual aggregate
\$5Million per claim/\$7Million annual aggregate
\$10Million per claim/\$12Million Annual Aggregate

The PCF became a state agency in 1986 under the direction of Executive Director, Calvin Stewart. Mr. Stewart retired in 2001. Since that time the PCF Board of

Governors promoted me to the position of Executive Director and we currently have authority for five (5) FTE positions. We service approximately 3,000 member physicians, dentist, mid-level practitioners, clinics, professional associations & hospitals.

The membership fees of the Fund are reviewed annually and approved by the PCF Board of Governors. The PCF uses the actuary firm of Merlinos and Associates to review our reserves and rates quarterly and annually. They make recommendations to the PCF Board of Governors for any changes in the members' fees each year. Fees are based on specialty, claim payouts and reserves.

The PCF does not request or use any General Funds of the State. We are a selfsupported agency that is funded completely by the annual fees of its members.

Mission:

The South Carolina Patients' Compensation Fund was created for the purpose of paying that portion of a medical malpractice claim, settlement, or judgment which is in excess of two hundred thousand dollars for each incident or in excess of six hundred thousand dollars in the aggregate year for one year. The Fund is liable only for payment of claims against licensed health care providers in compliance with the provisions of the Enabling Statute Title 38, Chapter 79, Article 5 and includes reasonable and necessary expenses incurred in payment of claims and the Fund's administrative expense.

Our mission is to ensure the stability and security of the South Carolina Patients' Compensation Fund for our members with sound investment practices, rate adequacy, and superior customer service and risk management practices.

Program Areas:

The PCF provides membership services, risk management services and claims services to all PCF members.

- Membership services include billing, underwriting, locum tenens processing, and coverage verification.
- Our Risk Management services include new physicians' seminars, office risk assessments and on-line courses that promote reducing harm to patients and claim prevention.
- Claims services include monitoring the primary carrier and providing input and authority when required.

The PCF works closely with the primary carrier in all areas mentioned above to make sure our members are protected.

2017/18 Budget Request:

The PCF has maintained the same budget requests for several years. Over the past year the PCF Board of Governors has approved a few initiatives to include an online risk management course that provides education to our members on risk reduction of medical malpractice claims They have also approved enhancements to our membership management system that process the PCF memberships, reports and claims. Our request for an increase in this year's budget authority takes into account the costs of these initiatives.

As the Executive Director for the PCF I would like to thank you for allowing us to meet with you and for your considerations to our request for this slight increase in this coming year's annual budget.



Approved by:			
11 v	Terry Coston, Executive Director	Date	

M:/Organizational Charts/Board of Governors Rev.1/2017





JAMES E. MERCER, D.D.S. (CHAIRMAN)	<mark>3/17/2009-3/17/2015</mark> DENTIST - SCDA
7033 ST. ANDREWS ROAD, SUITE 102	(Appointed 4/18/00, 1 st Partial Appointment, Exp. 3/17/03)
COLUMBIA, SOUTH CAROLINA 29212	(Reappointed 2/26/04, 1st FULL Appointment, Exp. 3/17/09)
	(Reappointed 3/17/09, 1st FULL Appointment, Exp. 3/17/15)
	(Vice: David F. Watson)
PHONE NO.: (803) 781-3321	FAX NO.: (803) 781-4406
EMAIL: jmercer@sc.rr.com	WIFE: KATHY MERCER
-	3/17/20143/17/2020DENTIST - SCDA
104 COWDRAY PARK	(Appointed 6/18/14, 1 st Partial Appointment, Exp. 3/17/2020)
COLUMBIA, SOUTH CAROLINA 29223	(Vice: Pierce Butler)
PHONE NO.: (803) 788-0861	
WORK NO.: (803) 798-0894	5AV NO (000)704 7007
CELL NO.: (803) 9178382	FAX NO.: (803)731-7887
EMAIL: <u>periodoc@aol.com</u>	WIFE: BARBARA FARRAR
PATRICK WILLIAM CARR, ESQ	3/17/2015-3/17/2021ATTORNEY
1 DUCK FIELD ROAD	(Appointed 4/19/12, 1 st FULL Appointment, Exp. 3/17/15)
HILTON HEAD, SOUTH CAROLINA 29928	(Reappointed 7/18/2016, 2 nd FULL Appointmnt, Exp. 3/17/2021)
	(Vice: John Hardaway [Deceased])
PHONE NO.: (843) 686-5432	FAX NO.:
EMAIL: patrick@hiltonheadlawyers.com	WIFE: KATHY MERCER
DIXON C. CUNNINGHAM, D.B.A	3/17/2017-3/17/2023PUBLIC
609 CRESCENT AVENUE	(Appointed 8/8/07, 1 st Partial Appointment, Exp. 3/17/11)
GREENVILLE, SOUTH CAROLINA 29601	(Reappointed 2/8/12, 1st FULL Appointment, Exp. 3/17/17)
	(Reappointed 11/9/2016, 2nd FULL Appointment, Exp. 3/17/23)
	(Vice: Verna Clayton)
PHONE NO.: (864)271-9350	FAX NO.: (864)271-9350
EMAIL: <u>dixon4@charter.net</u>	WIFE: DODY CUNNINGHAM
SARA G. KIRBY	3/17/2014-3/17/2020HOSPITAL - SCHA
210 RIVERWALK CIRCLE	(Appointed 1/13/15, 1 st Partial Appointment, Exp. 3/17/2020)
WEST COLUMBIA, S.C. 29169	(Vice: Harold Tucker)
PHONE NO.: (864) 607-1558	FAX NO.:
EMAIL: sarah.kirby@palmettohealth.org	HUSBAND:



RICHARD M. KENNEDY, M.D. (VICE-CHAIRMAN)- 133 GREGG PARKWAY COLUMBIA, SOUTH CAROLINA 29206	6/17/2013-06/17/2019PHYSICIAN - SCMA (Appointed 4/18/00, 1 ST Partial Appointment, Exp. 6/17/01) (Reappointed 7/25/01, 1st FULL Appointment, Exp. 6/17/07) (Reappointed 3/12/08, 2nd FULL Appointment, Exp. 6/17/13) (Reappointed 8/29/14, 3nd FULL Appointment, Exp. 6/17/19) (Vice: C. Tucker West on)
PHONE NO.: (803) 738-7971	FAX NO.: (803) 790-1139
EMAIL: <u>kennedy88@juno.com</u>	(803) 695-6726 WIFE: CATHY KENNEDY
BRUCE MACKAY, CPCU 103 SPINNAKER CT. LEXINGTON, SC 29072 BMACKAY@SC.RR.COM	3/17/2011-3/17/2017INSURANCE (Appointed 4/18/00, 1 ST Partial Appointment, Exp. 3/17/05) (Reappointed 4/19/05, 1st Full Appointment, Exp. 3/17/11) (Reappointed 2/8/12, 2nd Full Appointment, Exp. 3/17/17) (Vice: Lee F. Brinkley)
PHONE NO.: (803) 260-6985 EMAIL: <u>scfbrd@scfbins.com</u> <u>bmackay@sc.rr.com</u> (As of 10/30/15)	WIFE: LILLIAN MACKAY
JEFFREY C. MILLER	8/17/2015-3/17/2021INSURANCE
321 White Birch Circle	(Appointed 10/20/03, 1 st Partial Appointment, Exp. 3/17/09)
COLUMBIA, SOUTH CAROLINA 29223	(Reappointed 6/24/09, 1 st Full Appointment, Exp. 3/17/15)
	(Reappointed 1/14/2016, 2 nd Full Appointment, Exp. 3/17/21) (Vice: Tom Gosski)
PHONE NO: (803) 960-9869	FAX NO:
EMAIL: jmille0305@aol.com	WIFE: PEGGY MILLER
VACANT (T.SHEALY)	3/17/2011-3/17/2017HOSPITAL (Appointed 5/16/08, 1 ST Partial Appointment, Exp. 3/17/11) (Reappointed 2/8/12, 1 ST Full Appointment, Exp. 3/17/17) (Vice: Tim Browne/Tiffany Shealy)
PHONE NO: EMAIL: EMAIL:	FAX NO.:



205 KING STREET, SUITE 400 CHARLESTON, SOUTH CAROLINA 29401 POST OFFICE BOX 486 (29402)

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CHERYL D. SHOUN------SC BAR ASSOCIATION

(Appointed 8/17/09, 1ST Partial Appointment, Exp. 3/17/11) (Reappointed 2/8/12, 1ST Full Appointment, Exp. 3/17/17) (Vice: James Dedman)

FAX NO.: (843) 414-8238

MILON C. SMITH	3/17/2011-3/17/2017PUBLIC
538 BLACKSTRAP RETREAT	(Appointed 12/29/05, 1 st Partial Appointment, Exp. 3/17/11)
MOUNT PLEASANT, SOUTH CAROLINA 29464	(Reappointed 2/8/12, 1ST Full Appointment, Exp. 3/17/17)
	(Vice: Susie H. Von Huss))
PHONE NO.: (843) 284-1185	FAX NO.: (843) 388-8081
EMAIL: m.smith@tidelandsbank.com	WIFE: MARY LOU SMITH

STEVEN E. SWIFT, MD	6/17/2013-6/17/2019SCMA PHYSICIAN
539 FLAMBEAU RETREAT	(Appointed 2/8/12, 1 st Partial Appointment, Exp. 6/17/13)
MOUNT PLEASANT, SOUTH CAROLINA 29464	(Reappointed 4/29/13, 1 st Full Appointment, Exp. 6/17/19) (Vice: Andrew Pate)
PHONE NO.: (843) 792-6104	FAX NO.: (843) 792-0533

EMAIL: swifts@musc.edu

WIFE: ALISA SWIFT

LARRY L. WARE, MD	6/17/2013-6/17/2019PHYSICIAN
1303 PINE CREST ROAD	(Appointed 2/2/12, 1 st Partial Appointment, Exp. 6/17/13)
SPARTANBURG, SOUTH CAROLINA 29302	(Reappointed 6/17/13, 1 st Full Appointment, Exp. 6/17/19)
	(Vice: Whaley Easterlin, Jr., resigned 6/11/09)

PHONE NO.: (864) 529-7489 EMAIL: JWARE@SKYLYNMEDICAL.COM EMAIL: LWAREMD@GOOGLE.COM

WIFE: JEANNIE WARE

AGENCY NAME:	SC Patients' Compensation Fund		
AGENCY CODE:	R140 SECTION:	38-79-410	
		Fiscal Year 2015-16	
	•		
		ccountability Report	
	SUBMISSION FORM		
Agency Mission	The South Carolina Patients' Compensation Fund paying that portion of a medical malpractice settlement, or judgment which is in excess of two each incident or in excess of six hundred thousan for one year. The Fund is liable only for payme health care providers in compliance with the prov Title 38, Chapter 79, Article 5 and includes reaso incurred in payment of claims and the Fund's admin	or *general liability claim, o hundred thousand dollars for id dollars in the aggregate year ent of claims against licensed visions of the Enabling Statute onable and necessary expenses	
	To be the premier provider of excess professional l management services in South Carolina. Our Values:	iability insurance and risk	
Agency Vision	 Focus on the needs of our members. Support and respect all healthcare providers Establish a culture of consistency and fairne Provide leadership with knowledge-based d integrity. Embrace change through continuous improv Work together as a team. Make a difference in the community. Utilize best business practices. 	ess in our performance. lecisions and operate with	
	The Fund provides customer services to its membres members, renewal of current members, collection payment of claims. It provides credentialing managed care organizations.	n of fees and assessments and	

Please state yes or no if the agency has any major or minor (internal or external) recommendations that would allow the agency to operate more effectively and efficiently.

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AGENCY CODE:	R140 SECTION: 38-79-410		

RESTRUCTURING	No need for restricting plans at this time.
RECOMMENDATIONS:	

Please identify your agency's preferred contacts for this year's accountability report.

	Name	Phone	Email
PRIMARY CONTACT:	Terry Coston	803-896-5291	terry.coston@pcf.sc.gov
SECONDARY CONTACT:	Leigh Brazell	803-896-5293	leigh.brazell@pcf.sc.gov

I have reviewed and approved the enclosed FY 2015-16 Accountability Report, which is complete and accurate to the extent of my knowledge.

AGENCY DIRECTOR (SIGN AND DATE):	Hern Restm
(Type/Print Name):	Terry A. Coston
BOARD/CMSN CHAIR (SIGN AND DATE): (Type/Print NAME):	James E Mercer, DDS

AGENCY'S DISCUSSION AND ANALYSIS

Business Overview

The Board of Governors is composed of three physicians, two dentists, two hospital representatives, two insurance representatives, two attorneys, and two representatives of the general public, all appointed by the Governor. The appointed members serve a term of six years. Currently we are awaiting the replacement of one hospital member.

The Board continues to amend its Plan of Operation and Manual of Rules and Rates for efficient administration of the Fund, consistent with the provisions of the Plan of Operations and Article 5 of the enabling legislation.

The Executive Director is charged with the day-to-day operations of the Fund. Quarterly newsletters are sent to the members/stakeholders providing updates concerning underwriting changes, news, risk management initiatives and spotlights on our members.

The PCF functions with a staff of four full-time equivalent employees. Included is one Administrative Assistants, one Program Coordinator, one Program Manager and the Executive Director. One FTE position remains unfilled which is an administrative assistant position.

At the close of the fiscal year, the PCF had a membership total of 2833. This includes 41 Clinics and Hospitals, 152 professional associations, 1,669 physicians, 720 dentists and oral surgeons, 249 Midlevel healthcare providers, 2 Full Time Equivalent positions (shared memberships with 12 physicians). The PCF paid a total of \$9,188,000.00 for claims, settlements and judgments during the fiscal year. This represents 30% decrease in claims payments made from the prior fiscal year. The PCF collected \$9,414,218.00 in membership fees which constitutes an approximate decrease of 14% from the prior fiscal year.

The PCF is an organization that works extensively with legal counsel for claims defense, expert witnesses, and claims investigations, all in conjunction with the primary carrier. The effective selection, coordination and management of these professionals are critical to the success of the PCF. It requires professionals with special skills and a high work ethic. For all of the PCF claims that went to trial during this fiscal year, 99% of the claims resulted in defense verdicts. This fiscal year continued to show a downward trend in the total number of claims, however, the severity of the claims reported increased minimally. This appears to be in line with the national trend, which continues to show a soft market for Medical Malpractice insurance.

The PCF has maintained our membership numbers in spite of the continuing practice of South Carolina hospitals purchasing physician practices and to competitive pricing by other carriers coming into the state as a result of a soft medical malpractice market. Retirement has played a small part in the total number of cancellation of memberships. These factors, along with the increasing number of membership choosing lower PCF limits, increased shared limit options, and increased use of credits on membership account for the decrease in membership fees.

The Board has engaged in strategic planning efforts throughout the fiscal year, which included the continual review and revision of the PCF Plan of Operations, Underwriting Manual of Rules and Rates

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and claims handling procedures. The Plan of Operations details procedural information that provides for economic, fair and nondiscriminatory administration and for the prompt and efficient provision of excess medical malpractice insurance. The Plan contains other provisions including, but not limited to, assessment of all members for expenses, deficits, losses, reasonable underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers, and procedures for determining the amounts of insurance to be provided by the Fund. The Plan of Operations and any amendments to the Plan are subject to the approval of the Board and of the Director of Insurance or his designee. The Board continues to review and consider legislative changes that will allow for the more efficient operation and management of the Fund.

In 2008, the South Carolina Legislature has passed certain measures that have benefited the Fund (S.669). With the passage of S.669 the PCF Board is making significant strides toward stabilizing the Fund by capping its exposure. S.669 clarified the PCF Board's authority to set limits of coverage. Prior unlimited exposure has resulted in excessively high incurred but not reported statistics. At the end of this fiscal year the PCF memberships consisted of the following limits:

\$10 Million per occurrence \$12 Million annual aggregat	e 28%
\$5 Million per occurrence \$7 Million annual aggregate	8%
\$3 Million per occurrence \$6 Million annual aggregate	18%
\$2 Million per occurrence \$4 Million annual aggregate	2%
\$1 Million per occurrence \$3 Million annual aggregate	44%

Active memberships with unlimited coverage ended with May 1, 2010 renewals.

The Fund provides a high level of customer services to its members through enrollment of new members, renewal of current members, collection of fees and payment of claims. It provides credentialing information to hospitals and managed care organizations. The Fund also provides free Locum Tenens coverage for up to 45 days per year for substitutions for our members.

The Board has authorized the revision of the membership agreement and the development of applications to better serve its members. The Board continues to allow its members to pay their annual membership fee on a quarterly basis, with a small administrative fee.

The PCF website now allows new members to apply on-line for a PCF membership, existing members to pay membership fees, and direct access to renewal information for hospitals and managed care organizations credentialing agents.

Physicians and dentists who attend the South Carolina Medical Association and the South Carolina Dental Association Risk Management Seminar, which is co-sponsored by the JUA, receive a discount in their annual membership fee. The new Dentists discount now includes a 40% discount for first year of practice with a 10% discount for the second year. If new dental graduates attend the Risk Management Seminar held at the MUSC Dental School they will also receive a 25% discount on their first year's membership fees. It is a one-time discount. The discount does not apply to a physician's professional association.

The PCF Board of Governors approved a new on-line Risk Management program in partnership with The MRM Group and The South Carolina Joint Underwriters Association. This program provides online modules to our member physicians, oral surgeons & allied healthcare provider. There are three modules that when completed will provide our members CME credits at no charge to the members. The

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first year's topic is Electronic Health Records. The program began in June. Each provider who completes the online program will receive up to 6% credit on their next year's PCF renewal fees.

The PCF consists of four full-time employees. There is one vacant position to the retirement of one administrative assistant. The Executive Director, along with the Board of Governors, closely monitors the staff's ability to meet the demands and needs of its members, which continue to increase. The PCF is a highly complex organization that works extensively with legal counsel for claims defense, expert witnesses and claims investigations, all in conjunction with the primary carrier. The effective selection, coordination and management of these professionals are critical to the success of the PCF. It requires a staff with specialized skills and a high work ethic.

Assessment and Rate Increases

The PCF Board of Governors determined that a membership deficit assessment was **not** necessary during this fiscal year. The last membership deficit assessment was in June 2000. The statute grants the Board the authority to make assessments under Section 38-79-450 of the Code of Laws of South Carolina, 1976. The PCF Board continues to maintain that no assessments will be necessary for the continued operation of the Fund.

In February 2016 an actuarial review was conducted for the purpose of determining rates for the 2016-2017 plan year. This review was done at the direction at the South Carolina Department of Insurance and the PCF Board of Governors. The PCF Board of Governors voted and approved an overall 2.5% increase in the rates for the 2016-2017 plan year.

These rate change considerations were based on the actuary's recommendation and were approved by the PCF Board of Governors. The Board of Governors considered a number of factors in their deliberations including but not limited to claims experience over this fiscal year, competitive place in the commercial market, and a miscellaneous actuarial review while keeping in mind our goal of providing affordable protection for the healthcare providers in the State of South Carolina. This minimal increase the rates supports the PCF Board's belief that the PCF's financial condition continues to stabilize.

The PCF Board continues to surcharge any licensed healthcare providers who have had issues with regard to their State Board licensing. This surcharge applies where there are issues such as a loss of hospital privileges, criminal activity, sanctions, license revocation or restrictions of the physician's license to practice medicine. The surcharge will remain with the member for a ten (10) year period and is reduced after five (5) years assuming no additional issues have arisen during this time. An inquiry is made to the State Board of Medical Examiners on each new member who applies to the PCF.

The PCF Board of Governors reviews the surcharge for experience rating. A member is surcharge based on the frequency and amounts of settled claims. The surcharge for experience rating remains with the member for 10 years. A member can be experience rated up to 250% of their base rate.

The PCF uses independent agents to assist in the underwriting of its members. Agency Commissions were increased to 8% this year. The PCF Board believes that the use of independent agents help to better serve our members. Higher commissions are offered for new and returning members.

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Finally, the PCF Board has given the underwriting staff authority to offer credits up to 40% per membership to reward members for positive membership activity such as claims free, large group size, longevity with the PCF and unusual (positive) risk characteristic in an effort to be more competitive with the medical malpractice market. Also authorized was the use of up to 15% debits for negative membership activity. The overall impact to the PCF cannot be more than 10% of the total membership revenue.

Economic Outlook

The principal challenge facing the PCF is to retain current members and at the same time, adjust membership fees appropriately to reduce the loss reserve liability. The other significant challenge the PCF faces is to manage the claims process effectively and coordinate with the primary carriers for satisfactory resolution of all claims. The PCF's ultimate goal is to provide medical professionals with effective medical malpractice liability coverage, while ensuring that the PCF is in a sound financial position to pay all of its liabilities. There are no pending judgments on appeal that affect the PCF.

Based on actuarial reviews and recommendations, the PCF Board of Governors feels confident that the rates established this fiscal year are appropriate. The PCF continues to rate members for claims experience as well as surcharge members for state licensing issues. New underwriting initiatives have been established to assist in maintaining and improving membership numbers such as discounts based on group size, number of years of continued coverage through the PCF and positive loss experience. Coverage enhancements have also been added which consists of nose coverage for converting a claims-made membership back to an occurrence membership. Step factors for claims-made memberships have been reduced to be more in line with other admitted medical malpractice insurers.

The South Carolina Patients' Compensation Fund shows an overall deficit on its books due to the fact that, since 2002, it has recorded the actuarial liability for unpaid claims as well claims that are "incurred but not reported." Prior to 2002, the Fund's accounts did not reflect such reserves operating on a cash basis. Over the past 15 years the PCF Board of Governors has taken steps to reduce the net deficit of the PCF by \$164,000,000. As a result, the PCF continues to show an upward trend in its overall financial outlook. During the fiscal year, the PCF met all of its financial and legal obligations in a timely manner.

The Fund is not aware of any facts, decisions, or conditions that can reasonably be expected to have a material impact on the Fund's economic outlook during the fiscal year beginning July 1, 2016.

FY'16	FY'15	FY'14
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1,112,237	989,846	989,846
1,092,541	988,351	961,105
	996,001 1,112,237	996,001 996,001 1,112,237 989,846



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			Agency	Name: SC Patie	ents' Compensatio	on Fund						
	Budget Priorities Funding			FTEs								
	Type (non- recurring/ recurring /other)	Title	Description	Recurring	Non-Recurring	Other	Federal	Total	State	Other	Federal	Total
1	Recurring	Administration	Increase of Authority			\$95,999.00		\$95,999.00		5		5
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	Transportation, Regulatory & Cultural Subcommittee								
	Proviso Request Summary								
FY16-17 Proviso #	Renumbered FY17-18 Proviso #	Proviso Title	Short Summary	FY of Proviso Introduction/ # of years in budget	Recommended Action	Proviso Language			
N/A			· · · ·						
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