



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Governor

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Commissioner

February 28, 2000

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THE HONORABLE ROGER BRESKE
SENATE COMMITTEE ON INSURANCE, TOURISM
TRANSPORTATION AND CORRECTIONS
18 SOUTH STATE CAPITAL
MADISON, WI 53708

THE HONORABLE FRANK LASEE
ASSEMBLY COMMITTEE ON INSURANCE
7 NORTH STATE CAPITAL
MADISON, WI 53708

THE HONORABLE ROD MOEN
SENATE COMMITTEE ON HEALTH,
UTILITIES, VETERANS AND MILITARY
AFFAIRS
8 SOUTH STATE CAPITOL
MADISON, WI 53708

THE HONORABLE GREGG UNDERHEIM
ASSEMBLY COMMITTEE ON HEALTH
11 N STATE CAPITAL
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THE HONORABLE GARY GEORGE
SENATE COMMITTEE ON JUDICIARY AND
CONSUMER AFFAIRS
118 SOUTH STATE CAPITOL
MADISON, WI 53708

THE HONORABLE MICHAEL HUEBSCH
ASSEMBLY COMMITTEE ON JUDICIARY AND
PERSONAL PRIVACY
20 NORTH STATE CAPITAL
MADISON, WI 53708

Re: 1999 Functional and Progress Report - Patients Compensation Fund

Dear Senators Breske, Moen and George, and Representatives Lasee, Underheim
and Huebsch:

This report is submitted on behalf of the Board of Governors of the Patients
Compensation Fund (Fund) as required by s. 655.27(4)(f), Wis. Stat.

This annual report provides financial data for the fiscal year ending June 30,
1999. In addition, it provides information on the levels of provider
participation in the Fund, claim activity, and major board actions.

Sincerely,

Randy Blumer
Deputy Commissioner

RB:tlw
Enclosure

1999 FUNCTIONAL AND PROGRESS REPORT

The Patients Compensation Fund (Fund) was created in 1975 to provide excess medical malpractice insurance for Wisconsin health care providers. The Fund is governed by a 13-member Board of Governors (Board) which consists of three insurance industry representatives; a member named by the Wisconsin Academy of Trial Lawyers; a member named by the State Bar Association; two members named by the State Medical Society of Wisconsin; a member named by the Wisconsin Hospital Association; four public members appointed by the Governor; and the Commissioner of Insurance who serves as the chair.

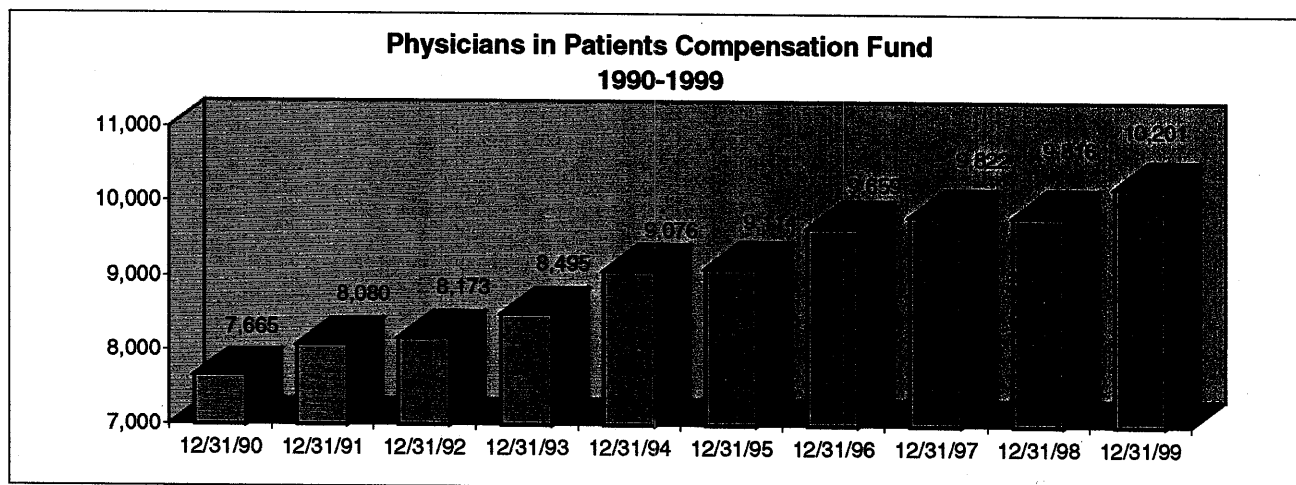
The Fund's Board is assisted in its governance function by the following committees: an Underwriting and Actuarial Committee, a Legal Committee, a Claims Committee, an Investment/Finance and Audit Committee, a Risk Management Steering Committee, and a Peer Review Council. The Board and committees meet quarterly.

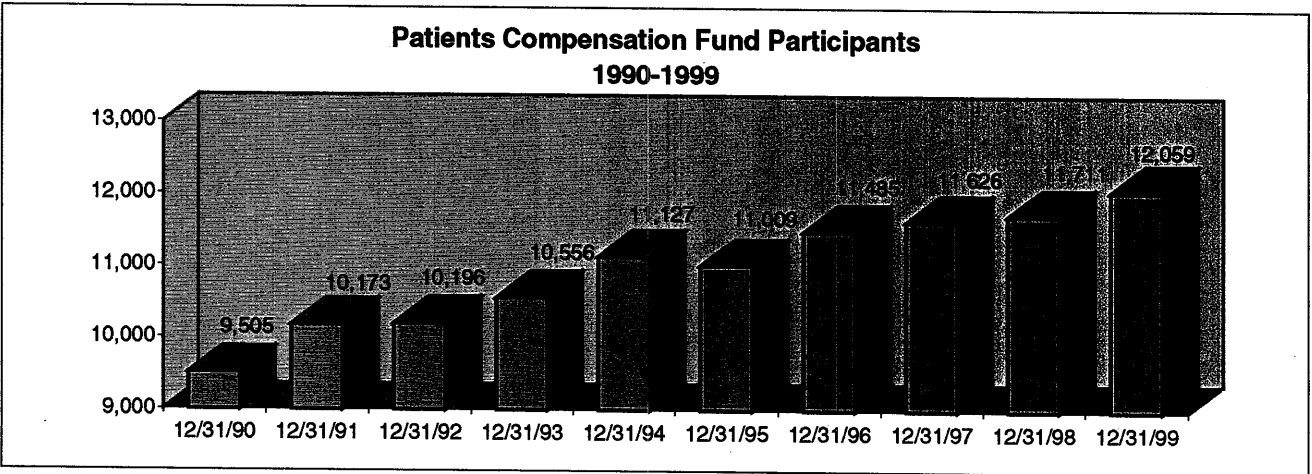
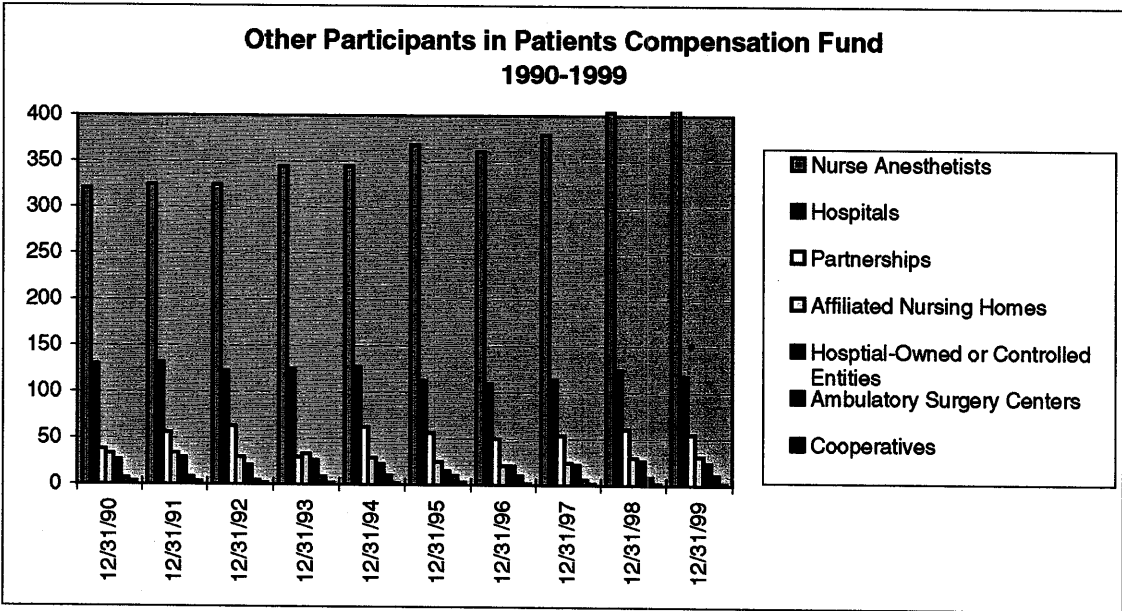
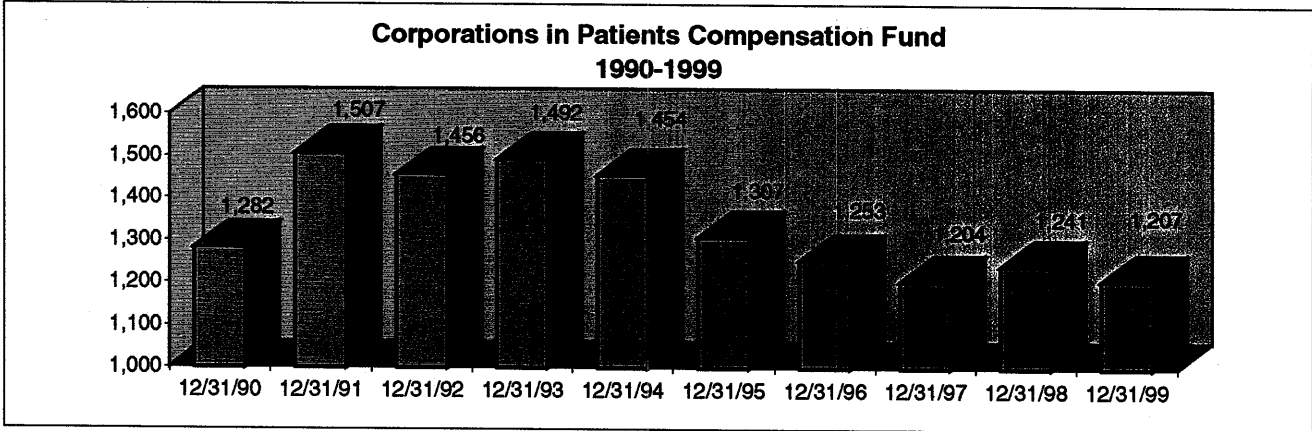
The Fund operates on a fiscal year basis; July 1 through June 30. Administrative costs, operating costs, and claim payments are funded through assessments on participating health care providers.

Fund Participants

As of December 31, 1999, there was a total of 12,059 Fund participants comprised of 118 hospitals with 31 affiliated nursing homes, 10,201 physicians, 410 nurse anesthetists, 24 hospital-owned or controlled entities, 11 ambulatory surgery centers, two cooperatives, 55 partnerships, and 1,207 corporations actively participating in the Fund.

As of December 31, 1999, physicians comprised 85% of the Fund participants and corporations made up 10%. All other participants made up the remaining 5%.





Claims Activity

From July 1, 1975, through December 31, 1999, 4,250 claims had been filed in which the Fund was named. During this period, the Fund's total number of paid claims increased to 549, totaling \$434,474,429. Of the total number of claims in which the Fund has been named, 3,255 claims have been closed with no indemnity payment. Of the remaining reported claims as of December 31, 1999, 36 cases carried aggregate case reserves of \$37,676,355.

Board Committees

Actuarial and Underwriting Committee

The Actuarial and Underwriting Committee advises the Board on actuarial and underwriting issues.

Wisconsin Act 10, which was enacted on May 10, 1995, included a cap on non-economic damages for medical malpractice at \$350,000. The cap is indexed annually as determined by the director of state courts. The current cap for non-economic damages is \$381,428 as most recently indexed on May 15, 1999. Pursuant to the requirements of Act 10, a report as to the effects of the Act was submitted to the legislature in May of 1999. The report concluded that at that time, there had been a savings to the Fund participants of approximately \$60 million in Fund fees.

Wisconsin Act 11, which was enacted on July 14, 1997, increased the required primary carrier liability limits retroactive to July 1, 1997, for health care providers who are subject to the Fund. The limits increased from \$400,000 per occurrence to \$1,000,000 and from an annual aggregate limit of \$1,000,000 to \$3,000,000. The Act also allows for a four-year phase-in of the higher per-occurrence primary limit for self-insured plans, if so elected by the plan.

The Committee assisted the Board to promulgate the Fund Fee Rule for fiscal year 1999-2000 fees. Overall, there was 7% decrease in total fees for fiscal year 1999-2000. Mediation panel fees for physicians (excluding physicians in a residency program) were set at \$16 per physician and \$1 per hospital bed.

Under Act 473, various types of "health care professionals" may be shareholders in the same service corporation, regardless of the fact that they hold different licenses. "Health care professional" is defined to include anyone regulated by the Board of Nursing, Medical Examining Board, Optometry Examining Board, Pharmacy Examining Board, Psychology Examining Board and the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors. Act 473 created s. 655.27(3)(a) 4, Wis. Stat., to require the Fund's Board, when setting annual fees for corporations, partnerships, and cooperative HMOs, to take into consideration risk factors and past and prospective loss and expense experience attributable to employees other than physicians and nurse anesthetists. As a result of Act 473, additional fees for corporations, partnerships and cooperative HMOs are included in the fiscal year 1999 annual fee rule and are anticipated to total \$970,000 for the period.

Claims Committee

The responsibility of the Claims Committee (Committee) of the Board of Governors (Board) is to establish claims policies and procedures for the Patients Compensation Fund (Fund) and the Wisconsin Health Care Liability Insurance Plan (Plan).

The functions of the Claims Committee are the following:

- To establish guidelines for claims management by the contractor and OCI staff of the Fund and the Plan and to review claims to determine if the guidelines need to be revised.

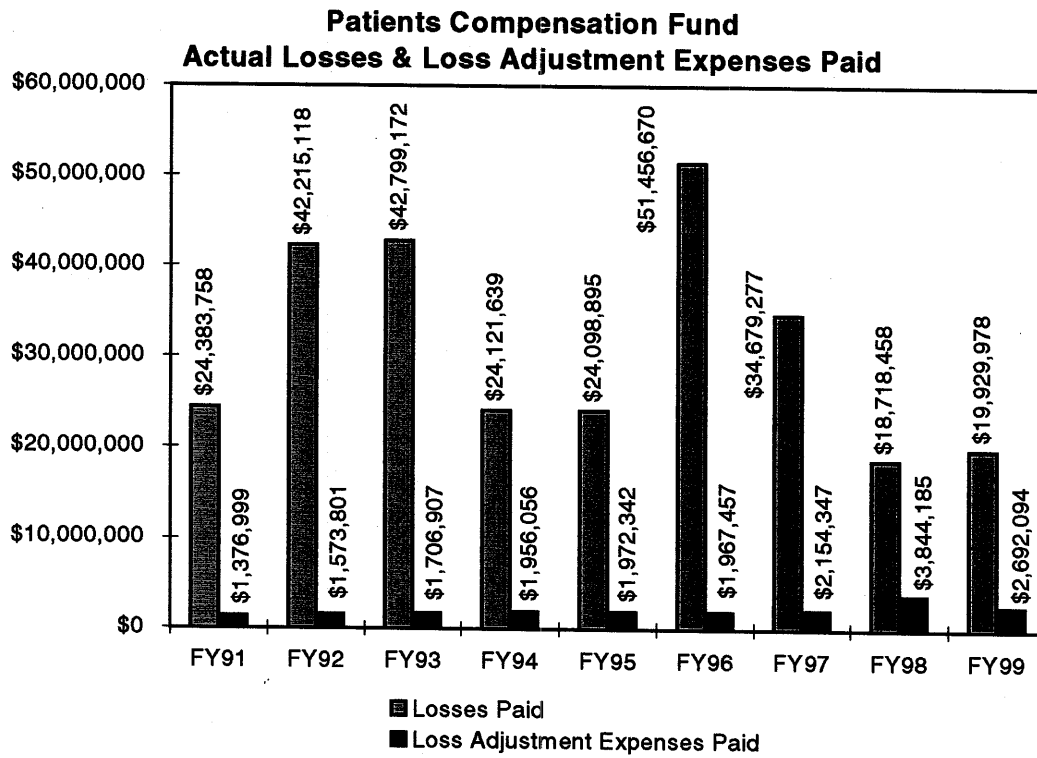
- To provide for the evaluation of the claims contractor no less often than prior to the re-negotiation of each contract to assure that claims are being handled in an appropriate and expeditious manner.
- To review all claims involving alleged sexual misconduct, neurological impairment, quadriplegia, and those claims which the contractor has set reserves of \$500,000 or more and provide settlement authorization and advise on those claims where settlement value exceeds \$1 million or when the contractor has a claim management question.
- To monitor claims and claims administration costs and to make recommendations for possible savings to the board and the contractor.
- To establish guidelines for annuity purchases and to review such purchases periodically.
- To recommend to the board changes in the statutes or administrative rules that are needed to facilitate the claims policies and procedures of the Plan or Fund.
- To refer legal or other issues that come to the committee's attention to the appropriate committees.
- To prepare reports analyzing claims trends for risk management purposes.
- To report to the board quarterly on the committee's activities.

Table 1, on the following page, summarizes quarterly loss payments by amount and number of claims paid, from fiscal 1995 through fiscal 1999. Chart 1 shows the range of annual Fund loss and loss expense payments, beginning with fiscal year 1991. The Fund's fiscal year runs from July 1 to June 30. The Fund made loss payments totaling approximately \$19.9 million during fiscal 1999.

Table 1

AMOUNT AND NUMBER OF LOSSES PAID BY FISCAL YEAR

QUARTER ENDING	1994-95	1995-96	1996-97	1997-98	1998-99
	Amount #	Amount #	Amount #	Amount #	Amount #
Sept. 30	\$793,734 3	\$25,144,312 8	\$13,097,771 3	\$2,073,054 4	\$3,950,441 6
Dec. 31	\$1,879,853 5	\$6,474,503 5	\$11,204,791 5	\$2,810,295 7	\$906,296 3
March 31	\$3,600,041 6	\$18,656,642 11	\$5,303,262 3	\$9,278,946 8	\$7,480,509 13
June 30	<u>\$17,825,268</u> <u>11</u>	<u>\$1,181,212</u> <u>4</u>	<u>\$5,073,453</u> <u>5</u>	<u>\$4,556,163</u> <u>5</u>	<u>\$7,592,731</u> <u>6</u>
TOTAL	\$24,098,896 25	\$51,456,670 28	\$34,679,277 16	\$18,718,458 24	\$19,929,978 28



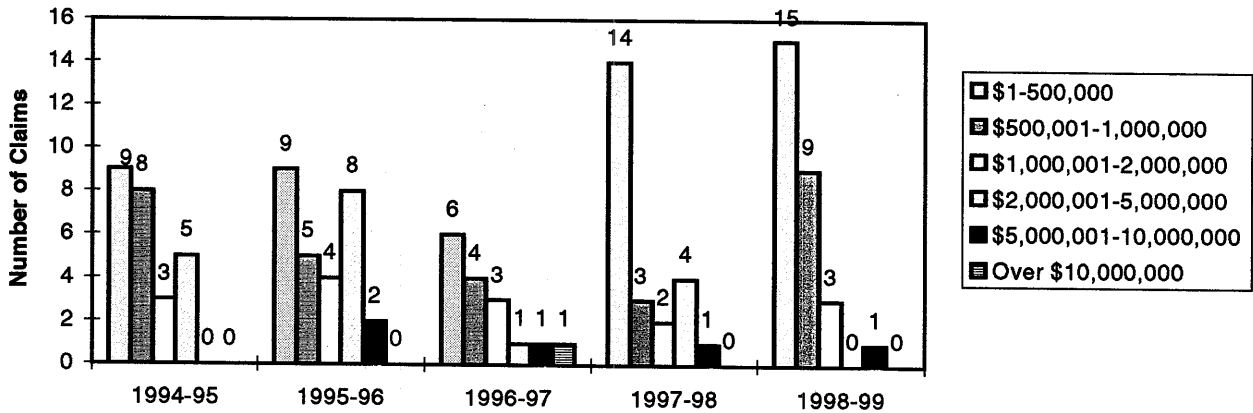
The range of Fund claim payments for the last five fiscal years is summarized below in table 2.

Table 2

RANGE OF FUND CLAIM PAYMENTS

<u>Payment Range</u>	<u>1994-95</u> <u># of Claims</u>	<u>1995-96</u> <u># of Claims</u>	<u>1996-97</u> <u># of Claims</u>	<u>1997-98</u> <u># of Claims</u>	<u>1998-99</u> <u># of Claims</u>
\$1-500,000	9	9	6	14	15
\$500,001-1,000,000	8	5	4	3	9
\$1,000,001-2,000,000	3	4	3	2	3
\$2,000,001-5,000,000	5	8	1	4	0
\$5,000,001-10,000,000	0	2	1	1	1
Over \$10,000,000	0	0	1	0	0
Total Claims Paid	25	28	16	24	28

Range of Claim Payments



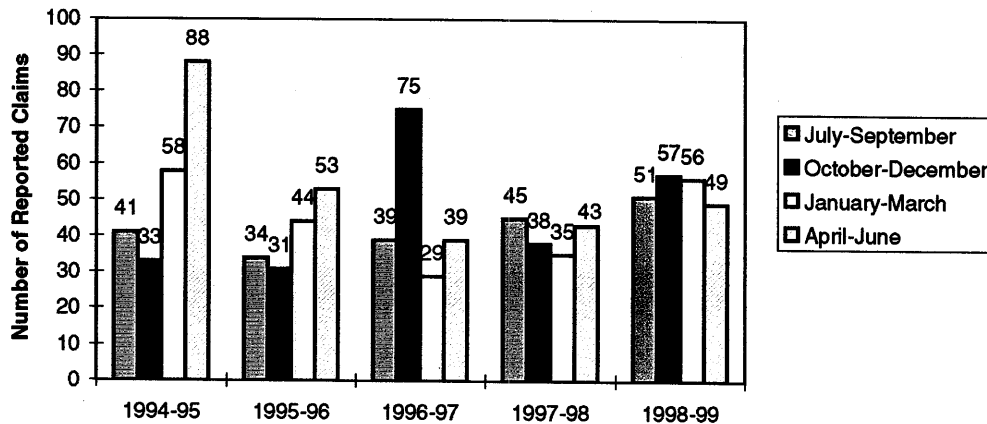
Fund claims reported by quarter by fiscal year are summarized in table 3 below. A total of 213 claims were opened during fiscal 1999.

Table 3

CLAIMS OPENED QUARTERLY BY FISCAL YEAR

<u>Quarter</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99</u>
July 1-September 30	41	34	39	45	51
October 1-December 31	33	31	75	38	57
January 1-March 31	58	44	29	35	56
April 1-June 30	88	53	39	43	49
Totals	220	162	182	161	213

Claims Reported by Quarter by Fiscal Year



Finance/Investment/Audit Committee

The Finance/Investment/Audit Committee's responsibilities include establishing, monitoring, and amending as necessary, the investment strategy for the Fund to ensure obligations are met. The Committee periodically reviews investments for compliance with investment guidelines and evaluates cash flow liquidity needs. In addition, the committee oversees the financial reporting process. Responsibilities include review of financial position and results, as well as correspondence with auditors concerning audit scope, accounting issues, internal controls and management recommendations.

Changes in the Fund's statutory investment authority have had a positive impact on the projected surplus. Legislation enacted in April 1990, which permitted the Fund to invest in long-term financial instruments, has resulted in higher investment earnings. The Fund's actuaries have estimated that during the period October 1, 1990, to September 30, 1999, investment earnings on the long-term portfolio were \$70.2 million higher than what would have been earned had these assets remained in the short-term account.

During 1999, the Investment Committee, with the assistance of an outside investment consultant, developed new investment guidelines. The new investment guidelines provide for investment in equities to maximize investment return. These new guidelines are currently in the process of being implemented in coordination with the State Investment Board.

The Committee reviewed and recommended transfers from the short-term account to the long-term account throughout the year. Attached as Exhibit 1 is a summary of recent investment returns.

Legal Committee

The Legal Committee advises the Board on legal issues, including retroactive coverage requests, appeals, proposed statutory changes, administrative rule changes, and other issues that affect eligibility or Fund participation.

During 1999, the Committee reviewed 47 requests for retroactive coverage of which 46 were approved and one was denied.

Peer Review Council

The Peer Review Council (Council) reviews physician claim records to determine whether a surcharge should be imposed against the Fund fee or Wisconsin Health Care Liability Insurance Plan (Plan) premium, if applicable. The surcharge is a percentage of a provider's Fund fee or Plan premium based on the number of closed medical liability claims reported, and the aggregate amount paid for those claims.

During the fiscal year from July 1, 1998, to June 30, 1999, 139 claims paid reports were filed. These included 84 for physicians or nurse anesthetists, 49 for hospitals, corporations or clinics, and 6 for other types of providers. Seven providers were subject to possible surcharge.

Since inception of the Council in 1986, 52 providers have been subject to possible surcharge. The status, or disposition, of those providers as of June 30, 1999, was as follows:

- Nineteen providers filed exemptions from participation in the Fund, resulting in suspension of the review for surcharge.
- No surcharge was warranted for 11 providers as a result of the Council's review or consultant opinions.
- Two providers have been surcharged for failure to respond to Council requests for information.
- The review for surcharge was pending for the remaining 20 providers.

Risk Management Steering Committee

The purpose of the Risk Management Steering Committee, created in June 1991, is to reduce patient/claimant compensable injuries, reduce Fund losses and associated expenses, improve the general quality of medical care, and reduce the premiums of participating health care providers.

Activities During 1999:

- Development of a self study program for physicians regarding medical records.
- Publication of the quarterly risk management newsletter, *WiscRisk*, formerly entitled *HRM Notes*. The newsletter is now available on the PCF website.

Other Fund Activities

The Fund worked closely with its outside IT vendor during 1999, to ensure compliance with year 2000 issues. The conversion was completed timely, and no significant problems were encountered on or after January 1, 2000.

The Fund is currently in the process of bringing the IT services in-house and this is expected to be completed during the current fiscal year. This will provide more control by Fund administration and is expected to bring better service to Fund participants with IT staff being on hand to assist Fund administration in systems development.

1999 was a license renewal year for Wisconsin physicians. The Fund staff worked closely with staff of Regulation and Licensing to assist providers with licensure problems due to issues regarding noncompliance with Fund regulations.

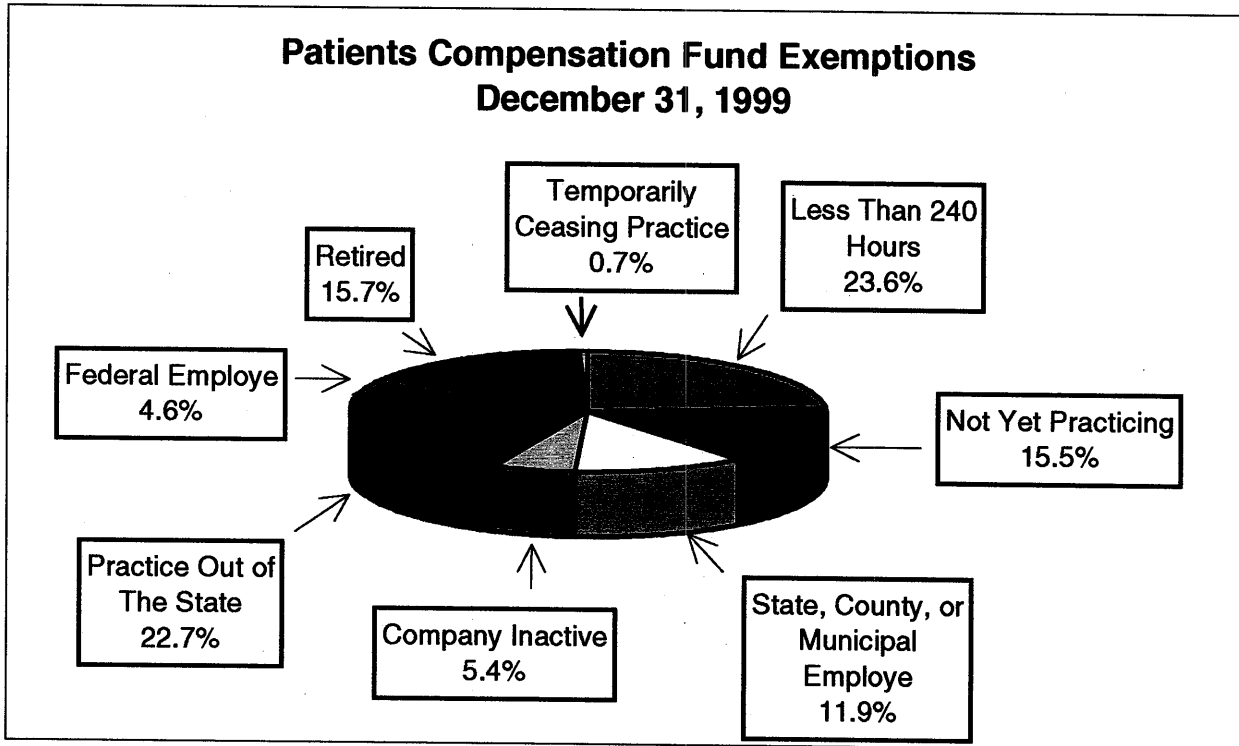
Fund administration, in conjunction with counsel, closely monitored claims filed which challenge the constitutionality of the noneconomic and wrongful death caps. This is an ongoing issue and will be closely monitored in the coming year. The challenges present a potentially significant financial liability for the Fund.

Extensive work continued during 1999 to verify and process up-to-date exemption status for providers that held a license to practice in Wisconsin but for which a current exemption or certificate was not on file with the Fund. Providers that remain in noncompliance are referred to their respective licensing boards for appropriate enforcement action by that board.

As of December 31, 1999, there were 9,143 providers exempt from participation in the Fund. The exemptions are grouped as follows:

Less Than 240 Hours	2,156
Practice Out of Wisconsin	2,075
Retired	1,433
Not Yet Practicing or Never Practiced in Wisconsin	1,419
State, County, or Municipal Employee	1,085
Company Inactive	492
Federal Employee	422
Temporarily Ceasing Practice	61

**Patients Compensation Fund Exemptions
December 31, 1999**

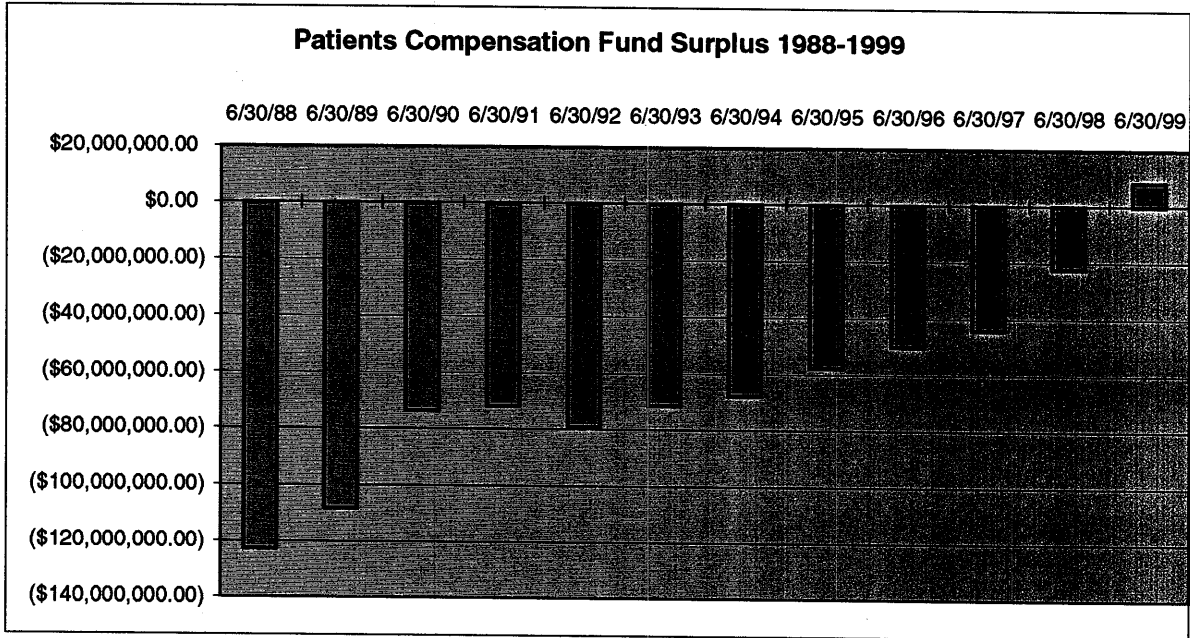


Financial Statistics

Attached as Exhibit 2 is the financial statement - balance sheet and income statement - for the Fund for the fiscal year ending June 30, 1999.

The surplus as of June 30, 1999, is reported to be \$8,579,767. In December 1994, the Fund's Board adopted a special committee's recommendations relating to implementing a 25-year amortization schedule to retire the Fund's deficit. The deficit is a projection of the unfunded liabilities that would remain outstanding if the Fund ceased to collect further assessments. It represents a long-term shortage in the cash and investments balance that eventually will be needed to make the Fund's projected future payments. As a result of favorable claims experience and very good investment return, the Fund was able to retire the deficit and report a surplus by the end of fiscal year 1999.

The following graph reflects the Fund's surplus (deficit) over the last twelve fiscal years.



A word of caution; while the Fund has been able to eliminate the deficit, medical malpractice with its extended reporting and settlement patterns is especially difficult to estimate. This is compounded even further for the Fund, given its relatively short history and the nature of its coverage - unlimited excess liability protection over the primary carriers' limits.

The Fund's Board is happy to report that the deficit has been retired in a relatively short period and acknowledges the role that legislation played in these efforts.

The Fund's next progress report, due March 1, 2001, will include an update on the Fund's activities during 2000.

Attachments

**WISCONSIN PATIENTS COMPENSATION FUND
SUMMARY OF RECENT INVESTMENT RETURNS**

Exhibit 1
Page 1

I. **HISTORY OF TRANSFERS:** In September of 1990, the State of Wisconsin Investment Board (SWIB) constructed a long-term portfolio of \$127.8 million for the Wisconsin Patients Compensation Fund (Fund). Since the creation of the long-term portfolio SWIB has transferred assets from the Fund's short-term account to the long-term portfolio at the direction of Fund management. In conjunction with the transfers, SWIB performs an annual rebalancing of the long-term portfolio which has generated realized capital gains. The table below summarizes the history of transfers from the Fund's short-term account to the long-term portfolio as well as the realized capital gains:

Fiscal Period	Assets Transferred from Short-Term Account to Long-Term Portfolio	Realized Capital Gains
10/1/91 - 6/30/92	\$15,000,000	\$3,194,795
7/1/92 - 6/30/93	29,416,739	4,697,654
7/1/93 - 6/30/94	44,017,541	710,384
7/1/94 - 6/30/95	57,182,278	93,893
7/1/95 - 6/30/96	9,941,627	2,930,120
7/1/96 - 6/30/97	49,478,267	40,569
7/1/97 - 6/30/98	54,991,882	0
7/1/98 - 6/30/99	62,749,031	11,740
7/1/99 - 12/31/99	39,470,118	18,887
Total	362,247,483	11,698,042

**WISCONSIN PATIENTS COMPENSATION FUND
SUMMARY OF RECENT INVESTMENT RETURNS**

II. **LONG-TERM ACCOUNT:** The table below summarizes the Fund's investment returns on the long-term account over the last eight quarters, where the amounts shown exclude realized capital gains.

Fiscal Period	Average Long-Term Account*	Investment Income	Annualized Yield During Quarter
1/1/98 - 3/31/98	412,056,008	7,266,929	7.2%
4/1/98 - 6/30/98	414,944,686	7,356,105	7.3%
7/1/98 - 9/30/98	437,870,113	7,610,310	7.1%
10/1/98 - 12/31/98	458,166,514	8,007,208	7.2%
1/1/99 - 3/31/99	465,972,217	8,134,613	7.2%
4/1/99 - 6/30/99	477,098,425	8,279,455	7.1%
7/1/99 - 9/30/99	494,116,187	8,563,391	7.1%
10/1/99 - 12/31/99	513,958,060	9,000,631	7.2%

*Based on Amortized Value.

**WISCONSIN PATIENTS COMPENSATION FUND
SUMMARY OF RECENT INVESTMENT RETURNS**

III. **SHORT-TERM ACCOUNT:** The Fund's remaining assets are invested in a short-term account. The table below summarizes the Fund's investment returns on the short-term account over the last eight quarters:

Fiscal Period	Average Short-Term Account Balance	Investment Income	Annualized Yield During Quarter
1/1/98 - 3/31/98	8,981,704	116,711	5.3%
4/1/98 - 6/30/98	14,196,618	184,805	5.2%
7/1/98 - 9/30/98	19,588,820	270,195	5.5%**
10/1/98 - 12/31/98	13,396,059	163,843	4.9%
1/1/99 - 3/31/99	15,181,024	174,943	4.7%
4/1/99 - 6/30/99	12,714,184	145,198	4.6%
7/1/99 - 9/30/99	24,159,081	288,920	4.7%
10/1/99 - 12/31/99	14,042,917	177,452	5.0%

** Artificially high due to prior year adjustment of \$12,737 in July.

WISCONSIN PATIENTS COMPENSATION FUND
SUMMARY OF RECENT INVESTMENT RETURNS

IV. **TOTAL ASSETS:** The table below summarizes the Fund's total investment return on its invested assets over the last eight quarters:

Fiscal Period	Average Invested Assets*	Investment Income**	Annualized Yield During Quarter
1/1/98 - 3/31/98	421,037,712	7,383,640	7.2%
4/1/98 - 6/30/98	429,141,304	7,540,910	7.2%
7/1/98 - 9/30/98	457,458,933	7,880,505	7.1%
10/1/98 - 12/31/98	471,562,573	8,171,051	7.1%
1/1/99 - 3/31/99	481,153,241	8,309,556	7.1%
4/1/99 - 6/30/99	489,812,609	8,424,653	7.1%
7/1/99 - 9/30/99	518,275,269	8,852,311	7.0%
10/1/99 - 12/31/99	528,000,977	9,178,083	7.1%

* Based on Amortized value

** Excluding realized capital gains

PATIENTS COMPENSATION FUND
Balance Sheet
6/30/99
Unaudited

Assets

Cash	\$288,968
State Investment Fund Shares (market value)	\$5,857,475
Bonds (market value)	\$485,510,585
Bond Investment Income Receivable	\$8,949,999
Short-term Interest Receivable	\$36,672
Assessments Receivable	\$448,501
Less: Allowance for Uncollectible Accounts	(\$1,312)
Prepaid Items	\$1,999
Furniture & Equipment (net of depreciation)	\$41,328
Other Receivables	\$0
	<hr/>
Total Assets	<u><u>\$501,134,215</u></u>

Liabilities

Loss Liabilities:

Liability for IBNR	\$634,019,829
Liability for Reported Losses	\$28,251,924
Liability for LAE	\$30,846,563
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Estimated Unpaid Loss Liabilities	\$693,118,316
Amount Representing Interest	\$205,163,022
	<hr/>
Discounted Loss Liabilities	\$487,955,294
Liabilities for Future Medical Expenses	\$135,991
	<hr/>
Total Loss Liabilities	<u><u>\$488,091,285</u></u>

Other Liabilities:

Contributions Being Held	\$400,000
Unearned Assessments Levied	\$2,892,201
Provider Refunds Payable	\$1,011,424
Medical Mediation Panels Payable	\$12,661
Vouchers Payable	\$138,546
Compensated Absences	\$8,330
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Total Liabilities	<u><u>\$492,554,448</u></u>
Fund Balance	<u><u>\$8,579,767</u></u>
Total Liabilities and Fund Deficit	<u><u>\$501,134,215</u></u>

PATIENTS COMPENSATION FUND
Statement of Income
6/30/99
Unaudited

<u>Assessments Levied (net of unearned)</u>	\$50,621,706
<u>Less Underwriting Expenses:</u>	
Net Losses Paid	\$19,832,282
Interest on Loss Payments	\$71,645
LAE Paid	\$2,695,094
Risk Mgt Exp	\$111,016
Medical Expense Paid	\$26,051
Change in Liability for IBNR	\$35,031,181
Change in Liability for Reported Losses	\$13,539,792
Change in Liability for LAE	\$5,816,726
Change in Amount Representing Interest	(\$46,710,832)
Change in Liability for Future Med Expenses	(\$18,413)
	<hr/>
Total Underwriting Expenses	\$30,394,541
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Net Underwriting Gain (Loss)	\$20,227,165
Investment Income	\$35,613,097
Unrealized gain (adjustment to mkt value)	(\$21,784,708)
Change in Bond Premium (Discount)	(\$2,928,423)
Assessment Interest Income	\$406,541
Administrative Fee Income	\$39,909
Surcharge Income	\$0
Other Income	\$52,737
Depreciation Expense	(\$6,256)
Loss on Disposal of Fixed Assets	(\$1,446)
Less Gen and Admin Expenses-PCF	(\$834,930)
Less Gen and Admin Expenses-Peer Review	(\$37,186)
	<hr/>
Net Gain (Loss)	\$30,746,499
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Fund Balance, Begining of Period	(\$22,166,732)
Net Gain (Loss)	\$30,746,499
Other Adjustments	-
	<hr/>
Fund Balance, End of Year	\$8,579,767
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