



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Injured Patients and Families Compensation Fund

Tony Evers, Governor
Mark V. Afable, Commissioner

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March 1, 2020

The Honorable Patrick Testin
Senate Committee on Health and Human
Services
Room 131 South
State Capitol
Madison, WI 53707

The Honorable Kevin Petersen
Assembly Committee on Insurance
Room 105 West
State Capitol
Madison, WI 53708

The Honorable David Craig
Senate Committee on Insurance, Financial
Services, Government Oversight and Courts
Room 104 South
State Capitol
Madison, WI 53707

The Honorable Joe Sanfelippo
Assembly Committee on Health
Room 314 North
State Capitol
Madison, WI 53708

The Honorable Van Wanggaard
Senate Committee on Judiciary and Public
Safety
Room 313 South
State Capitol
Madison, WI 53707

The Honorable Jim Ott
Assembly Committee on Judiciary
Room 317 North
State Capitol
Madison, WI 53708

Re: FY 2019 Functional and Progress Report of the Injured Patients and Families Compensation Fund

Dear Senators Testin, Craig, Wanggaard, & Representatives Petersen, Sanfelippo and Ott:

Pursuant to S. 655.27 (4) (f), Wis. Stat., enclosed you will find the FY 2019 Functional and Progress Report submitted on behalf of the Board of Governors of the Injured Patients and Families Compensation Fund (Board).

This annual report provides financial data for the fiscal year ending June 30, 2019. In addition, it provides information on the levels of provider participation in the Injured Patients and Families Compensation Fund, claim activity, and major Board actions.

If you have any questions or request additional information, please do not hesitate to contact my office.

Sincerely,

Nathan Houdek
Deputy Commissioner of Insurance

FY 2019 FUNCTIONAL AND PROGRESS REPORT

Introduction

The Injured Patients and Families Compensation Fund (Fund) was created in 1975 to provide medical malpractice insurance for Wisconsin health care providers in excess of the provider's primary limits of coverage. The Fund provides coverage in excess of the primary limit established by statute, which is currently \$1 million per occurrence and \$3 million aggregate per year. Participation in the Fund is mandatory for health care providers as defined by Chapter 655, Wis. Stat.

The Office of the Commissioner of Insurance (OCI) provides administrative support for the Fund's operations. The Fund is governed by a 13-member Board of Governors (Board) which is chaired by the Commissioner of Insurance. The Board is comprised of four public members appointed by the Governor, three insurance industry representatives, a member named by the Wisconsin Association for Justice, a member named by the State Bar of Wisconsin, two members named by the Wisconsin Medical Society, and a member named by the Wisconsin Hospital Association.

2019 Board of Governors:

Mark V. Afable, Commissioner of Insurance (Board Chair)
Gregory Banaszynski, Public Member (resigned May 2019)
Carla Borda, Public Member
Bud Chumbley, M.D., Wisconsin Medical Society
M. Angela Dentice, Wisconsin Association for Justice (resigned May 2019)
Jerome Hierseman, State Bar of Wisconsin
Kevin R. Martin, Wisconsin Association for Justice
David Maurer, Industry Representative
David Nelson, Industry Representative
Linda Syth, Industry Representative
Ralph Topinka, Wisconsin Hospital Association
Sridhar Vasudevan, M.D., Public Member
Vacant, Wisconsin Medical Society
Vacant, Public Member
Vacant, Public Member

The following committees and council support the Fund's governance and typically meet each quarter:

- Actuarial and Underwriting Committee
- Legal Committee
- Claims Committee
- Finance/Investment/Audit Committee
- Risk Management and Patient Safety Committee
- Peer Review Council

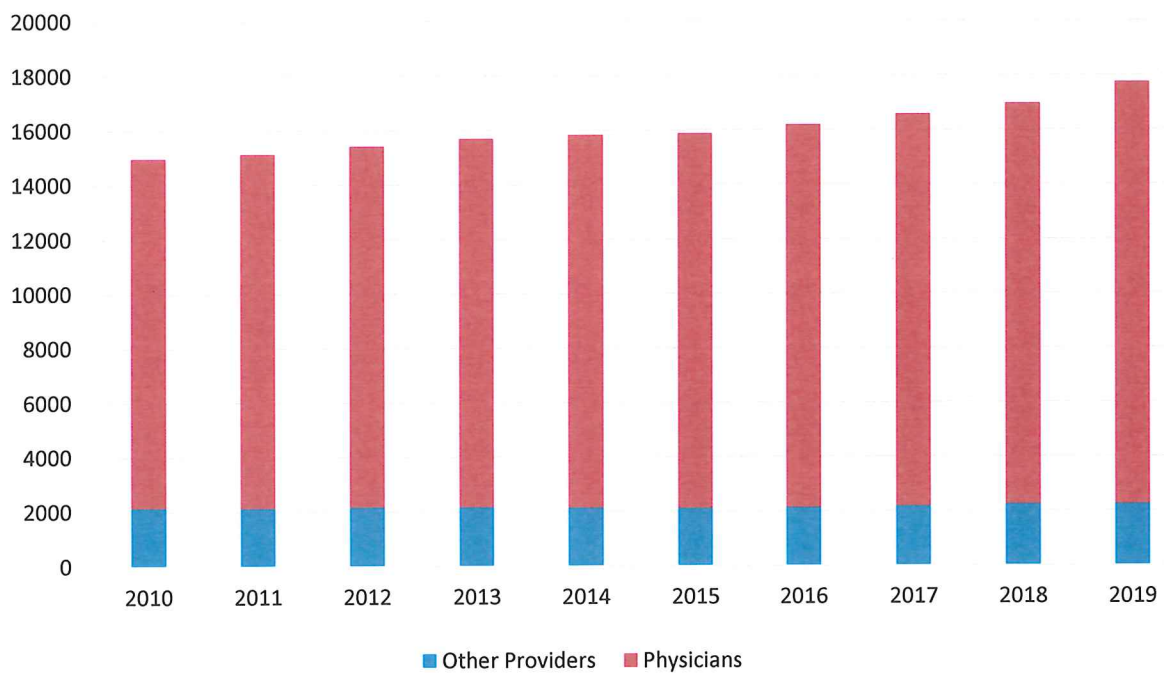
The Fund operates on a fiscal year basis: July 1 through June 30. Administrative costs, operating costs, and claim payments are funded through assessments on participating health care providers.

Fund Participants

As of June 30, 2019, there were a total of 17,261 Fund participants comprised of 147 hospitals with 19 affiliated nursing homes, 15,003 physicians, 855 nurse anesthetists, 20 hospital-owned or controlled entities, 73 ambulatory surgery centers, 1 cooperative, 14 partnerships, and 1,129 corporations actively participating in the Fund.

As of June 30, 2019, Fund participants consisted of 87 percent physicians, 6 percent corporations, and the remaining 7 percent included all other participants.

Injured Patients and Families Compensation Fund Participants 2010-2019



Claims Activity

From July 1, 1975, through June 30, 2019, the Fund was named in 6,244 claims filed. During this period, the Fund's total number of paid claims was 683, totaling \$910,710,258.26. Of the total number of claims in which the Fund has been named, 5,560 claims have been closed with no indemnity payment.

Board Committees

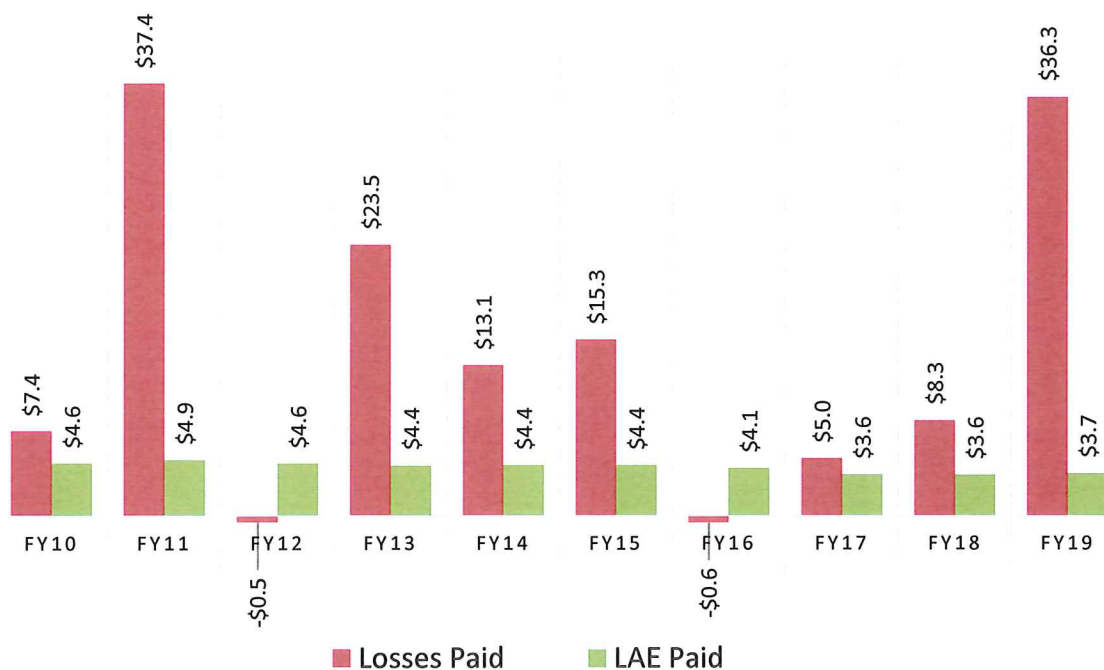
Actuarial and Underwriting Committee

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

Claims Committee

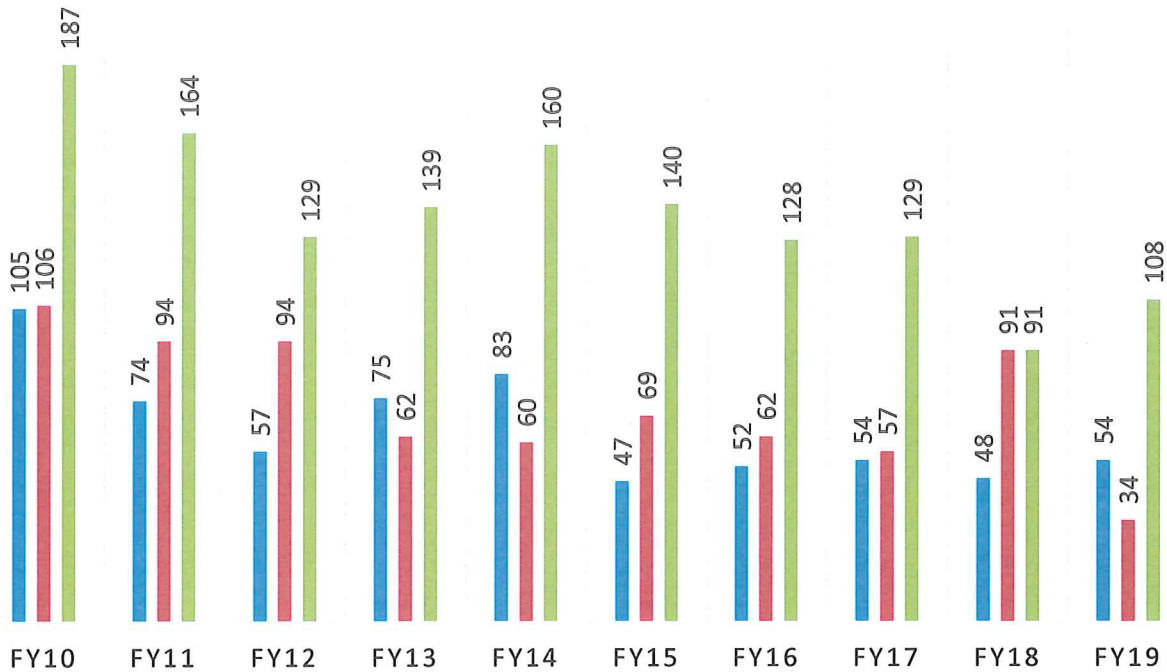
The Claims Committee is responsible for establishing claims policies and procedures for the Fund and the Wisconsin Health Care Liability Insurance Plan (Plan) and approving claims settlements.

FUND LOSSES AND LAE PAYMENTS PER FISCAL YEAR



Fund Claims Activity

■ New Claims per Fiscal year ■ Closed Claims per Fiscal year
■ Total Open Claims end of 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 the review of financial position and results, as well as correspondence with auditors concerning audit scope, accounting issues, internal controls, and management recommendations.

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 2019, the committee reviewed 389 requests for retroactive coverage. All requests were approved.

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 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 fiscal year July 1, 2017, through June 30, 2018, 81 claims paid reports were filed. These included 17 for physicians or nurse anesthetists, 58 for hospitals, nursing homes, corporations or clinics, and 6 for other types of providers. No providers were subject to a possible surcharge.

Since the inception of the Council in 1986, 67 providers have been subject to a possible surcharge.

Risk Management and Patient Safety Committee

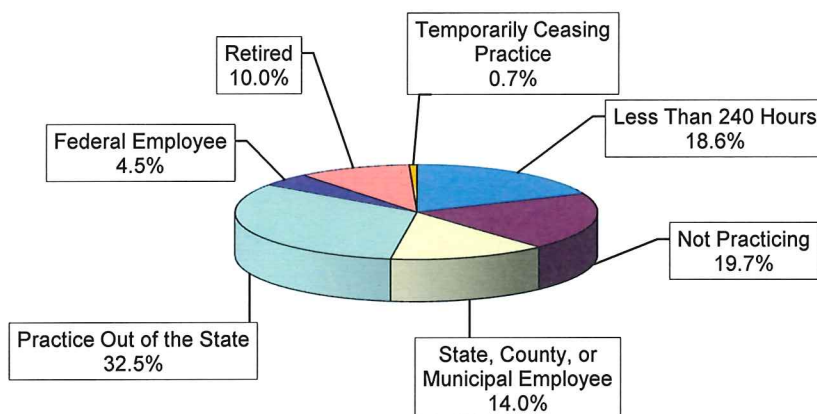
The purpose of the Risk Management and Patient Safety Committee is to reduce patient/claimant compensable injuries, reduce Fund losses and associated expenses, improve the general quality of medical care, and reduce the premiums of participating health care providers.

In 2019 committee meetings were temporarily suspended pending implementation of an upgraded Fund claims and policy management system. It is expected that the system will allow the committee to analyze meaningful claims data to help focus communication and education efforts for insureds.

Other Fund Activities

The Fund continually monitors and updates the exemption status for providers that held a license to practice in Wisconsin but for which a current exemption or certificate of insurance was not on file with the Fund. Providers that remain in noncompliance are referred to their respective licensing boards for appropriate enforcement action.

**Injured Patients and Families Compensation Fund Exemptions
June 30, 2019**

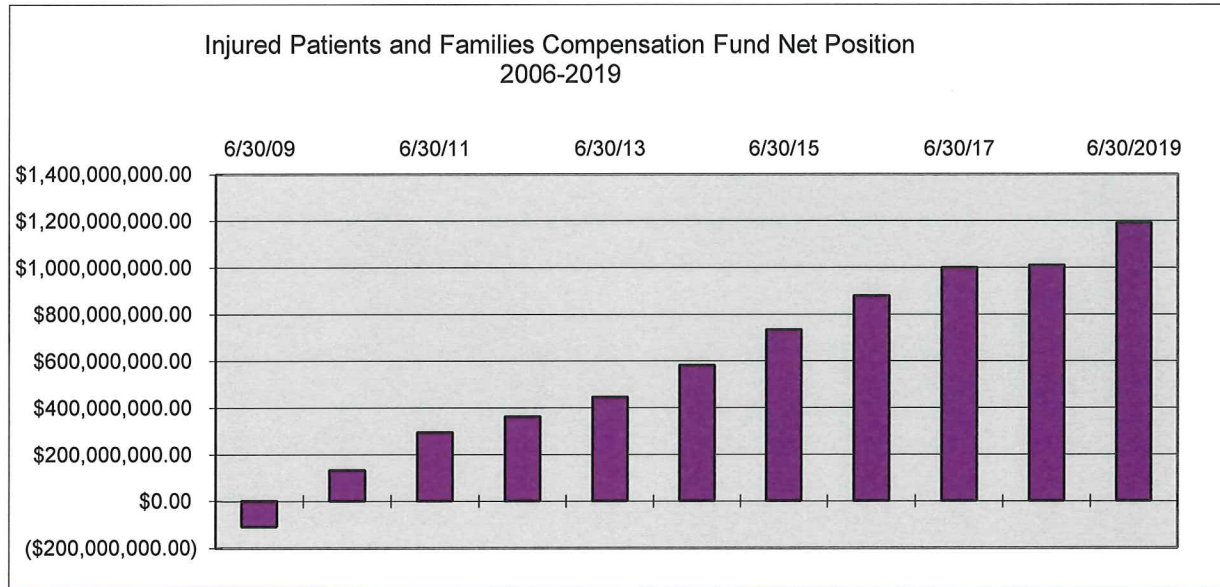


The Actuarial and Underwriting Committee at its February 13, 2020, meeting charged the contracted vendor, Pinnacle Actuarial Resources, with reevaluating the target range for the Fund's net position. It was agreed that Pinnacle Actuarial Resources will develop three options for a target range. The proposals will be presented to the Actuarial and Underwriting Committee at its meeting in May 2020. The committee will select one option to recommend to the Financial/Investment/Audit Committee at its meeting later in May 2020. The recommendation of the Financial/Investment/Audit Committee will be brought to the Board at its meeting in June 2020.

Financial Statistics

The Fund reports its financial operations on a July 1 to June 30, succeeding-year basis as a part of the State of Wisconsin Comprehensive Annual Financial Review (CAFR). A copy of the CAFR can be found at <https://doa.wi.gov/Pages/StateFinances/ComprehensiveAnnualFinancialReportCAFR.aspx>.

The Fund reported an *unaudited* net position of \$1,191,069,542 as of June 30, 2019.



The Fund's Investments are managed by the State of Wisconsin Investment Board (SWIB). Their Annual Report can be found here: <https://www.swib.state.wi.us/list-of-investments>.

Assessments and Panel Fees

There was no change in Fund fees for the fiscal year 2019-2020. Mediation panel fees for physicians (excluding physicians in a residency program) were set at \$8.75 per physician and \$2.00 per occupied hospital bed.