



Tony Evers, Governor of Wisconsin  
Mark Afable, Commissioner of Insurance

March 5, 2021

The Honorable Patrick Testin  
Senate Committee on Health  
Room 8 South  
State Capitol  
Madison, WI 53707

The Honorable David Steffen  
Assembly Committee on Insurance  
Room 323 North  
State Capitol  
Madison, WI 53708

The Honorable Mary Felzkowski  
Senate Committee on Insurance,  
Licensing, & Forestry  
Room 415 South  
State Capitol  
Madison, WI 53708

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 316 South  
State Capitol  
Madison, WI 53707

The Honorable Ron Tusler  
Assembly Committee on Judiciary  
Room 22 West  
State Capitol  
Madison, WI 53708

Re: FY 2020 Functional and Progress Report of the Injured Patients and Families Compensation Fund

Dear Senators Testin, Felzkowski, Wanggaard, & Representatives Steffen, Sanfelippo and Tusler:

Pursuant to S. 655.27 (4) (f), Wis. Stat., enclosed you will find the FY 2020 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, 2020. 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.



Injured Patients & Families Compensation Fund

Tony Evers, Governor of Wisconsin  
Mark Afable, Commissioner of Insurance

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

Sincerely,

Mark Afable  
Commissioner of Insurance

## FY 2020 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.

2020 Board of Governors:

Mark V. Afable, Commissioner of Insurance (Board Chair)  
Jeffery Bingham, Public Member  
Carla Borda, Public Member  
Greg Schroeder, Public Member  
Sridhar Vasudevan, M.D., Public Member (term expired May 2020)  
Vacant, Public Member  
David Maurer, Industry Representative  
David Nelson, Industry Representative  
Linda Syth, Industry Representative  
Kevin R. Martin, Wisconsin Association for Justice  
Jerome Hierseman, State Bar of Wisconsin  
Bud Chumbley, M.D., Wisconsin Medical Society  
Timothy Crummy, M.D., Wisconsin Medical Society  
Ralph Topinka, Wisconsin Hospital Association

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

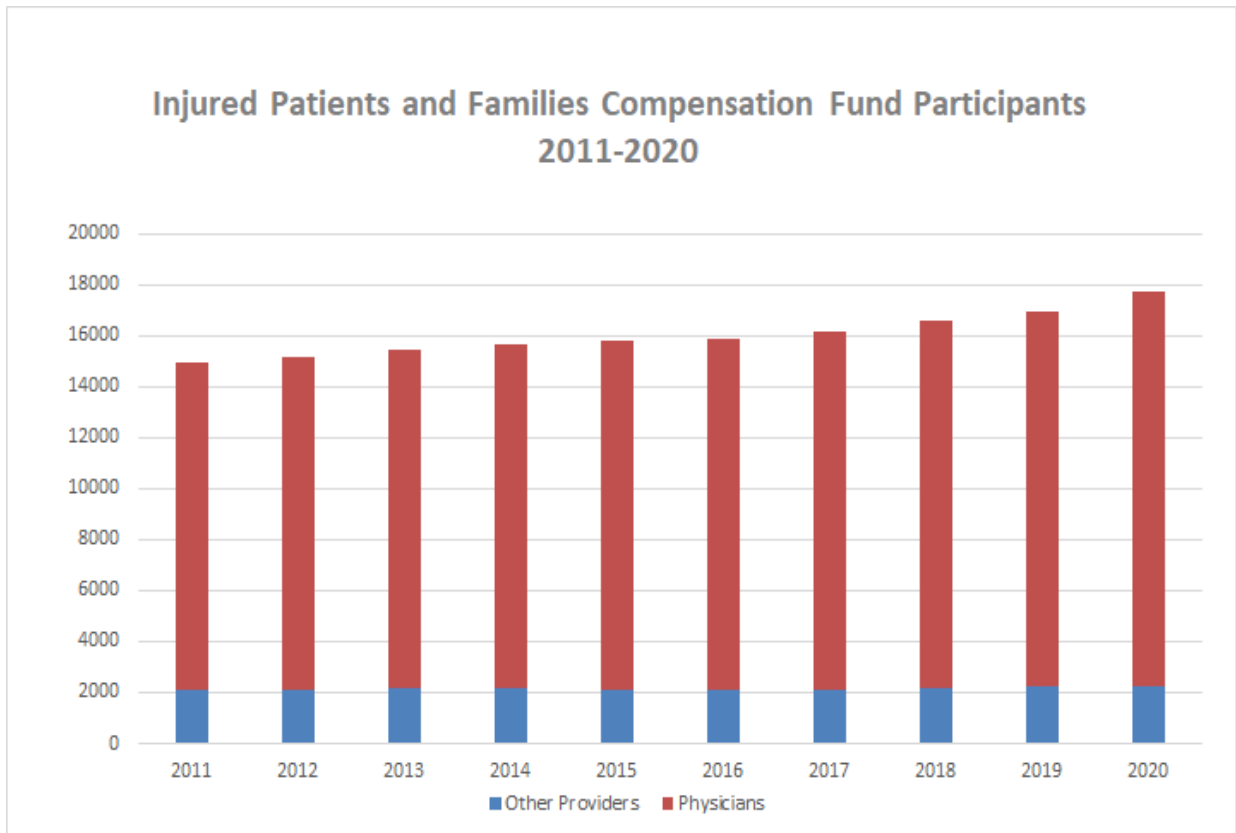
- Actuarial and Underwriting Committee
- Legal Committee
- Claims Committee
- Finance/Investment/Audit Committee
- Risk Management and Patient Safety Committee
- Peer Review Council

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, 2020, there were a total of 17,758 Fund participants comprised of 147 hospitals with 19 affiliated nursing homes, 15,494 physicians, 891 nurse anesthetists, 20 hospital-owned or controlled entities, 73 ambulatory surgery centers, 1 cooperative, 12 partnerships, and 1,101 corporations actively participating in the Fund.

As of June 30, 2020, Fund participants consisted of 87 percent physicians, 6 percent corporations, and the remaining 7 percent included all other participants.



## Claims Activity

From July 1, 1975, through June 30, 2020, the Fund was named in 6,297 claims filed. During this period, the Fund's total number of paid claims was 685, for total indemnity payments of \$876,573,159.84. Of the total number of claims in which the Fund has been named, 5,500 claims have been closed with no indemnity payment.

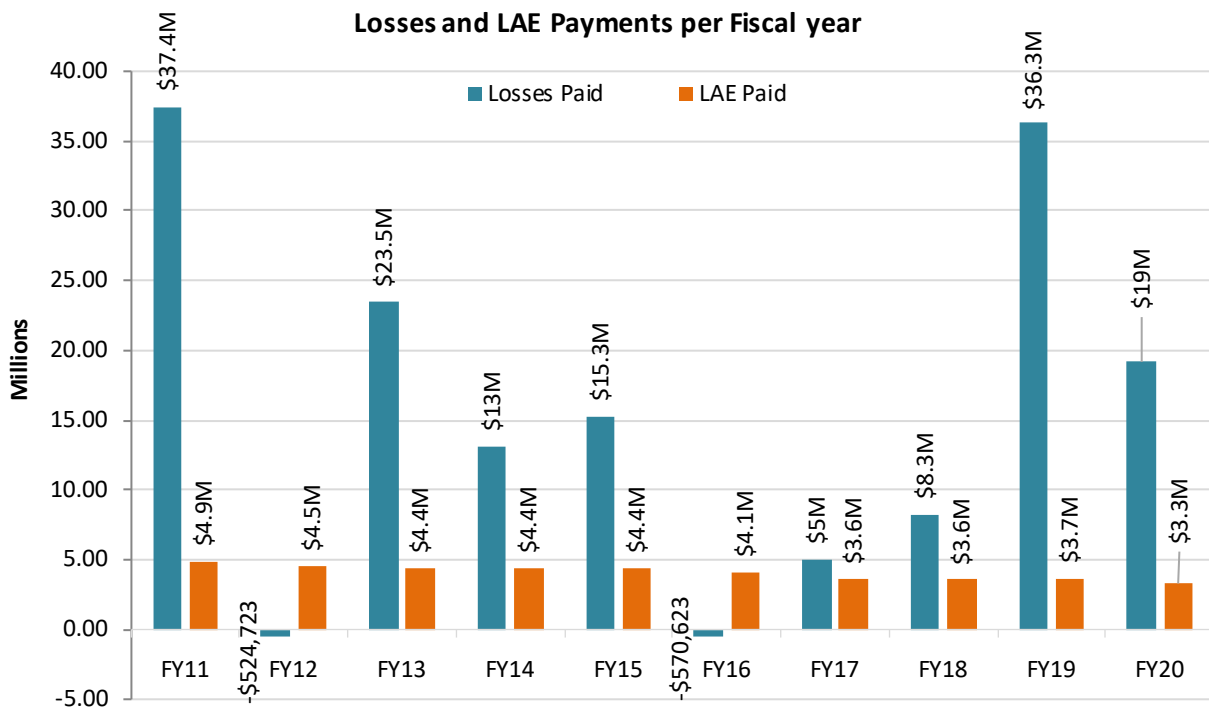
## Board Committees

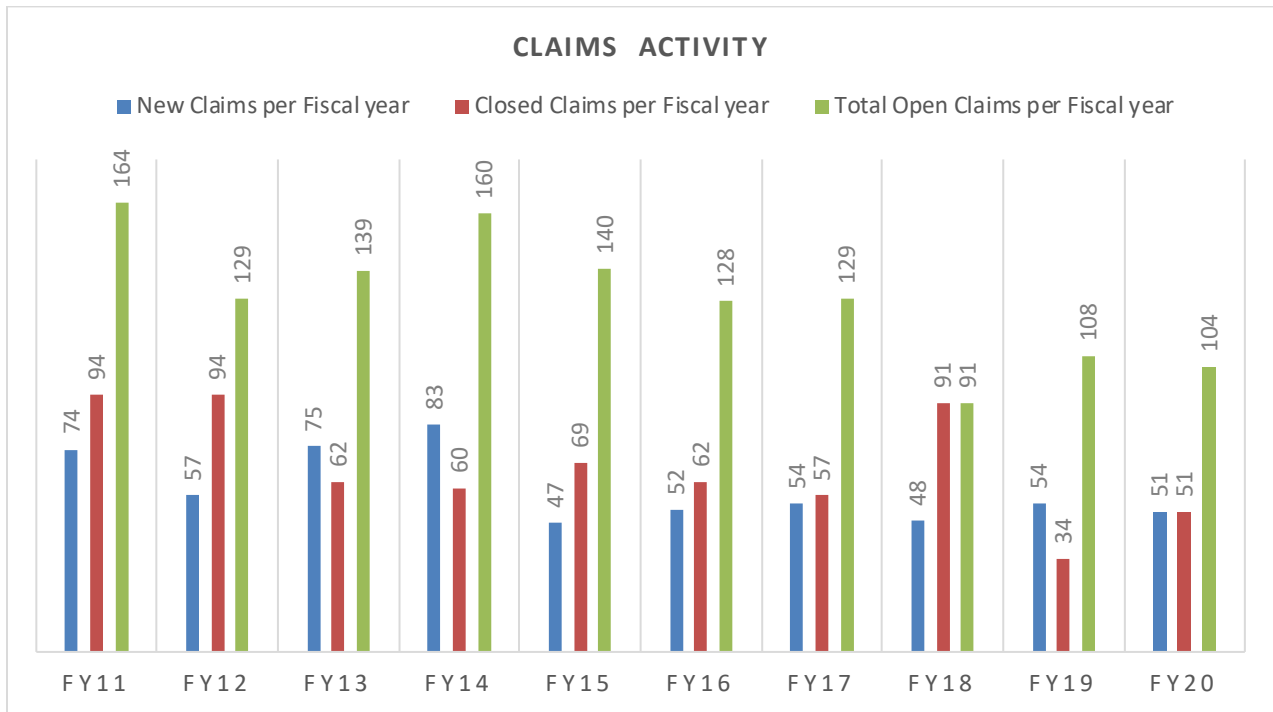
### Actuarial and Underwriting Committee

The Actuarial and Underwriting Committee advises the Board on actuarial and underwriting issues. The Actuarial and Underwriting Committee worked with Pinnacle Actuarial Resources to establish the IPFCF surplus caps. The committee set the IPFCF surplus caps at 500% of the Risk Based Capital. Additionally, the committee assisted in the approval of the Fiscal Year 2021 and 2022 IPFCF Premium Holiday. The committee agreed that the Premium Holiday would not jeopardize the solvency of the Fund and would provide aid to the medical systems and providers impacted by the COVID-19 pandemic.

### 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.





#### *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 2020, the committee reviewed 67 requests for retroactive coverage. 66 requests were approved and 1 was denied.

Under guidelines set for expedited approval by the Board and Legal Committee, the Fund manager approved 127 requests for retroactive coverage and the WHCLIP manager approved 1 request for retroactive coverage.

#### *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, 2019, through June 30, 2020, 91 claims paid reports were filed. These included 28 for physicians or nurse anesthetists, 55 for hospitals, nursing homes, corporations or clinics, and 8 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.

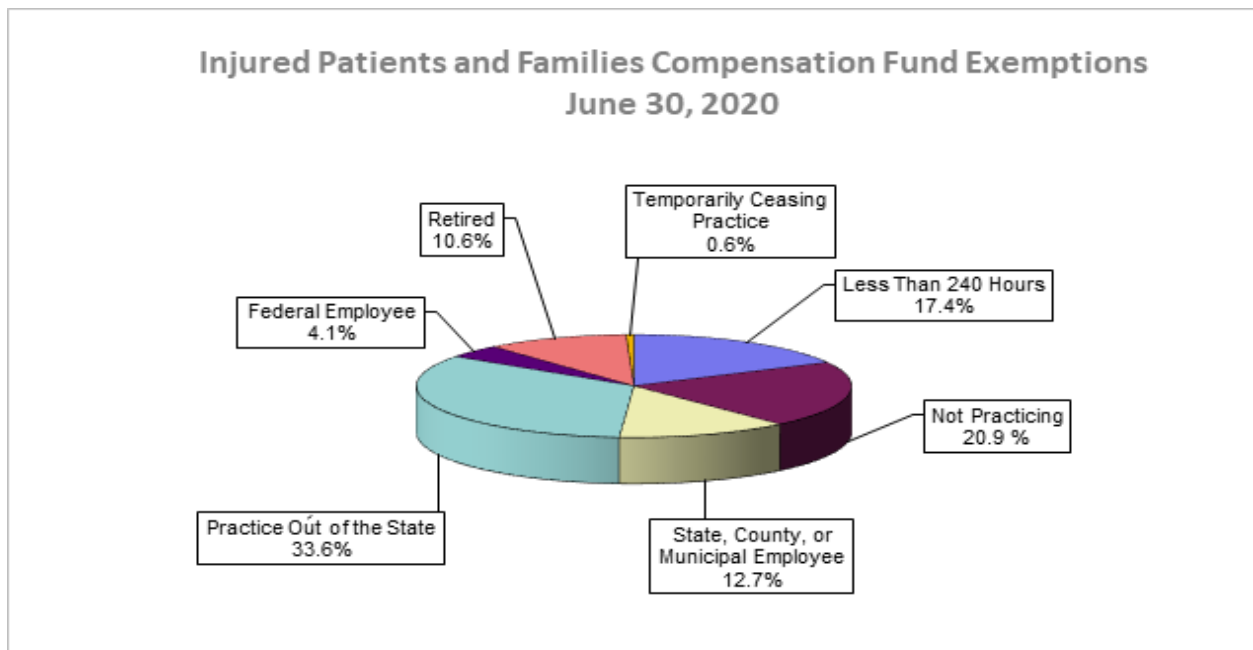
### *Risk Management and Patient Safety Committee*

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, ~~19~~ 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**

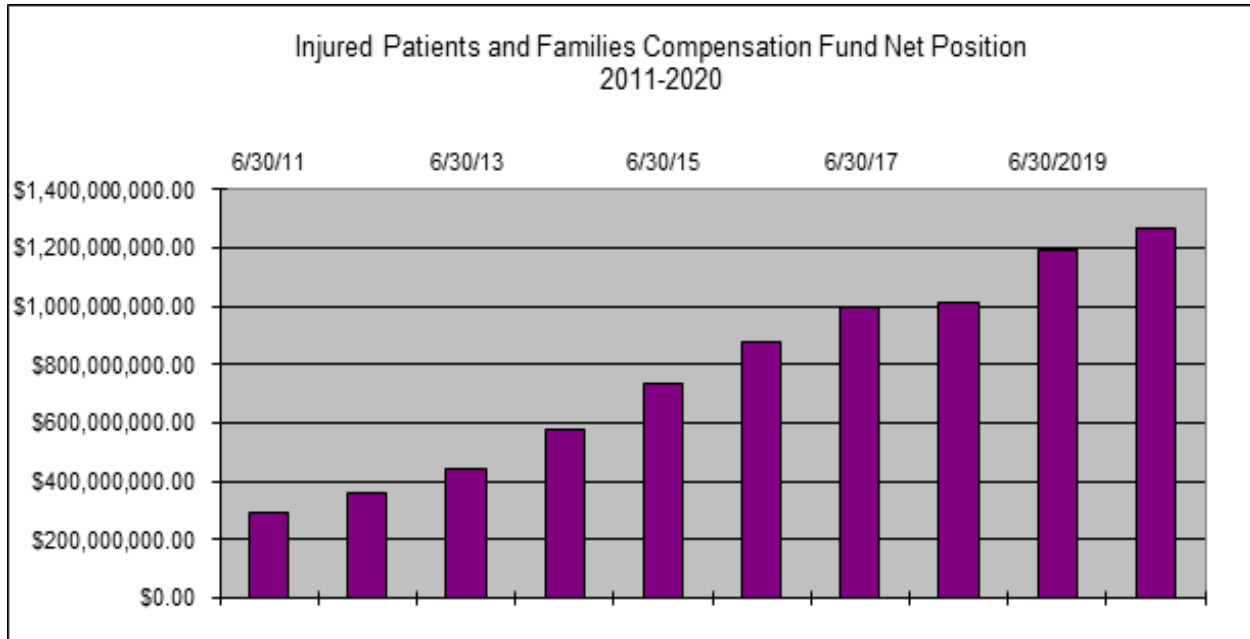
The Fund continually monitors and updates the exemption status for providers that held a license to practice in Wisconsin but for which a current exemption or certificate of insurance was not on file with the Fund. Providers that remain in noncompliance are referred to their respective licensing boards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



## 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 \$1,267,642,339 as of June 30, 2020.



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

The Board of Governors voted to grant a premium holiday for FY20, in light of the COVID-19 pandemic. 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.

## Operations

The Fund has seven employees: Fund Manager, Fund Accountant, Claims Manager, 2 Regulatory Specialists, Administrative Associate, and a Billing Specialist. The Fund contracts out for Actuarial services, Claims Adjusting services, Legal Counsel, Independent Auditing services, and IT support.



**Vendors paid more than \$100,000 in FY 20**

<b>Vendor Name</b>	<b>Annual</b>
SWIB (Investment Management services)	<b>\$1,483,235</b>
Wausau MedMal Mgt Service (Claims Adjusting services)	<b>\$1,202,277</b>
Bell, Moore & Richter SC	<b>\$423,697</b>
Otjen Law Firm	<b>\$344,223</b>
Emile Banks & Assoc. LLC	<b>\$221,336</b>
Borgelt, Powell, Peterson & Frauen SC	<b>\$217,810</b>
Law Firm of Conway, Olejniczak	<b>\$176,184</b>
Gutglass, Erickson, Larson	<b>\$155,915</b>
Von Briesen & Roper SC	<b>\$103,063</b>