



**CARROLL FISHER**  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

## **BULLETIN NO. PC 2003-02A**

**TO: MEDICAL PROFESSIONAL LIABILITY INSURERS**  
**ATTENTION: STATE FILING DIVISION**

**FROM: CARROLL FISHER, INSURANCE COMMISSIONER**

**RE: REPORTING REQUIREMENTS OF SENATE BILL 629.**

**DATE: September 22, 2003**

### **PURPOSE OF THIS BULLETIN**

On July 1, 2003, the provisions of Senate Bill 629 became law. The purpose of this bulletin is to inform insurers of instructions for the reporting requirements for statutory compliance, as well as to provide updated information not included in Bulletin PC 2003-02.

#### **Medical Liability Insurance Closed Claim Reports**

This section, located at Sections 6810 - 6817 of Title 36, describes the information insurers shall submit to the Department every quarter. The first due date is October 10, 2003. The medical professional liability policies are those that are issued to health care providers licensed under the authority of Title 59 and Title 63 of the Oklahoma Statutes. The Excel spreadsheet is available for download on the Property and Casualty section of the Department's web site. Insurers submitting information in the Excel spreadsheets are asked to either do so by e-mail or by mailing a disk with the spreadsheet to the Department. Spreadsheets may be e-mailed to [robertnoll@insurance.state.ok.us](mailto:robertnoll@insurance.state.ok.us). Individual information submitted shall remain confidential and be excluded from the Oklahoma Open Records Act, pursuant to statute. The Department anticipates that the first composite report of submitted data will be available in early 2004.

#### **Statistical Data Collection**

Bulletin PC 2003-02 stated, "Statistical data collection is applicable to submitted closed claim reports from *existing policies*" (emphasis added). It has been brought to the attention of the Department that the statistical data collection requirements should also include those policies that are cancelled, non-renewed, expired, or concluded for any other reason.

### Reporting Period

Title 36, Section 6811 states: "Not later than the tenth day after the last day of the calendar quarter in which a claim for recovery under a medical professional liability insurance policy is closed, the insurer shall file with the Department a closed claim report."

As an example, the third quarter of 2003 is from July to September. The reports are due to the Department on October 10, 2003. With the statute making no provisions for time limit extensions, the Department cannot grant any exemptions.

### JNOV

The spreadsheet contains the initials JNOV under the section that covers the outcome of the medical malpractice case. This Latin term, judgment non obstante veredicto, roughly translates to "judgment notwithstanding the verdict." This is a possible outcome following a jury verdict, and not an insurance industry term.

### Conclusion

The Oklahoma Insurance Department encourages insurers to check for updates to this bulletin, as well as new bulletins for all topics.

### Attachments

Oklahoma Medical Professional Liability Insurance Closed Claim Report – Excel Spreadsheet

Oklahoma Medical Professional Liability Insurance Closed Claim Report – Instructions

Oklahoma Statutes Citationized – Title 36. Insurance 36 O.S. §6810 through 6821.

**Any questions should be directed to [kathiestepp@insurance.state.ok.us](mailto:kathiestepp@insurance.state.ok.us) of the Property and Casualty Division, or [robertnoll@insurance.state.ok.us](mailto:robertnoll@insurance.state.ok.us) of the Legal Division of the Oklahoma Insurance Department, P. O. Box 53408, Oklahoma City, OK 73152-3408.**

# OKLAHOMA MEDICAL PROFESSIONAL LIABILITY INSURANCE UNIFORM CLAIMS REPORT INSTRUCTIONS

File one report for each defendant insured by filing insurer. Include claims closed without payment. Complete all requested information on each report. If information is unknown, enter **UK**, if not applicable, enter **NA**. When an item calls for a dollar amount and no amount is involved, enter 0 in the space. Each entry marked (CODE) requires a specific code, which is described within this document. Record all amounts in whole dollars only and all dates as MM/DD/YY.

## 1. IDENTITY OF THE MEDICAL PROFESSIONAL LIABILITY INSURER

**1g.** Period of time: Enter quarter and year, i.e. 3Q-03, 4Q-03.

**1h.** Any closed claims: Enter NONE if no claims closed and return form. If yes, complete balance of questions.

## 2. THE MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICY

**2a.** Profession or Business Code: 1) physicians and surgeons, 2) hospitals, 3) other medical professionals, 4) other health care facilities. (When 3 is entered specify type of professional in addition.)

**2c.** Enter the appropriate Coverage Code for the type of policy covering the claim: 1) claims made-basic (policy covers all claims made during the term of the policy), 2) claims made-tail (policy covers all claims made during the policy term for events which occurred during a designated previous policy term), 3) occurrence (policy covers all claims whenever presented for events which occur during the policy term).

**2d.** Type of Practice Code: 1) institutional (academic), 2) professional corporation or partnership (group), 3) self-employed, 4) employed physician, 5) employed nurse, 6) all other employees, 7) intern or resident.

**2e.** Specialty Code: (five digits) from current ISO Common Statistical Base classifications. Please check with ISO annually for possible changes to specialty codes.

## 3. DETAILS OF THE INJURY OR LOSS

**3d.** Enter the appropriate code of the Place Where the principal Injury Occurred: 1) hospital inpatient facility, 2) emergency room, 3) hospital outpatient facility, 4) nursing home, 5) physician's office, 6) patient's home, 7) other outpatient facility, 8) other, 9) other hospital/institutional location. Use only one code. If code 8, other, is used enter description of the place.

**3e.** See list below. Enter number for appropriate county.

### OKLAHOMA COUNTIES

1) ADAIR, 2) ALFALFA, 3) ATOKA, 4) BEAVER, 5) BECKHAM, 6) BLAINE, 7) BRYAN, 8) CADDO, 9) CANADIAN, 10) CARTER, 11) CHEROKEE, 12) CHOCTAW, 13) CIMMARON, 14) CLEVELAND, 15) COAL, 16) COMANCHE, 17) COTTON, 18) CRAIG, 19) CREEK, 20) CUSTER, 21) DELAWARE, 22) DEWEY, 23) ELLIS, 24)

**OKLAHOMA MEDICAL PROFESSIONAL LIABILITY INSURANCE  
UNIFORM CLAIMS REPORT INSTRUCTIONS**

GARFIELD, 25) GARVIN, 26) GRADY, 27) GRANT, 28) GREER, 29) HARMON, 30) HARPER, 31) HASKELL, 32) HUGHES, 33) JACKSON, 34) JEFFERSON, 35) JOHNSTON, 36) KAY, 37) KINGFISHER, 38) KIOWA, 39) LATIMER, 40) LEFLORE, 41) LINCOLN, 42) LOGAN, 43) LOVE, 44) MCCLAIN, 45) MCCURTAIN, 46) MCINTOSH, 47) MAJOR, 48) MARSHALL, 49) MAYES, 50) MURRAY, 51) MUSKOGEE, 52) NOBLE, 53) NOWATA, 54) OKFUSKEE, 55) OKLAHOMA, 56) OKMULGEE, 57) OSAGE, 58) OTTAWA, 59) PAWNEE, 60) PAYNE, 61) PITTSBURG, 62) PONTOTOC, 63) POTTAWATOMIE, 64) PUSHMATAHA, 65) ROGER MILLS, 66) ROGERS, 67) SEMINOLE, 68) SEQUOYAH, 69) STEPHENS, 70) TEXAS, 71) TILLMAN, 72) TULSA, 73) WAGONER, 74) WASHINGTON, 75) WASHITA, 76) WOODS, 77) WOODWARD

**4A. DETAILS OF THE CLAIMS PROCESS**

- (1) 1) Yes  
2) No

(2) See county list for 3d above

- (3) 1) Yes  
2) No

- (a) 1) Attorney involvement – plaintiff  
2) Attorney involvement – insurer  
3) Attorney involvement - insured

- (4) 1) No suit  
2) Suit filed no trial  
3) Trial no verdict  
4) Court verdict

- (5) 1) Yes  
2) No

- (a) Result of court verdict:  
1) Directed verdict for plaintiff  
2) Directed verdict for defendant  
3) JNOV for plaintiff  
4) JNOV for defendant  
5) Judgment for plaintiff  
6) Judgment for defendant  
7) For plaintiff after appeal  
8) For defendant after appeal  
9) All others

- (6) 1) Yes  
2) No

**OKLAHOMA MEDICAL PROFESSIONAL LIABILITY INSURANCE  
UNIFORM CLAIMS REPORT INSTRUCTIONS**

**(a)** Who requested appeal:

- 1) Plaintiff
- 2) Defendant

**(7)** Number of other defendants:

{space} – No other defendants

- 1) One
- 2) Two
- 3) Three
- 4) Four
- 5) Five
- 6) Six
- 7) More than six

**(8)** 1) Yes

2) No

**(a)** Legal stage where settlement was reached:

- 1) Alternative dispute resolution: no suit
- 2) No suit filed
- 3) Alternative dispute resolution: with suit
- 4) Suit filed, settled before trial
- 5) During trial, before court verdict
- 6) Court verdict
- 7) Settlement reached after verdict
- 8) Settlement after appeal filed
- 9) Case dismissed or summary judgment

**4B. AMOUNT PAID ON THE CLAIM**

Enter the appropriate dollar amounts.

**Oklahoma Statutes Citationized**  
**Title 36. Insurance**

**Section 6810 - Terms Defined**

Cite as: 36 O.S. § 6810 (OSCN 2003)

As used in Sections 12 through 21 of this act, the following words, terms, or phrases shall have the following meanings, unless the context otherwise clearly indicates:

1. "Insurer" means an insurance company or other entity that is or has been authorized to write medical professional liability insurance in this state; and
2. "Medical professional liability insurance" means any insurance that provides professional liability coverage for any health care provider as defined in Section 1-1708.1C of Title 63 of the Oklahoma Statutes.

**Section 6811 - Closed Claim Report - Date For Filing**

Cite as: 36 O.S. § 6811 (OSCN 2003)

Not later than the tenth day after the last day of the calendar quarter in which a claim for recovery under a medical professional liability insurance policy is closed, the insurer shall file with the Department a closed claim report.

**Section 6812 - Closed Claim Report**

Cite as: 36 O.S. § 6812 (OSCN 2003)

A closed claim report required pursuant to Section 12 of this act shall be filed in a form prescribed by the Insurance Commissioner and shall include:

1. The identity of the medical professional liability insurer;
2. The medical professional liability insurance policy, including:
  - a. the type or types of insurance,
  - b. the policy limits,
  - c. whether the policy was an occurrence or claims-made policy,
  - d. the classification of the insured, and
  - e. reserves for the claim;
3. A listing of the type of injury or loss by medical specialty; and
4. a. Details of the claims process, including:
  - (1) whether a lawsuit was filed,
  - (2) where a lawsuit, if any, was filed,
  - (3) whether attorneys were involved,
  - (4) the stage at which the claim was closed,
  - (5) any court verdict,
  - (6) any appeal,
  - (7) the number of defendants, and
  - (8) whether the claim was settled outside of court and, if so, at what stage, and
- b. the amount paid on the claim, including:
  - (1) the total amount of a court award,
  - (2) the amount paid by the medical professional liability insurer,
  - (3) any amount paid by another insurer, if available to the medical professional liability insurer,
  - (4) any amount paid by another defendant, if available to the medical professional liability insurer,
  - (5) any collateral source of payment,
  - (6) any structured settlement,
  - (7) the amount of economic and noneconomic compensatory damages and the method of allocation,
  - (8) the amount of prejudgment interest,
  - (9) the amount paid for defense costs,

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**Title 36. Insurance**

- (10) the amount paid for punitive damages, and
- (11) the amount of allocated loss adjustment expenses.

**Section 6813 - Annual Composite Data Report** Cite as: 36 O.S. § 6813 (OSCN 2003)  
The Department shall compile the data included in individual closed claim reports filed pursuant to this act into a composite form and shall prepare annually a written report of the composite data. The Department shall make the composite data report available to the public.

**Section 6814 - Establishment of Electronic Database** Cite as: 36 O.S. § 6814 (OSCN 2003)  
The Commissioner shall:

1. Establish an electronic database composed of composite data reports required pursuant to Section 14 of this act;
2. Provide the public with access to that data;
3. Establish a system to provide access to that data by electronic data transmittal processes; and
4. Set and charge a fee for electronic access to the database in an amount reasonable and necessary to cover the costs of access.

**Section 6815 - Composite Data Reports To Be Submitted to Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives** Cite as: 36 O.S. § 6815 (OSCN 2003)

A. The Department shall submit copies of the composite data report required pursuant to Section 14 of this act to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

B. The Department, on request of the Governor, the President Pro Tempore of the Senate, or the Speaker of the House of Representatives, shall provide to the Governor and the Legislature additional composite data reports. Composite data reports prepared under this subsection shall be available to the public.

**Section 6816 - Individual Closed Claim Reports Confidential** Cite as: 36 O.S. § 6816 (OSCN 2003)

A. Information included in an individual closed claim report submitted by an insurer under Sections 12 and 13 of this act is confidential and shall not be made available by the Department to the public and shall not be subject to the Oklahoma Open Records Act.

B. Information included in an individual closed claim report may be examined only by the Commissioner and Department employees.

**Section 6817 - Designated Statistical Agent** Cite as: 36 O.S. § 6817 (OSCN 2003)  
STATISTICAL DATA COLLECTION

As used in Sections 19 and 20 of this act, "designated statistical agent" means an organization designated or contracted with by the Commissioner pursuant to Section 19 of this act.

**Section 6818 - Designation of Statistical Agent** Cite as: 36 O.S. § 6818 (OSCN 2003)  
The Insurance Commissioner may designate or contract with a qualified organization to serve as the statistical agent for the Commissioner to analyze the information provided pursuant to Sections 12 and 13 of this act.

**Section 6819 - Time Required to Qualify As Statistical Agent** Cite as: 36 O.S. § 6819 (OSCN 2003)

To qualify as a statistical agent, an organization must demonstrate at least five (5) years of experience in data collection, data maintenance, data quality control, accounting and other related areas.

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Title 36. Insurance**

**Section 6820 - Insurer To Provide Premium and Loss Cost Data**

Cite as: 36 O.S. § 6820 (OSCN 2003)

An insurer shall provide all premium and loss cost data to the Insurance Commissioner as the Commissioner requires.

**Section 6821 - Medical Professional Liability Rate Setting - Rate Change Application - Request For A Hearing**

Cite as: 36 O.S. § 6821 (OSCN 2003)

- A. No rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this section. Notwithstanding any other provision of law, in considering whether a rate is excessive, inadequate or unfairly discriminatory, no consideration shall be given to the degree of competition and the Insurance Commissioner shall consider whether the rate mathematically reflects the insurance company's investment income.
- B. Notwithstanding any other provision of law, every medical professional liability insurer which desires to change any rate shall file a rate application with the Commissioner. A complete rate application shall include the factors enumerated in Section 902.2 of Title 36 of the Oklahoma Statutes and such other information as the Commissioner may require. The applicant shall have the burden of proving that the requested rate change is justified and meets the requirements of this section.
- C. The Commissioner shall notify the policyholders of any application by an insurer for a rate change. The application shall be deemed approved forty-five (45) days after notice unless:
1. A policyholder or the policyholder's representative requests a hearing within forty-five (45) days of the notice and the Commissioner, within fifteen (15) days thereafter, grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision; or
  2. The Commissioner on his or her own motion determines to hold a hearing.
- In any event, a rate change application shall be deemed approved ninety (90) days after the rate application is received by the Commissioner unless that application has been disapproved by a final order of the Commissioner subsequent to a hearing or extraordinary circumstances exist. For purposes of this paragraph "received" means the date delivered to the Insurance Department.
- D. For purposes of subsection C of this section, "extraordinary circumstances" include the following:
1. Rate change application hearings commenced during the ninety-day period provided by subsection C of this section. If a hearing is commenced during the ninety-day period, the rate change application shall be deemed approved upon expiration of the ninety-day period or thirty (30) days after the close of the record of the hearing, whichever is later, unless disapproved prior to that date.
  2. The hearing has been continued. The ninety-day period provided by subsection C of this section shall be tolled during any period of which a hearing is continued. A continuance shall be decided on a case by case basis. If the hearing is commenced or continued during the ninety-day period, the rate change application shall be deemed approved upon the expiration of the ninety-day period or thirty (30) days after the close of the record of the hearing, whichever is later, unless disapproved prior to that date.
- E. No medical professional liability insurer shall cancel or refuse to renew coverage of a policyholder on the basis of a policyholder's exercise of any right pursuant to this section.
- F. Nothing in this section shall apply to policies insuring any nursing home licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma Statutes.