



OKLAHOMA INSURANCE DEPARTMENT
STATE OF OKLAHOMA

BULLETIN NO. PC 2007-01

**TO: ALL PROPERTY & CASUALTY INSURERS LICENSED IN THE STATE OF OKLAHOMA
ALL RATING AND ADVISORY ORGANIZATIONS
ALL JOINT UNDERWRITING ASSOCIATIONS
Attention: State Filing Division**

**RE: MEDICAL MALPRACTICE – 2007 CLOSED CLAIM REPORTING
Title 36 O.S. 6810 - 6820**

FROM: OKLAHOMA INSURANCE DEPARTMENT

DATE: MARCH 26, 2007

CONTENT OF THIS BULLETIN

Since 2003, the Oklahoma Insurance Department has had the obligation to collect information about medical professional liability closed claims.¹ This information is from medical professional liability policies that are issued to health care providers licensed under the authority of Title 59 and Title 63 of the Oklahoma Statutes.

Effective immediately, insurers will be required to submit the data for the year 2007 pursuant to the attached Excel spreadsheet. As you will note, this spreadsheet reflects numerous changes from the previous versions. The Oklahoma Insurance Department will **not** accept any other format than the attached 2007 Excel spreadsheet. (Please provide a title for each spreadsheet ex: Claim Number.)

As insurers complete the Excel spreadsheet, please follow the attached instruction sheet to insure the accuracy of the closed claim report.

FREQUENTLY ASKED QUESTIONS AND ANSWERS:

1. Are all insurers authorized to write casualty insurance as defined in Title 36, §707 required to submit a closed claim form?

No. Only insurers authorized to write casualty insurance who have medical malpractice liability closed claims to report are required to submit a closed claim form. If an insurer is authorized to write casualty insurance, but does not write medical professional liability insurance in Oklahoma, a “zero” report is not necessary.

¹ See Title 36, Sections 6810 – 6820 for the text of the statutes that detail this obligation.
<http://www.oscn.net/applications/oscn/deliverdocument.asp?citeID=437489>.

2. What about insurers who write medical professional liability insurance, and have active claims, but have no closed claims to report?
Insurers meeting these circumstances should submit a report with Section 1 h answered "NO."
3. What about authorized casualty insurers who write medical professional liability insurance in other states, but do not write in Oklahoma and have no Oklahoma claims?
A closed claim report is not necessary.
4. If an insurer has the obligation to submit a closed claim report and fails to make a report to the Department, what will happen? What about untimely reports?
The Department is experiencing both problems. The quarterly closed claim reports are due to the Department no later than the tenth day after the last day of the calendar quarter in which a claim for recovery is closed. See Title 36, Section 6811. If a report is late or not received, and the Property and Casualty Division believes a report should have been submitted, the Division will inform the Financial Division of this activity for the insurer's next examination.

CLOSED CLAIM DEFINITION:

For the purposes of this report, a claim shall mean the claim that the insured has made to the insurance carrier for coverage. File one report for each claim insured by filing insurer with the Excel spreadsheet titled.

EFFECTIVE DATE:

The Oklahoma Insurance Department requires the use of the new form starting with the first quarter of data for 2007.

DOCUMENTS ATTACHED:

- PDF:** 2007 OK Medical Professional Liability Insurance Closed Claim Report
2007 OK Medical Professional Liability Insurance Closed Claim Report Instructions
Oklahoma Statutes: Title 36. Insurance Section 6810 – 6821
- Excel:** 2007 OK Medical Professional Liability Insurance Closed Claim Report

QUESTIONS:

Questions applicable to this bulletin should be directed to Greg Lawson at greglawson@insurance.state.ok.us of the Property and Casualty Division, or Oklahoma Insurance Department, P. O. Box 53408, Oklahoma City, OK 73152-3408.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site (www.oid.state.ok.us) for news and updates to Bulletins and other relevant material.

OKLAHOMA MEDICAL PROFESSIONAL LIABILITY INSURANCE UNIFORM CLAIMS REPORT INSTRUCTIONS

For the purposes of this report, a claim shall mean the claim that the insured has made to the insurance carrier for coverage. File one report for each claim 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

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

H. Any closed claims: Enter **NO** if no claims closed and return form. If yes, enter **YES** and complete balance of questions.

2. THE MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICY

A. Business or Profession 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.)

C. Enter the appropriate Coverage Code for the type of policy covering the claim: 1) claims made or 2) occurrence (policy covers all claims whenever presented for events which occur during the policy term).

D. 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.

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

F. Reserves: This is the reserve in the most recent quarterly statement as filed with the state of domicile.

3. DETAILS OF THE INJURY OR LOSS

D. 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.

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

E. 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) 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

4. DETAILS OF THE CLAIMS PROCESS

1. 1) Yes
2) No

2. See county list for 3d above (If the answer to 4A was yes, you must provide an answer to 4B.)

3. 1) Yes
2) No

4. 1) Claim dismissed before suit filed
2) Claim dismissed after suit filed
3) Claim settled prior to suit being filed
4) Claim settled after suit was filed
5) Case tried to jury or during trial
6) At verdict
7) During appeal
8) After appeal

5. 1) Yes
2) No

6. 1) Yes
2) No

2007

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

7. Number of defendants:

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

5. AMOUNT PAID ON THE CLAIM

Enter the appropriate dollar amounts, if any.

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
- b. the amount paid on the claim, including:
 - (1) the total amount of a court award or settlement,
 - (2) the amount paid on behalf of each insured or insureds exclusive of attorney fees or case costs ,
 - (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) the amount of prejudgment interest,
 - (7) the amount paid for defense costs,
 - (8) the amount paid for punitive damages, and

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(9) 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.

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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.

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 insurer shall notify the policyholders of any application by an insurer for a rate change. The insurer shall file an affidavit signed by the individual responsible for the rate change application with the Commissioner certifying that policyholders were notified pursuant to this section. 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

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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.