



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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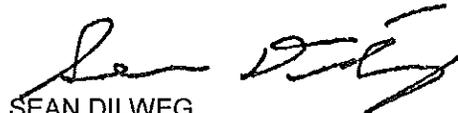
Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

PHYSICIANS MUTUAL INSURANCE COMPANY
2600 DODGE ST
OMAHA NE 68131

dated OCTOBER 24, 2008, and served upon the company on JANUARY 27, 2010, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 9TH day of JULY, 2010.


SEAN DILWEG
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**PHYSICIANS MUTUAL INSURANCE COMPANY
OMAHA, NEBRASKA**

OCTOBER 13-24, 2008

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October 24, 2008

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Honorable Sean Dilweg
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted of:

Physicians Mutual Insurance Company

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Physicians Mutual Insurance Company (the company) is a mutual company operated for the benefit of its policyholders. Founded in 1902 to originally provide health insurance for medical professionals, the company began offering health insurance products to the general public in 1962 and became licensed in Wisconsin that same year. The company currently offers long term care, medical expense and specified disease (cancer) policies.

In 2005, the company's parent company, Physicians Mutual Group (PMG), determined that it would market Medicare supplement only through its subsidiary, Physicians Life Insurance Company. In 2005 Physicians Mutual wrote 286 Medicare Supplement policies. In 2006, it wrote none. Although the company no longer writes Medicare supplement insurance policies, at year end 2007 it ranked 6th based on premiums written of \$30,570,861, with 11,893 policies in force as the end of 2007.

During the period of period of review, the company offered both tax-qualified and non-tax-qualified long-term care insurance policies, nursing home and home health care insurance policies.

The following table summarizes the total direct national premium written in 2006 and 2007 as compared to the total direct premium written in Wisconsin.

National Direct Business to Wisconsin Direct Business Summary

2007						
	Life Insurance Premiums	Annuity Considerations	A&H Insurance Premiums	Deposit Type Funds	Other Considerations	
Wisconsin	\$0	\$0	\$34,424,255	\$0	\$0	
National	\$0	\$0	\$352,296,022	\$0	\$0	
<i>Wisconsin As a % of National</i>	<i>0</i>	<i>0</i>	<i>10%</i>	<i>0</i>	<i>0</i>	

2006						
	Life Insurance Premiums	Annuity Considerations	A&H Insurance Premiums	Deposit Type Funds	Other Considerations	
Wisconsin	\$0	\$0	\$37,751,628	\$0	\$0	
National	\$0	\$0	\$381,797,249	\$0	\$0	
<i>Wisconsin As a % of National</i>	<i>0</i>	<i>0</i>	<i>10%</i>	<i>0</i>	<i>0</i>	

The majority of the premium written by the company in both 2006 and 2007 was for individual accident and health insurance.

The following table summarizes the company's Medicare supplement business for 2006 and 2007.

Wisconsin Medicare Supplement Summary

2006						
Line Of Business	Earned Premium	Incurred Claims	Loss Ratio	No. of Policies in force at end of year	No. of Policies Issued	Market Share Rank
Individual Med Sup	\$34118847	\$23337476	68%	14296	0	6 th

2007						
Line Of Business	Earned Premium	Incurred Claims	Loss Ratio	No. of Policies in force at end of year	No. of Policies Issued	Market Share Rank
Individual Med Sup	\$30570861	\$21297379	70%	11893	0	6 th

The company ranked 6th in market share for Medicare supplement insurance in Wisconsin in both 2006 and 2007, although it issued no policies during either year.

The following table summarizes the company's long-term care insurance business for 2006 and 2007.

Wisconsin Long-Term Care Summary

Line Of Business	2006					
	Earned Premium	Incurred Claims	Loss Ratio	No. of Policies in force at end of year	No. of Policies Issued	Market Share Rank
Individual LTC	\$23545131	\$ 5772044	161%	2575	136	16th

Line Of Business	2007					
	Earned Premium	Incurred Claims	Loss Ratio	No. of Policies in force at end of year	No. of Policies Issued	Market Share Rank
Individual LTC	\$ 3595219	\$ 4971742	138%	2462	93	14 th

In 2006, the company ranked as 16th of long-term care insurance in Wisconsin. In 2007, the company also ranked as 14th largest writer of these policies in Wisconsin.

Complaints

The Office of the Commissioner of Insurance received 10 complaints against the company in 2007 and nine complaints against the company as of May 22, 2008. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.' The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

The company did not rank on the 2006 or 2007 above average complaint summary for individual health insurance complaints, which includes all categories of individual health insurance products.

The following table categorizes the complaints received involving the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

Complaints Received

2007		Reason Type			
Coverage Type	Under-writing	Marketing & Sales	Claims	Plychldr Service	Other
Individual A&H	0	0	2	0	0
Group A&H	0	0	0	0	0
Long Term Care	0	0	1	0	0
Medicare Supplement	1	2	1	2	0
Total	1	2	4	2	0

2006		Reason Type			
Coverage Type	Under-writing	Marketing & Sales	Claims	Plychldr Service	Other
Individual A&H	1	1	4	0	0
Group A&H	0	0	0	0	0
Long Term Care	0	0	0	0	0
Medicare Supplement	2	1	0	2	0
Total	3	2	4	2	0

Grievances and Independent Review

The company filed required annual grievance reports regarding its Medicare supplement business, which indicated no grievances and therefore no requests for independent review for its Medicare supplement business for 2006 and 2007.

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2007 through June 30, 2008. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of the company's Medicare supplement and long-term care insurance business in the areas of company operations & management, claims, electronic-commerce, marketing, sales & advertising, policy forms & rates, policyholder services & complaints, grievances, new business & underwriting, privacy and producer licensing.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. CURRENT EXAMINATION FINDINGS

Company Operations/Management

The examiners reviewed the company's response to the OCI's company operations/management interrogatory, vendor and business associate agreements.

The company's functional areas were organized as parent company business units whereby both Physicians Mutual Insurance Company and Physicians Life Insurance Company functions were handled by a business unit. This structure worked well for the company and is not uncommon. However, the examiners found that requests for data and information regarding its licensee, Physicians Mutual Insurance Company, often also included information for its sister company, Physicians Life Insurance Company.

No exceptions were noted regarding the company operations/management review.

Policyholder Service & Complaints

The examiners reviewed the company's response to the OCI's policyholder service & complaint interrogatory, the company's complaint handling procedures and the company's complaint log. The company's policyowner services division included five separate departments, including life and annuities customer service, administration and health customer service, health customer service, inbound teleservices, outbound teleservices and training and development. The company's policy owner service division was responsible for handling all customer inquiries and request for service and state insurance department inquiries.

The company reported that complaints received by its policy owner services division were generally directed for handling to the department where the issue originated, and that each department maintained an individual record of the complaints it received. The examiners requested a record of all complaints the company received during the period under review. The examiners reviewed the eight complaint records the company provided. The examiners question whether the number of complaints the company indicated it received accurately

represented all complaints received by the company. The examiners' experience indicates that insurance companies receive more complaints from their policyholders than their policyholders file with the OCI. The OCI's complaint data indicated that the OCI received 16 complaints regarding the company for the period of review.

The examiners also reviewed 11 complaints the company received from the OCI. The examiners were not able to determine which PMG company was the correct legal entity based on the company's response letter for five of the complaints. In addition, of the 11 OCI complaints reviewed, five of the complaint files did not include documentation of either an acknowledgement letter or notation of company contact to the complainant within 10 days of receipt of the OCI complaint.

The examiners found that the company's claim department did not keep separate complaint logs for Physicians Mutual Insurance Company and Physicians Life Insurance Company. Section Ins. 18.06 (1), Wis. Adm. Code, requires that an insurer offering a health benefit plan maintain a record of complaints it receives for a period of 3 years and to make these records available for review during examinations by or on request of the commissioners.

1. **Recommendation:** It is recommended that the company maintain separate complaint logs for Physicians Life Insurance Company and Physicians Mutual Insurance Company to ensure compliance with s. Ins 18.06 (1), Wis. Adm. Code.
2. **Recommendation:** It is recommended that the company when responding to OCI complaints identify the legal entity involved and provide documentation that it acknowledged the complaint.
3. **Recommendation:** It is recommended that the company revise its existing complaint procedures and maintain for the company a central log of complaints handled by its various departments to ensure that complaints are being correctly counted and documented in compliance with s. Ins. 18.06 (1), Wis. Adm. Code.

The examiners found that the company defined a complaint as "a written communication that primarily expresses a grievance." Section Ins 18.01 (2), Wis. Adm. Code, defines a complaint as "any expression of dissatisfaction expressed to the insurer by the

insured, or an insured's authorized representative, about an insurer or its providers with whom the insurer has a direct or indirect contract." This definition would include verbal complaints.

4. **Recommendation:** It is recommended that the company revise its existing complaint handling procedures to correctly identify complaints as verbal expressions of dissatisfaction expressed to the insurer by the insured, or an insured's authorized representative, about an insurer or its providers with whom the insurer has direct or indirect contact with in compliance with s. Ins. 18.01 (2), Wis. Adm. Code.
5. **Recommendation:** It is recommended that the company revise its procedures to correctly record and count all written dissatisfactions with the provision of services or claim practices as grievances rather than complaints in compliance with s. Ins. 18.01 (1) and (4), Wis. Adm. Code.
6. **Recommendation:** It is recommended that the company conduct a complete audit of its procedures and processes used for identifying, recording, and handling of complaints and grievances and file with OCI a copy of the audit findings per s. 601.42, Wis. Stat.

The company provided the examiners with an exhibit titled "Claim Services Manual Guideline Complaint Registers 801-1" that was used by claims staff. The guideline stated in part, "Do not register an inquiry that does not primarily express a grievance. Complaints not in writing, such as those arising from telephone calls or at the time of field contact." The company indicated that all verbal questions were handled immediately and resolved. Typically, written questions are handled as they are received, are more involved, require additional research and therefore, are recorded.

7. **Recommendation:** It is recommended that the company establish procedures for its claim department to record all verbal complaints to ensure compliance with s. Ins. 18.06 (1), Wis. Adm. Code.

Grievances & Independent Review Organization (IRO)

The examiners reviewed the company's response to the OCI's grievance and IRO interrogatory, its written grievance procedures and practices, and its written procedures for handling independent review requests from Wisconsin insureds. During the period of review, Wisconsin's grievance and IRO requirements applied only to the mandated benefits for

company's Medicare supplement policies. The grievance and IRO requirements did not apply to the company's long-term care insurance business. The company reported that it had not received grievances or requests for independent reviews during the period of review.

The company utilized a written guideline titled "Wisconsin Appeals (WI) 802-WI-3" to file its annual grievance experience report with OCI. The examiners found that the company's guideline indicated that the due date for the filing the annual grievance experience report was March 31. Section Ins 18.06 (2), Wis. Adm. Code, regarding submitting a grievance experience report, provides that the report be filed with the commissioner by March 1 of each year.

8. **Recommendation:** It is recommended that the company correct the date due for filing its annual grievance experience report with the OCI in its guide titled "Wisconsin Appeals (WI) 802-WI-3" to March 1 to ensure compliance with s. Ins. 18.06 (2), Wis. Adm. Code.

The examiners reviewed materials used by the company to train employees in responding to inquiries from its policyholders regarding Wisconsin's independent review process. The company's Bulletin Grievances-Wisconsin (WI) 802-WI-5 was the only guideline that its claims department referred to and this was used in conjunction with the actual policy benefit provisions. The examiners found that while the guideline was adequate with regard to information on the independent review process, it did not contain information regarding the handling of expedited grievances. The company reported that its claims department was responsible for the development and administration of the expedited grievance procedure and communicating this information to insureds. The examiners requested procedures and information from the claims department concerning the expedited grievance procedure. The company reported that it did not offer any managed care Medicare supplement plans. The company indicated that as it did not precertify benefits or conduct medical necessity reviews, it did not have a formal expedited grievance procedure. It further indicated that if an urgent situation was brought to the company's attention, the company's claims department would call a meeting of the claims review committee. The company's claim review committee was chaired

by the assistant vice-president of claims, and consisted of three claims administration managers and three special claims coordinators. The committee reviewed and discussed the claim in question with a special claims coordinator contacting the insured to discuss the findings of the committee. The examiners found that the company's process did not comply with the requirements of s. Ins 18.05, Wis. Adm. Code, which provides that an insurer offering a health benefit plan shall develop a separate expedited grievance procedure. An expedited grievance shall be resolved as expeditiously as the insured's health condition requires but not more than 72 hours after receipt of the grievance. The expedited grievance process applies to all health benefit plans, not just managed care plans. Expedited grievances should be reviewed by the company's grievance committee.

9. **Recommendation:** It is recommended that the company establish a written procedure for handling expedited grievance situations to ensure compliance with s. Ins. 18.05, Wis. Adm. Code.

The examiners requested copies of letters or forms the company used to notify insureds of their right to request an independent review. The company reported that insureds were given this information, The Independent Review Procedure Form, at the time it issued the policy to an insured. Section 632.835 (2) (b), Wis. Stat., provides that if a coverage denial determination is made, the insurer involved in the determination shall provide notice to the insured of the insured's right to obtain the independent review, how to request the review, and the time within which the review must be requested. The notice shall include a current listing of independent review organizations certified. Section Ins 18.11 (2), Wis. Adm. Code, clarifies the information that must be included in the notice.

10. **Recommendation:** It is recommended that each time the company makes an adverse determination or an experimental treatment determination for services that fall under Wisconsin mandated benefits, that the company provide a notice to the insured of the right to request an independent review in compliance with s. Ins 18.11 (2), Wis. Adm. Code and s. 632.835 (2) (b), Wis. Stat.

Terminations, Nonrenewals and Cancellations

The examiners reviewed the company's response to the OCI's terminations nonrenewals and cancellation interrogatory, its written procedures and practices, its premium lapse and termination notices.

Medicare supplement

The examiners reviewed a random sample of 50 terminated or cancelled Medicare supplement policies. The examiners found that the company did not provide documentation for two files that premiums were refunded as required by s. Ins 3.39 (4) (a) 15, Wis. Adm. Code. Both files involved insureds who died prior to the paid up date of their Medicare supplement policies. Section Ins 3.39 (4) (a) 15, Wis. Adm. Code, provides that a Medicare supplement policy shall provide for midterm cancellation at the request of the insured or if the policy terminates midterm because of the insured's death and the insurer shall issue a pro rata refund to the insured or the insured's estate.

11. **Recommendation:** It is recommended that the company maintain documentation regarding refunded premiums for all mid-term cancellations to ensure compliance with s. Ins 3.39 (4) (a) 15, Wis. Adm. Code.

Long-Term Care

The examiners reviewed a random sample of 50 terminated or cancelled long-term care insurance policies to document that premiums were refunded in cases where an insured cancelled a policy midterm or the policy terminates midterm because of the insured's death. No exceptions were noted regarding the terminated or cancelled long-term care insurance policy review.

The examiners requested a list of long term care policy holders whose policies were reinstated during the period of review and a list of individuals whose requests for reinstatement were declined. The company reported that it did not keep a record of requests for reinstatement that were declined. The examiners were, therefore, unable to verify the company's compliance with s. Ins 3.46 (4) (t), Wis. Adm. Code, as regards the reinstatement of long term care policies

in the event of lapse if the insurer is provided proof of cognitive impairment or the loss of functional capacity and if the reinstatement of coverage is requested within 5 months after termination.

Marketing, Sales & Advertising

The examiners reviewed the company's response to the OCI's marketing, sales and advertising interrogatory, its advertising activities, policies and forms used by the company during the period of review and the company's advertising file. The examiners also interviewed company management regarding its marketing activities.

As of June 30, 2008, the company had four division managers, three assistant division managers, nine associates, 97 career, and six licensed only agents. The company's division managers oversaw remote location offices and were responsible for recruitment, training, and management of agents. Its assistant division managers were experienced agents who assisted with the oversight, training and development of agents. Its career agents were considered "captive" agents. Its associate agents were allowed to sell for other carriers, and its licensed only agents could sell the company's products but did not receive commissions directly from the company. The compensation agreement was between the licensed only agent and his/her direct up line agent. The company's training of newly recruited agents included on-line university courses, webinars and PowerPoint modules. The company asks all new agents to complete on-line university courses on long-term care insurance.

The company's division managers provided in-house training. After agents were deemed to have completed sufficient in-house training, they begin field work with a field trainer and assistant division manager. Field training could last from one to six weeks depending upon the agent and the number of sales appointments that were completed. After the completion of field training, managers held weekly meetings with new agents and division managers held monthly meetings with all agents to review sale issues.

Medicare Supplement

The company ceased issuing new Medicare supplement policies during the period of review and therefore had not created or filed with the OCI advertisements regarding its Medicare supplement policies.

On August 12, 2008, the company had notified the OCI that it was reimbursing agents based on the NAIC Model not in accordance with s. Ins 3.39 (21), Wis. Adm. Code, which provides an issuer may provide and an agent or other representative may accept commission or other compensation for the sale of a Medicare supplement or Medicare cost policy or certificate only if the first year commission or other first year compensation is at least 100% and no more than 150% of the commission or other compensation paid for selling or servicing the policy or certificate in the 2nd year. The company indicated it had reviewed and verified that the commission problem did not apply or impact states other than Wisconsin.

Long-Term Care

The examiners reviewed a random sample of 25 of the company's long-term care insurance advertisements in its advertising file. The examiners also verified that the company's business associate agreement with its agents included a provision that required the agent to submit advertisements to the company for approval prior to using the advertisement. No exceptions were noted regarding the advertising file review.

Section Ins 3.46 (13), Wis. Adm. Code, regarding commission limitations provides commission or other compensation limitations for the sale, renewal or replacement of a long-term care, nursing home and home health care insurance policies or certificate. No exceptions were noted regarding the review of agent long-term care insurance, nursing home and home health care insurance compensation.

Electronic-Commerce

The examiners reviewed the company's response to the OCI's electronic commerce interrogatory and the company's corporate website www.physiciansmutualinsurancecompany.com and registered domains. The company utilized the website to provide consumers with product and company information. The company did not offer on-line applications for its products nor did it post policy forms on the web site.

The company reported that it allowed its agents to create their own advertisements but that it required that its agent submit advertisements used on their business websites or elsewhere to the company for prior approval. The company indicated it did not routinely audit agent websites for compliance nor did it maintain a list of individual agent websites. The company reported that its auditing of websites was limited to periodic searches of the company name to determine inappropriate or unauthorized use of its name or product advertising.

12. **Recommendation:** It is recommended that the company routinely audit its agents' websites for compliance with the company's advertising policies and procedures to ensure compliance with s. Ins 3.27 (27), Wis. Adm. Code.

The examiners reviewed the company's agent agreements, which included language prohibiting agents from using advertising in connection with company products without the prior written consent of the company.

Producer Licensing

The examiners reviewed the company's response to the OCI's producer licensing interrogatory, agent agreements and the company's procedures and practices related to producer licensing, listings, terminations, training and recruiting.

The company's licensing and commissions department was responsible for contracting, licensing, appointments, terminations, renewals, licensing compliance, errors and omissions insurance, and payment and recovery of agent commissions. As of June 30, 2008, the company had a total of 119 agents.

The examiners requested from the company a listing of all Wisconsin agents that represented the company as of the end of the examination period. The examiners compared these records with the agent database maintained by OCI. Based on the agent data match, the examiners found that the company failed to notify the OCI of four agent terminations within 30 calendar days of the termination date, as required by s. Ins 6.57 (2), Wis. Adm. Code.

13. **Recommendation:** It is recommended that the company notify the OCI of agent terminations within 30 calendar days of termination to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found that the company accepted applications from and paid commissions to four agents who could not be located in the OCI agent database and one agent who did not appear to have an active Wisconsin agent license at any time since 1993. The company indicated that the agents remained active in its system, but it failed to provide the examiners with sufficient documentation to show that the agents were licensed in Wisconsin and appointed with the company at the time the applications were accepted.

14. **Recommendation:** It is recommended that the company develop a process for ensuring that business is not accepted from and commission payments are not made to agents who are not licensed and appointed with the company at the time the business is written as required by s. 628.03, Wis. Stat., and s. Ins 6.57 (1) and (5), Wis. Adm. Code.

The examiners also reviewed a random sample of 25 active and 25 terminated agent files. The company reported that its agent files contained license and appointment information, contracts, addendums to contracts, errors and omissions (E&O) certificates, change of status forms, transfer forms, termination notification and miscellaneous correspondence. The examiners found 14 of the company's agent files did not include a copy of the executed business associate agreement between the company and the agent.

15. **Recommendation:** It is recommended that the company agent files include all the documentation represented in its procedures or that it update its procedures to accurately reflect the information that it has determined should be included in its agent files.

The examiners found seven of the company's terminated agent files did not include copies of termination letters sent to the agent by the company. The examiners found three of seven files included copies of termination letters sent to the agent by the company but the termination letters did not include a request for the return of all company indicia as required by s. Ins 6.57 (2), Wis. Adm. Code. The company indicated it did not request the return of all company indicia for two of the agents as they were brokerage agents and the agency was responsible for ensuring that indicia was returned. The company indicated that the third agent was a home office employee and the return of indicia request was not needed.

The company reported that four of the seven terminated agents worked for a "call center" that it contracted with to market products other than its long-term care and Medicare supplement insurance policies. The company's contract with the call center provided that the call center, not the company, was responsible for compliance with all federal and state laws and regulations. As the company contractually delegated responsibility for terminating agents to the call center, it had not sent agent termination letters to the four agents identified by the examiners. The company reported that three of the seven terminated agents were also agents for an insurance company with which the company had an agreement that provided the company would have no direct contact with that contracting company's agents. When the company terminated the agents it, therefore, did not send termination letters. Section Ins 6.57 (2), Wis. Adm. Code, regarding notice of termination of appointment of individual intermediary provides that the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency.

16. **Recommendation:** It is recommended that the company revise its existing procedures to ensure that the company is in compliance with all of the requirements of s. Ins 6.57 (2), Wis. Adm. Code, including a process for maintaining copies of agent termination notices in order to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners verified that the company had a process to inactivate an agent in its systems so it could not process business written by the agent after being notified by the OCI that an agent's license was suspended for non-payment of license renewal fees or failure to meet continuing education requirements.

Claims

The examiners reviewed the company's response to the OCI's claims interrogatory, its claim process and procedures, internal audit reports, claim payment methodology and timely payment of its Medicare supplement and long-term care insurance. The examiners also reviewed the explanation of benefit (EOB) and remittance advice (RA) forms, and claim adjustment (ANSI) codes for its Medicare Supplement claims. The examiners verified that the company had annually filed the required Medicare supplement insurance benefit appeals reports and its long-term care insurance benefit appeals reports as required by s. 632.84, Wis. Stat.

Medicare Supplement

The examiners reviewed a random sample of 50 paid and 50 not paid Medicare supplement claims to verify that the company paid Wisconsin mandated benefits. The examiners found that the company did not have written claim procedures that addressed how Wisconsin specific mandated benefits for Medicare supplement policies were handled and paid. The company reported that its claims department was aware of the Wisconsin mandates and that paper claims involving Wisconsin mandated benefits were identified in claim initiation and analysis (CIA) and referred to an advanced examiner for adjudication. Electronic claims were identified by CPT or HCPCS code and referred to an advanced examiner for adjudication.

17. **Recommendation:** It is recommended that the company develop and implement written procedures for paying Wisconsin mandated benefits to ensure compliance with s. Ins 3.39 (5), (5c) (6), (8), (13), (16) and (17), Wis. Adm. Code.

Section Ins 3.651 (5), Wis. Adm. Code, requires insurers to use the uniform claim adjustment reason (ANSI) codes on explanation of benefits (EOB) and remittance advice (RA) forms. The examiners found that the company did not use ANSI codes on its EOB and RA forms, rather benefit payments were explained by using a "draft message" on the forms although the company indicated it also generated dictated letters when appropriate.

18. **Recommendation:** It is recommended that the company use ANSI codes on its explanation of benefits (EOB) and remittance advice (RA) forms as required by s. Ins 3.651 (4) (a) (7), Wis. Adm. Code.

The examiners reviewed a sample of the company's EOB and RA forms and noted that the company was not using CPT-4, HCPCS or CDT-1 codes. In addition the examiners found that the format of the entire EOB and RA forms did not comply with the formatted information required by s. Ins 3.651, Wis. Adm. Code. The company explained that its claims system did not capture CPT-4, HCPCS or CDT-1 codes and, therefore, this information could not be provided on the EOBs and RAs. The company instead printed a description of the procedure on the forms.

19. **Recommendation:** It is recommended that the company use CPT codes on its explanation of benefits (EOB) and remittance advice (RA) forms as required by s. Ins 3.651 (4) (a) and (5) (c), Wis. Adm. Code.
20. **Recommendation:** It is recommended that the company establish standardized explanation of benefits (EOB) and remittance advice (RA) forms conforming to the format required by s. Ins 3.651 (3) and (4), Wis. Adm. Code.

Long-Term Care

The examiners reviewed a random sample of 50 paid long-term care claims and 50 denied long-term care claims.

The company assigned its claim analysts by claimant so that the claim analyst was responsible for all documentation, correspondence and processing of its long-term care insurance policyholder's claims. The examiners found that this was an efficient and effective

manner of tracking and paying long-term care insurance claims. The examiners found no exceptions regarding their review of the long-term care insurance claim sample.

The examiners verified that the company had claim procedures for identifying those claimants whose policies included waiver of premium, nonforfeiture benefit and restoration of benefits policy provisions.

New Business & Underwriting

The examiners reviewed the company's response to the OCI's new business and underwriting interrogatory, and the long-term care, nursing home and home health care business interrogatory, manuals and documents used during the underwriting process, field underwriting manual and instructional materials for agents, suitability guidelines, and replacement procedures. The examiners also interviewed company management regarding its long-term care insurance business. The new business and medical underwriting portion of the examination was limited to the company's long-term care insurance business, as the company ceased issuing new Medicare supplement policies in 2006.

The examiners reviewed a random sample of 50 issued long-term care insurance application files and 50 not issued long-term care insurance application files. The examiners found that the long-term care insurance application files reviewed included documentation that the applicant had accepted or rejected the offer of coverage with inflation protection as required by s. Ins 3.46 (11), Wis. Adm. Code. The examiners found that the application files reviewed included documentation that the applicant had been offered a shortened benefit period nonforfeiture benefit as required by s. Ins 3.46 (19), Wis. Adm. Code. The examiners found that the application files reviewed included documentation of designation of a least one person to receive notice of lapse or termination of the policy for nonpayment of premium or a written waive as required by s. Ins 3.46 (15) (a), Wis. Adm. Code.

The examiners found that the company had in place a process that meets the requirements in s. Ins 3.46 (10) (a), Wis. Adm. Code, which limits post-claim underwriting for applicants 75 years of age or older by requiring that the insurer obtain conduct an assessment or obtain medical information prior to issuing coverage.

The company has established minimum financial suitability standards that included: regarding the information on the personal worksheet.

- An applicant must have an annual income of \$20,000 or greater.
- An applicant must have assets (savings and investments) which equal at least \$30,000.
- If an applicant expects their assets to decrease over the next 10 years, the applicant's current assets must equal at least \$50,000.
- The premium needed for the purchase of the policy should not exceed 7% of the applicant's income.

The examiners found that the company's application files included completed personal worksheets that complied with the company's suitability guidelines and the information in the format required by s. Ins 3.46 (16) (c), Wis. Adm. Code. The examiners found that the company had in place and consistently followed its minimum financial suitability standards as required by s. Ins 3.46 (16), Wis. Adm. Code.

The company maintained paper underwriting files that the examiners found were complete, well organized and included documentation that the company indicated was necessary to underwrite applications for LTC coverage.

The examiners verified that the company filed annual rescission reports for its long-term care insurance business as required by s. Ins 3.46 (10) (c), Wis. Adm. Code. The company reported no rescissions during the period of review.

The company filed suitability reports for the period of review that indicated for 2007 a total of 138 applications written with four applicants not meeting the company's suitability standards.

No exceptions were noted regarding the new business and underwriting files reviewed.

Section Ins 3.455 (9) (b), Wis. Adm. Code, regarding long-term care rate increase standards provides that for policies issued from August 1, 1006 to December 31, 2001, for those insureds age 75 and above and whose policy has been in force for at least 10 years, no rate increase shall exceed 10%. The examiners found that the company had not filed any rate increases for policies that fall within these guidelines, and that it did not have a written process or procedure for monitoring these long-term care rate increases.

21. Recommendation: It is recommended that the company establish a written procedure for monitoring future rate increases for its long-term care policies to ensure compliance with the requirements of s. Ins 3.455 (9) (b) 2, Wis. Adm. Code.

Policy Forms & Rates

The examiners reviewed the company's' response to the OCI's policy forms and rates interrogatory and its policies, riders, applications, outlines of coverage that were used or in effect during the period of review. The company's government and industry division was responsible for new product and rate filings. The company's actuarial division was responsible for pricing of new products and preparing rate filings.

Medicare Supplement

The company discontinued issuing Medicare supplement business effective 2006, but was required to file annually its rates, rating schedule and supporting documentation. The examiners found that for the period of review the company had filed with and received approval from the OCI of its Medicare supplement outlines of coverage and had filed amended rates as required by s. Ins 3.39 (16), Wis. Adm. Code.

Long-Term Care

The company had filed with and received approval from the OCI of approved tax-qualified and non-tax qualified long-term care policies. It also had approved nursing home and home health care policies.

The examiners reviewed the actuarial memoranda the company submitted for each of its approved long-term care insurance policies that it marketed during the period of review. The company's actuarial memoranda included information regarding agent commission for long-term care insurance policies that met the commission limitation in s. Ins 3.46 (13), Wis. Adm. Code.

No exceptions were noted regarding the Medicare supplement or long-term care insurance policy forms and rates review.

Privacy & Confidentiality

Section 610.70, Wis. Stat., regarding medical records privacy, became effective June 1, 1999, and created restrictions on insurers regarding their collection and release of personal medical information that correspond with the federal Health Insurance Portability and Accountability Act (HIPAA) requirements. Chapter Ins 25, Wis. Adm. Code, became effective July 1, 2001, to address the provisions of Gramm Leach Bliley, and was based on the National Association of Insurance Commissioners (NAIC) privacy of consumer financial and health information model regulation.

The examiners reviewed the company's response to the OCI's privacy of consumer financial and health information interrogatory, training manuals and procedures for employees regarding treatment of personally identifiable information, privacy notices, enrollment and disclosure information forms, and employee privacy agreements.

The company's board of directors and its chief executive officer were responsible for oversight of its privacy program. Operational privacy functions were handled and overseen by a

management team and the company's designated privacy officer, the vice president of information & protection. The company had a privacy training program that all new employees were required to complete and held a mandatory security training program for all employees in 2008. The company had a process for conducting periodic internal privacy audits and had in the past performed audits in the areas of training, division office operations and adequate safeguards. The examiners found that the company had not conducted a privacy audit during the period under review.

The examiners documented that the company provided privacy training to its agents and required all agents to sign a business associates agreement that included provisions regarding the confidentiality of medical and personal information in order to meet HIPAA requirements.

No exceptions were noted regarding the privacy review.

IV. CONCLUSION

This market conduct examination was a targeted review of Physicians Mutual Insurance Company's practices and procedures during the period January 1, 2007 through June 30, 2008. The review was limited to the company's in force Medicare supplement business as the company ceased issuing these policies in 2006 and a review of the company's long-term care insurance business. The examiners simultaneously conducted a targeted market conduct examination of Physicians Life Insurance Company.

The examination report makes 21 recommendations as regards the company's practices regarding policyholder service & complaints, grievances & IRO, terminations, electronic commerce, producer licensing, claims, and policy forms & rates.

V. SUMMARY OF RECOMMENDATIONS

Policyholder Service & Complaints

- Page 7 1. It is recommended that the company maintain separate complaint logs for Physicians Life Insurance Company and Physicians Mutual Insurance Company to ensure compliance with s. 18.06 (1), Wis. Adm. Code.
- Page 7 2. It is recommended that the company when responding to OCI complaints identify the legal entity involved and provide documentation that it acknowledged the complaint.
- Page 7 3. It is recommended that the company revise its existing complaint procedures and maintain for the company a central log of complaints handled by its various departments to ensure that complaints are being correctly counted and documented in compliance with s. Ins. 18.06 (1), Wis. Adm. Code.
- Page 8 4. It is recommended that the company revise its existing complaint handling procedures to correctly identify complaints as verbal expressions of dissatisfaction expressed to the insurer by the insured, or an insured's authorized representative, about an insurer or its providers with whom the insurer has direct or indirect contact with in compliance with s. Ins. 18.01 (2), Wis. Adm. Code.
- Page 8 5. It is recommended that the company revise its procedures to correctly record and count all written dissatisfactions with the provision of services or claim practices as grievances rather than complaints in compliance with s. Ins. 18.01 (1) and (4), Wis. Adm. Code.
- Page 8 6. It is recommended that the company conduct a complete audit of its procedures and processes used for identifying, recording, and handling of complaints and grievances and file with OCI a copy of the audit findings per s. 601.42, Wis. Stat.
- Page 8 7. It is recommended that the company establish procedures for its claim department to record all verbal complaints to ensure compliance with s. Ins. 18.06 (1), Wis. Adm. Code.

Grievances & Independent Review Organization (IRO)

- Page 9 8. It is recommended that the company correct the due date for filing its annual grievance experience report with the OCI in its guide titled "Wisconsin Appeals (WI) 802-WI-3" to March 1 to ensure compliance with s. Ins. 18.06 (2), Wis. Adm. Code
- Page 10 9. It is recommended that the company establish a written procedure for handing expedited grievance situations to ensure compliance with s. Ins. 18.05, Wis. Adm. Code.

- Page 10 10. It is recommended that each time the company makes an adverse determination or an experimental treatment determination for services that fall under Wisconsin mandated benefits, that the company provide a notice to the insured of the right to request an independent review in compliance with s. Ins 18.11 (2), Wis. Adm. Code.

Terminations, Nonrenewals & Cancellations

- Page 11 11. It is recommended that the company maintain documentation regarding refunded premiums for all mid-term cancellations to ensure compliance with s. Ins 3.39 (4) (a) 15, Wis. Adm. Code.

Electronic-Commerce

- Page 14 12. It is recommended that the company routinely audit its agents' websites for compliance with the company's advertising policies and procedures to ensure compliance with s. Ins 3.27 (27), Wis. Adm. Code.

Producer Licensing

- Page 15 13. It is recommended that the company notify the OCI of agent terminations within 30 calendar days of termination to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

- Page 15 14. It is recommended that the company develop a process for ensuring that business is not accepted from and commission payments are not made to agents who are not licensed and appointed with the company at the time the business is written as required by s. 628.03, Wis. Stat., and s. Ins 6.57 (1) and (5), Wis. Adm. Code.

- Page 15 15. It is recommended that the company agent files include all the documentation represented in its procedures or that it update its procedures to accurately reflect the information that it has determined should be included in its agent files.

- Page 16 16. It is recommended that the company revise its existing procedures to ensure that the company is in compliance with all of the requirements of s. Ins 6.57 (2), Wis. Adm. Code, including a process for maintaining copies of agent termination notices in order to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Claims

- Page 17 17. It is recommended that the company develop and implement written procedures for paying Wisconsin mandated benefits to ensure compliance with s. Ins 3.39 (5), (5c) (6), (8), (13), (16) and (17), Wis. Adm. Code.

- Page 18 18. It is recommended that the company use ANSI codes on its explanation of benefits (EOB) and remittance advice (RA) forms as required by s. 3.651 (4) (a) (7), Wis. Adm. Code.

Page 18 19. It is recommended that the company use CPT codes on its explanation of benefits (EOB) and remittance advice (RA) forms as required by 3.651 (4) (a) and (5) (c), Wis. Adm. Code.

Page 18 20. It is recommended that the company establish standardized explanation of benefits (EOB) and remittance advice (RA) forms conforming to the format required by s. Ins 3.651 (3) and (4), Wis. Adm. Code.

New Business & Underwriting

Page 21 21. It is recommended that the company establish a written procedure for monitoring future rate increases for its long-term care policies to ensure compliance with the requirements of s. Ins 3.455 (9) (b) 2, Wis. Adm. Code.

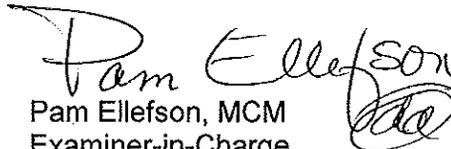
VI. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

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Respectfully submitted,


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Examiner-in-Charge