

Report on

Market Conduct Examination

of the

Medical Mutual Insurance Company of North Carolina  
Medical Security Insurance Company

Raleigh, North Carolina

by Representatives of the  
North Carolina Department of Insurance

as of

April 3, 2014

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Raleigh, North Carolina  
April 3, 2014

Honorable Wayne Goodwin  
Commissioner of Insurance  
Department of Insurance  
State of North Carolina  
Dobbs Building  
430 N. Salisbury Street  
Raleigh, North Carolina 27603

Honorable Commissioner:

Pursuant to your instructions and in accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131 through 58-2-134, a general examination has been made of the market conduct activities of

**Medical Mutual Insurance Company of North Carolina (NAIC #32522)**  
**Medical Security Insurance Company (NAIC #33090)**  
NAIC Exam Tracking System Exam Number: NC299-M49  
Raleigh, North Carolina

hereinafter generally referred to as the Companies, at the Companies' office located at 700 Spring Forest Road, Suite 400, Raleigh, North Carolina. A report thereon is respectfully submitted.

## **FOREWORD**

This examination reflects the North Carolina insurance activities of Medical Mutual Insurance Company of North Carolina and Medical Security Insurance Company. The examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that revealed no concerns were omitted.

## **SCOPE OF EXAMINATION**

This examination commenced on March 3, 2014, and covered the period of January 1, 2008, through December 31, 2012, with analyses of certain operations of the Companies being conducted through April 3, 2014. All comments made in this report reflect conditions observed during the period of the examination.

The examination was arranged and conducted by the Department. It was made in accordance with Market Regulation standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC) and accordingly included tests of policyholder treatment, marketing, underwriting practices, terminations, and claims practices.

It is the Department's practice to cite companies in violation of a statute or rule when the results of a sample show errors/noncompliance at or above the following levels: 0 percent for consumer complaints, producers who were not appointed and/or licensed, and the use of forms and rates/rules that were neither filed with nor approved by the Department; 7 percent for claims; and 10 percent for all other areas reviewed. When errors are detected in a sample, but the error rate is below the applicable threshold for citing a violation, the Department issues a reminder to the company.

## EXECUTIVE SUMMARY

This market conduct examination revealed concerns with the Companies' procedures and practices in the following areas:

*Consumer complaints* - NAIC company code was not included on Company response.

*Terminations – Nonrenewals*: Incomplete file documentation.

Specific violations related to each area of concern are noted in the appropriate section of this report. All North Carolina General Statutes and rules of the North Carolina Administrative Code cited in this report may be viewed on the North Carolina Department of Insurance Web site [www.ncdoi.com](http://www.ncdoi.com) by clicking "INSURANCE DIVISIONS" then "Legislative Services".

This examination identified various non-compliant practices, some of which may extend to other jurisdictions. The Companies are directed to take immediate corrective action to demonstrate their ability and intention to conduct business in North Carolina according to its insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

All unacceptable or non-compliant practices may not have been discovered or noted in this report. Failure to identify improper or non-compliant business practices in North Carolina or in other jurisdictions does not constitute acceptance of such practices. Examination report findings that do not reference specific insurance laws, regulations, or bulletins are presented to improve the Companies' practices and ensure consumer protection.

## COMPANY OPERATIONS AND MANAGEMENT

The Companies are writers of medical professional liability insurance. Medical Mutual Insurance Company of North Carolina is licensed in 11 states. Medical Security Insurance Company is licensed in two states, and operates on a non-admitted basis in 12 other states.

Direct written premium for the Companies' 2012 countrywide property and casualty operations was \$99,881,525. North Carolina's production for the same period was \$64,550,490. Premiums written in North Carolina between 2008 and 2012 decreased approximately 29.5 percent. The charts below outline the Companies' medical professional liability line of business in 2012 and loss ratios in North Carolina for the examination period.

<b>Line of Business</b>	<b>Written Premium</b>	<b>Percentage</b>
Medical Professional Liability	\$64,550,490	100.0
<b>Total</b>	<b>\$64,550,490</b>	<b>100.0</b>

<b>Year</b>	<b>Written Premium</b>	<b>Earned Premium</b>	<b>Incurred Losses</b>	<b>Loss Ratio</b>
2008	\$ 91,512,508	\$ 92,311,996	\$ 104,673,706	113.4
2009	\$ 85,958,860	\$ 88,148,425	\$ 16,343,421	18.5
2010	\$ 78,542,841	\$ 80,208,893	\$ 5,369,123	6.7
2011	\$ 68,434,225	\$ 72,197,735	\$ 10,669,307	14.8
2012	\$ 64,550,490	\$ 66,735,600	\$ 6,029,153	9.0

### **POLICYHOLDER TREATMENT**

#### Consumer Complaints

The Companies' complaint handling procedures were reviewed to determine compliance with applicable North Carolina statutes and rules.

The Companies' complaint register was reconciled with a listing provided by the Consumer Services Division of the Department. The Companies' complaint register was in compliance with provisions of Title 11 of the North Carolina Administrative Code, (NCAC), Chapter 19, Section 0103. All complaints from the Department's listing of six were selected for review. The distribution of complaints requiring a response to the Department is shown in the chart below.

Type of Complaint	Total
Claims	5
Underwriting	1
<b>Total</b>	<b>6</b>

The Companies' response to each complaint was deemed to be appropriate to the circumstances. The Companies were deemed to be in violation of the provisions of 11 NCAC 4.0123 as two responses to Departmental inquiries (33.3 percent error ratio) did not contain the Company's National Association of Insurance Commissioners (NAIC) Company code.

The average service time to respond to a Departmental complaint was six calendar days. A chart of the Companies' response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	6	100.0
<b>Total</b>	<b>6</b>	<b>100.0</b>

## MARKETING

### Policy Forms and Filings

Policy forms and filings for the Companies were reviewed to determine compliance with appropriate North Carolina statutes and rules. The Companies' medical professional liability policy is an independently filed program that utilizes its own rates. Filings were submitted to the Department by the Companies.

### Producer Licensing

The Companies' procedures for appointment and termination of their producers were reviewed to determine compliance with the appropriate North Carolina statutes and rules.

The Companies provided the examiners with listings of 23 appointed and 20 terminated producers for the period under examination. All appointed and terminated producer files were selected for review. All appointment and termination forms reviewed were submitted to the



Department in accordance with the timetables stipulated under the provisions of NCGS 58-33-40 and 58-33-56(b).

## **UNDERWRITING PRACTICES**

### Overview

The Companies' marketing philosophy in North Carolina is directed to the medical professional liability line of business. The Companies' medical professional liability policies were reviewed for adherence to underwriting guidelines, file documentation, and premium determination. Additionally, the policies were examined to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules.

### Medical Professional Liability

The Companies provided a listing of 901 active policies issued during the period under examination. Fifty policies were randomly selected for review.

The Companies' medical professional liability coverage was written utilizing manual rates. Policies were written on an annual basis. Risk placement was determined by the Companies' underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines. All policy files contained sufficient documentation to support the Companies' classification of the risk. All premiums charged were deemed correct.

## **TERMINATIONS**

### Overview

The Companies' termination procedures for their medical professional liability policies were reviewed to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules. Special attention was placed on the validity and reason for termination, timeliness in issuance of the termination notice, policy refund (where applicable), and documentation of the policy file. A total of 1,057 policies were

terminated during the period under examination. The examiners randomly selected 60 terminations for review.

#### Medical Professional Liability Cancellations

Fifty cancelled medical professional liability policies were randomly selected for review from a population of 1,047.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

<b>Reason for Cancellation</b>	<b>Number of Policies</b>	<b>Percentage</b>
Insured's request	45	90.0
Nonpayment of premium	5	10.0
<b>Total</b>	<b>50</b>	<b>100.0</b>

The Companies were not required to issue cancellation notices for 45 of the cancellations reviewed as these policies were cancelled at the request of the insured.

The Companies were reminded of the provisions of NCGS 58-41-50(f) as one policy reviewed (2.0 percent error ratio) was cancelled using an incorrect effective date of cancellation. The error resulted in an understatement of refund to the insured. At the request of the examiners, the Companies issued an additional refund in the amount of \$488.00. The remaining premium refunds were deemed correct. The Companies issued refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

#### Medical Professional Liability Nonrenewals

The entire population of ten nonrenewed medical professional liability policies was selected for review.

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reason for nonrenewal:

<b>Reason for Nonrenewal</b>	<b>Number of Policies</b>	<b>Percentage</b>
Underwriting reasons	10	100.0
<b>Total</b>	<b>10</b>	<b>100.0</b>

The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4) as one file reviewed (10.0 percent error ratio) did not contain copies of the notice of nonrenewal and proof of mailing.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Companies.

## **CLAIMS PRACTICES**

### Overview

The Companies' claims practices were reviewed to determine compliance with the appropriate North Carolina statutes and rules and policy provisions. The review encompassed paid, closed without payment, and litigated claims.

One hundred fifty claims were randomly selected for review from a population of 3,285.

### Paid Claims

The examiners randomly selected 50 of the 94 third party claims paid during the period under examination. The claim files were reviewed for timeliness of payment, supporting documentation, and accuracy of payment.

All claim files reviewed contained documentation to support the Companies' payments including properly executed consent forms signed by the insured.

All payments issued by the Companies were deemed to be accurate. The review of paid claims disclosed no violations of the provisions of NCGS 58-63-15(11).

### Closed Without Payment Claims

Fifty closed without payment claims were randomly selected for review from a population of 1,867. The claim files were reviewed to determine if the Companies' reasons for closing the claims without payment were valid.

The claim files reviewed contained documentation that supported the Companies' reasons for closing the claims without payment. All reasons for denial or closing the files without payment were deemed valid. The review of closed without payment claims disclosed no violations of the provisions of NCGS 58-63-15(11).

### Litigated Claims

Fifty litigated claims were selected for review from a population of 1,324. The claim files were reviewed to determine if the Companies had engaged in any unfair claims practices. The review of litigated claims disclosed no violations of the provisions of NCGS 58-63-15(11).

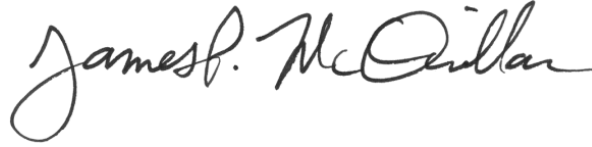
## **CONCLUSION**

An examination has been conducted on the market conduct affairs of Medical Mutual Insurance Company of North Carolina and Medical Security Insurance Company for the period January 1, 2008, through December 31, 2012, with analyses of certain operations of the Companies being conducted through April 3, 2014.

This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation Handbook procedures, including analyses of the Companies' operations in the areas of policyholder treatment, marketing, underwriting practices, terminations, and claims practices.

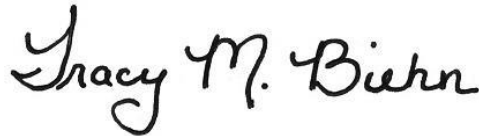
In addition to the undersigned, Gina Abate, North Carolina Market Conduct Examiner, participated in this examination.

Respectfully submitted,

A handwritten signature in black ink that reads "James P. McQuillan". The signature is written in a cursive style with a large, looping initial 'J'.

James P. McQuillan, CPCU, AIT  
Examiner-In-Charge  
Market Regulation Division  
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.

A handwritten signature in black ink that reads "Tracy M. Biehn". The signature is written in a cursive style with a large, looping initial 'T'.

Tracy M. Biehn, LPCS, MBA  
Deputy Commissioner  
Market Regulation Division  
State of North Carolina