



March 20, 2007

The Honorable Mike Kreidler, Chair
NAIC Statistical Information Task Force
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504

Dear Commissioner Kreidler:

This letter is written by the Physician Insurers Association of America (PIAA) on behalf of our domestic primary insurance company members which insure over 60% of America's practicing physicians for their professional liability exposure. The PIAA has been privileged to observe and participate as an interested party in the deliberations of the NAIC Statistical Information Task Force with regard to the development of a Medical Professional Liability Insurance Closed Claim Reporting Model Law.

We have been provided with copies of comments submitted by other interested parties which suggest that open MPLI claims information be included in the current model law. We write in opposition of this concept, and express the opinion that the inclusion of open claims data could have severe adverse effects on the reporting process in its entirety, and we offer the following comments in this regard:

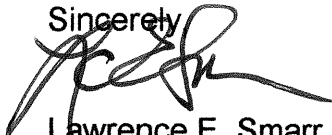
- The reporting of open claims will double the reporting requirement, as open claims will have to be reported again after they close when final disposition information is known. This has the potential to greatly increase costs to both insurers and state insurance departments
- The SITF members have discussed the current level of non-compliance with standing reporting requirements. Presumably this is based on interpretation of requirements and costs of compliance. Both would increase if open MPLI claims were included as a reporting requirement and could lead to increased non-compliance and actually reduce the reporting of closed claim data.
- Insurers' information regarding open claims is always kept in a confidential manner, and public access to such information could have adverse financial effects on claim outcomes, especially if individual claims can be identified. This is very likely for certain specialties having

a small number of practitioners and also in areas where individual insurers may have small books of business.

- While the SITF intends to include language providing effective disclosure mechanisms, each state could conceivably adopt its own modification of the NAIC model, and there is no guarantee that reported open claims data could not be disclosed.
- At any one time, it is very likely that there would be too few open claims reported to any state to provide a significant statistical research sample for many applications. For example, the PIAA Data Sharing Project, which is conducted on a national basis, currently has 232,493 claims reported since 1985, and only 8% of these are open files. The number of open claims does not grow over time as new files are reported, as each claim eventually closes. Because of the lengthy discovery process involved in MPLI claims, the information desired for open claims is often unavailable, especially if the data is reported early in the life of the claim. We do not collect claim reserve values, as having such a requirement would cause our members to discontinue reporting.
- At the current time regulators do have access to aggregate information on open claims for individual insurers which is essential for the determination of solvency and rate adequacy. This information is provided through the filing of annual statements and rate filings. The addition of reports on individual claims as a result of the proposed model law is not likely to enhance these processes.

Commissioner Kreidler, we understand how some might see value in requiring the collection of detailed open claim data. However, the incompleteness of this information, the smallness of the data, and the hurdles to effective and complete compliance greatly outweigh any benefit. As such, we respectfully request that the collection of open MPLI claims data not be included in the current effort.

Thank you for this opportunity to comment. Please contact me at your convenience should you have any questions.

Sincerely

Lawrence E. Smarr
President

cc: Lee Barclay
Joe Bieniek, NAIC