

April 6, 2006

**Actuarial Analysis of
Office of Insurance Regulation
Filing Number 06-01850
Physicians & Surgeons Professional Liability
The Doctors Company**

Office of the Consumer Advocate
State of Florida

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PRELIMINARY

CONCLUSIONS

Using The Doctors Company's (TDC) methodology, the projected base class, base territory, basic limit (\$250,000) pure premium should be \$5,873 rather than TDC's \$10,211, and TDC's rates should be decreased 41.0% rather than decreased 1.3%. Therefore, the proposed rates should be disapproved as excessive, because they are "likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business" 627.062 (2)(e)1. Florida Statutes.

Furthermore, to determine if excessive profits are being realized as a result of tort reforms, it is recommended that the Florida Office of Insurance Regulation (OIR) proceed under the authority granted by 627.062 (2)(g) Florida Statutes to order a review of the rates, rating schedules, and rating manuals of all medical malpractice insurers operating in the state of Florida. Such review should specifically require inclusion of report years subject to tort reform: 2003, 2004 and 2005.

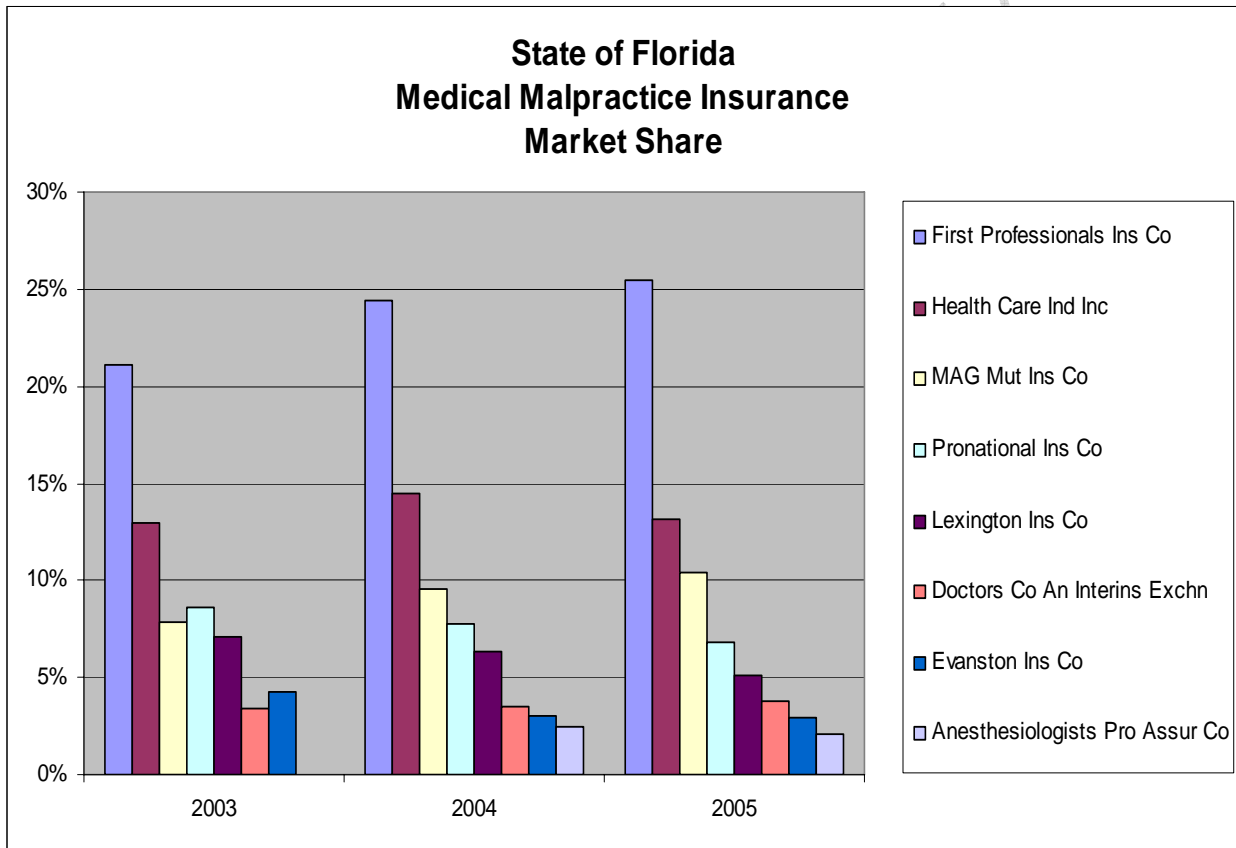
AUTHORITY

This actuarial examination is conducted pursuant to Section 627.0613 Florida Statutes, which provides that: “the Chief Financial Officer must appoint a consumer advocate who must represent the general public of the state before the department and the office. The consumer advocate must report directly to the Chief Financial Officer, but is not otherwise under the authority of the department or of any employee of the department. The consumer advocate has such powers as are necessary to carry out the duties of the office of consumer advocate, including, but not limited to, the powers to:

- (1) Recommend to the department or office, by petition, the commencement of any proceeding or action; appear in any proceeding or action before the department or office; or appear in any proceeding before the Division of Administrative Hearings relating to subject matter under the jurisdiction of the department or office.
- (2) Have access to and use of all files, records, and data of the department or office.
- (3) Examine rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the department or office any position deemed by the consumer advocate to be in the public interest.
- (4) Prepare an annual budget for presentation to the Legislature by the department, which budget must be adequate to carry out the duties of the office of consumer advocate.”

BACKGROUND

The Office of Insurance Regulation (OIR) received the subject filing, OIR File Number: 06-01850 (filing) on February 15, 2005. Filing proposes to reduce rates on average by 1.3%, effective April 1, 2006 for new business and July 1, 2006 for renewals. TDC was the sixth largest writer of medical malpractice insurance in the state of Florida in 2005 with a 3.8% market share. The eight largest writers and market shares for the latest three years are as follows:



TORT REFORM

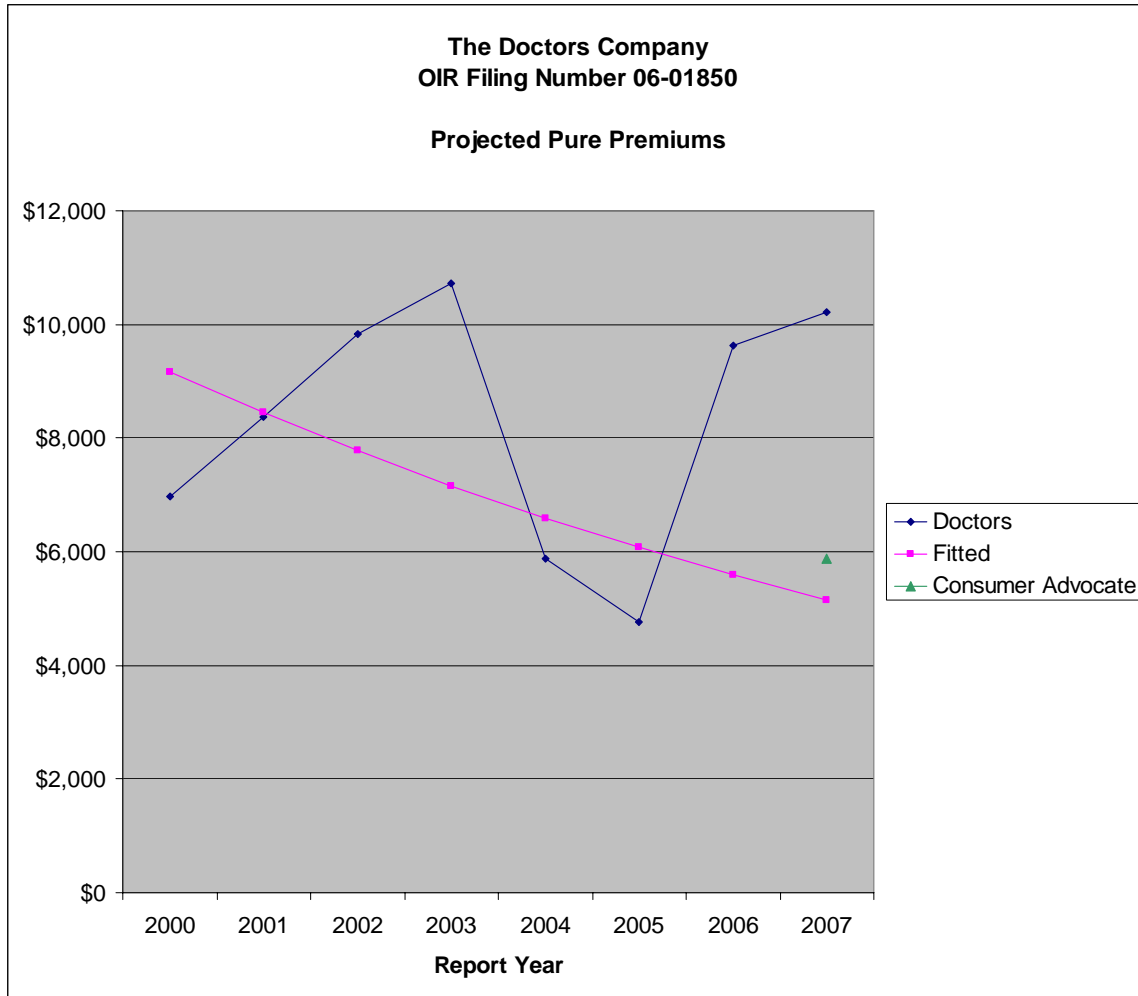
Florida enacted significant medical malpractice liability tort reform (damage caps) effective September 15, 2003. Florida's damage caps are as follows: for physicians, \$500,000 cap on non-economic damages per claimant with any one physician not responsible for more than \$500,000. For non-practitioners, \$750,000 cap on non-economic damages. The cap increases to \$1 million in non-economic damages for physicians if the negligence resulted in death or a permanent vegetative state or if the court finds that a manifest injustice would occur unless the non-economic damages cap was increased because the non-economic harm sustained by the patient was particularly severe and the defendant's negligence caused a catastrophic injury to the patient.

On April 27, 2004 a Circuit Court Judge in Seminole County, Florida, found a portion of the 2003 medical malpractice reform legislation unconstitutional. The new legislation went into effect September 15, 2003, but under its terms it applies to malpractice incidents occurring both before and after that date.

On April 22, 2004, Circuit Court Judge Marlene Alva issued a short written order stating that the application of the new law was unconstitutional because it retroactively took away vested rights of patients who were already injured by malpractice before the date the new legislation was enacted. The court's ruling is limited solely to the retroactivity issue, and what it means is that there is no immunity for any negligence occurring before September 15, 2003. But the case has broader importance because the same legal reasoning should also apply to the retroactive application of the damage caps on doctors and hospitals.

ANALYSIS

The following chart compares the projected base class, base territory, basic limit (\$250,000) pure premium estimates by TDC to the average (fitted) trend line and the Consumer Advocate’s estimate for the 2007 report year:



TDC’s estimated pure premiums for the 2000 through 2005 report years are based on the actual experience of TDC. TDC’s estimated pure premiums for the 2006 and 2007 report years are based upon a selected 6.0% annual loss trend applied to TDC’s 2000 through 2005 report year pure premiums. Using this methodology, TDC projected a \$10,211 base class, base territory, basic limit pure premium for the 2007 report year.

TDC's methodology is flawed, because it fails to respond appropriately to TDC's pure premium declines that occurred in 2004 and 2005. These declines are most likely a consequence of tort reforms effective for claim occurrences after September 15, 2003. TDC's pure premiums should continue to decline in the 2006 report year (instead of reversing upward as predicted by TDC) as more claims become subject to tort reforms. After 2006, it is reasonable to assume that the upward trend in pure premiums will resume due to the reassertion of the dominance of inflation in claim costs, but at a moderated rate due to the influence of tort reforms.

TDC's claims occurring in a given calendar year will be reported over the 5 years after occurrence in approximately the following percentages: 35.0% within the first year, 60.0% within 2 years, 83.0% within 3 years, 92.0% within 4 years and 100.0% within 5 years. Based on these percentages, roughly 60% to 65% of TDC's claims reported in 2005 occurred after the September 15, 2003 effective date of the reforms, and therefore, are subject to them. Furthermore, nearly all claims reported in 2006, the year in which the proposed new rates take effect, will be subject to tort reforms.

PRELIMINARY

EXHIBITS

Exhibit 1: Indicated Rate Change

Exhibit 2: Indicated Pure Premium

PRELIMINARY

Office of the Consumer Advocate
Review of OIR Filing Number 06-01850
The Doctors Company

Indicated Rate Change

	The Doctors Insurance Company				Consumer Advocate			
	\$250,000	\$500,000	\$1,000,000	Statewide	\$250,000	\$500,000	\$1,000,000	Statewide
Incident Limit:								
(1) Projected Basic Exposure Pure Premium	10,211	10,211	10,211	10,211	5,873	5,873	5,873	5,873
(2) Territory Relativity	1.342	1.207	1.095		1.342	1.207	1.095	
(3) Specialty Relativity	1.171	0.99	0.935		1.171	0.99	0.935	
(4) Increased Limits Factor	1.000	1.484	1.960		1.000	1.484	1.960	
(5) Indicated Average Pure Premium	16,046	18,107	20,490	16,578	9,229	10,414	11,784	9,534
(6) Impact of Tort-Reform	3.4%	4.5%	8.7%		n/a	n/a	n/a	
(7) Pure Premium (Post Tort-Reform)	15,501	17,292	18,708	15,930	9,229	10,414	11,784	9,534
(8) Permissible Loss & ALE Ratio	68.2%	68.2%	68.2%		68.2%	68.2%	68.2%	
(9) Proposed Average Discount	8.0%	8.0%	8.0%		8.0%	8.0%	8.0%	
(10) Indicated Average Premium	24,705	27,560	29,816	25,389	14,708	16,597	18,782	15,195
(11) Current Average Premium	24,979	28,307	30,386	25,749	24,979	28,307	30,386	25,749
(12) Indicated Territory Manual Rate Change	-1.1%	-2.6%	-1.9%	-1.4%	-41.1%	-41.4%	-38.2%	-41.0%
(13) Proposed Territory Manual Rate Change	-0.9%	-3.1%	-1.3%	-1.3%	-41.1%	-41.4%	-38.2%	-41.0%

Notes:

- Based on DIC Filing Exhibit I
(2) for Consumer Advocate from Exhibit 2

Office of the Consumer Advocate
Review of OIR Filing Number 06-01850
The Doctors Company

Indicated Pure Premium

\$250,000 Limit per Incident

	Doctors Estimated Untrended Pure Premium (1)	6 Point Fitted Untrended Pure Premium (2)	Consumer Advocate (3)
2000	6,982	9,169	
2001	8,367	8,444	
2002	9,835	7,776	
2003	10,726	7,161	
2004	5,887	6,595	
2005	4,760	6,073	
2006	9,633	5,593	
2007	10,211	5,151	5,873

Notes:
Based on DIC Filing Exhibit II

PRELIMINARY

