

Report on Examination
of
**MEDICAL MALPRACTICE JOINT UNDERWRITING
ASSOCIATION OF RHODE ISLAND**

Providence, Rhode Island

as of

December 31, 2019



State of Rhode Island
Department of Business Regulation
Insurance Division



State of Rhode Island
DEPARTMENT OF BUSINESS REGULATION
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Insurance Division

ADOPTION ORDER

The attached Report on Examination as of December 31, 2019 of the condition and affairs of:

The Medical Malpractice Joint Underwriting Association of Rhode Island

was recently completed by duly qualified examiners, pursuant to the provisions of the Rhode Island General Laws.

Due consideration has been given to the comments of the examiners regarding the operation of the Association and its financial condition, as reflected in the report.

It is therefore ORDERED that said Report be, and it is hereby, adopted and filed and made an official record of this Department as of this date.

Department of Business Regulation

A handwritten signature in cursive script that reads "Elizabeth Kelleher Dwyer".

Dated: July 21, 2021

Elizabeth Kelleher Dwyer
Superintendent of Insurance

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June 21, 2021

Ms. Elizabeth Kelleher Dwyer
Superintendent of Insurance
State of Rhode Island
Department of Business Regulation
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Dear Superintendent Dwyer:

In accordance with your instructions and pursuant to Chapters 13.1 and 35 of Title 27 of the General Laws of the State of Rhode Island, an examination has been made as of December 31, 2019, of the financial condition and affairs of

**MEDICAL MALPRACTICE JOINT UNDERWRITING
ASSOCIATION OF RHODE ISLAND**

located at One Turks Head Place, Suite 200, Providence, Rhode Island. The report of such examination is herewith submitted.

Medical Malpractice Joint Underwriting Association of Rhode Island, also referred to within this report as “MMJUA,” or “the Association,” was previously examined as of December 31, 2015, and both the current and prior examinations were conducted by the Insurance Division of the State of Rhode Island (“Insurance Division”).

SCOPE OF EXAMINATION

The last examination of the Association covered the five-year period from January 1, 2011 through December 31, 2015. The current examination covered the four-year period from January 1, 2016 through December 31, 2019 and was performed in compliance with the above-mentioned sections of the General Laws of the State of Rhode Island, as amended.

We conducted our examination in accordance with the NAIC Financial Condition Examiners Handbook (“Handbook”). The Handbook requires that we plan and perform the examination to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Association and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer’s surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Association were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management’s compliance with Statutory Accounting Principles. The examination does not attest to the fair presentation of the financial statements included herein. If, during the course of the examination an adjustment is identified, the impact of such adjustment will be documented separately following the Association’s financial statements.

This examination report includes significant findings of fact and general information about the insurer and its financial condition. There may be other items identified during the examination that, due to their nature (e.g., subjective conclusions, proprietary information, etc.), are not

included within the examination report but separately communicated to other regulators and/or the Association.

SUMMARY OF SIGNIFICANT FINDINGS

There were no material adverse or significant non-compliance findings noted during the examination conducted as of December 31, 2019.

COMPANY HISTORY

The Medical Malpractice Joint Underwriting Association of Rhode Island was originally established in accordance with R.I. General Law §42-35-3, by the adoption of Emergency Regulation 21 (“Regulation 21”) by the Department of Business Regulation (the “Department”) effective June 16, 1975. Subsequently, legislation was enacted which authorized the Department to promulgate regulations relating to medical malpractice insurance and validated Regulation 21, which is now 230-RICR-20-10.1. The MMJUA is governed by and in conformity with R.I. General Laws §27-9-7; §42-14.1-1 and 2; §42-35-3; 230-RICR-20-10-1.4 of the Department of Business Regulation of the State of Rhode Island; and the National Association of Insurance Commissioners (“NAIC”) requirements, accounting policies and procedures and statutory accounting principles.

It was the intent of the Department that the MMJUA provide a continuing stable facility for medical malpractice insurance.

MANAGEMENT AND CONTROL

Members

Membership in the MMJUA is required of all insurance companies authorized to write, within the State of Rhode Island on a direct basis, personal injury liability insurance as defined in R.I. General Law §27-9-2, including insurers covering such perils in multiple peril package policies.

Every member shall participate in the MMJUA's writings, expenses, servicing allowances, management fees and losses in the proportion that the net direct premiums of each such member, excluding that portion of premiums attributable to the operation of the MMJUA, written during the preceding calendar year bears to the aggregate net direct premiums written in Rhode Island by all members of the MMJUA. Each member's participation shall be determined annually.

An insurer ceasing to be licensed or authorized shall automatically cease to be a member and shall no longer be bound by the MMJUA's Plan of Operation; however, such insurer shall remain liable for any liabilities arising from its participation in the MMJUA.

The Plan of Operation provides that the Annual Meeting of its Members shall be held on such a date, or on about the May of each year, at such place within the State or such other location and at such hour as may be designated by the Chairperson of the Board. Special meetings may be called by the Chairperson of the Board upon written request by members whose net direct premiums equal 20% or more of the net direct premiums of all members in the most recent calendar year.

Notices of all regular and special meetings shall be sent to the Director of the Department of Business Regulation of the State of Rhode Island.

A quorum for the transaction of business requires the presence of 51% or more of the Members present in person or by proxy.

Board of Directors, Committees, and Officers

The Plan of Operation provides that the affairs, business and property of the MMJUA shall be governed by a board of eleven (11) directors; seven (7) of whom shall represent member companies, and four (4) of whom shall be providers of health care appointed annually by the Department of Business Regulation as nominated by the Rhode Island Medical Society and the Hospital Association of Rhode Island. The Director of the Department, or his or her designee, serves on the Board in an ex officio capacity. Not more than one (1) insurer in a group under the same management or ownership shall serve on the board at the same time. Directors shall serve until their successors are duly elected or appointed as the case may be.

Any vacancy in the board shall be filled in the following manner:

- i. If the vacancy is that of an insurer, by appointment by the Board of Directors and confirmation by the Department.

- ii. If the vacancy is that of a provider of health care, by appointment by the Department. Any such appointed directors shall serve until such director's successor is appointed.

The MMJUA shall file with the Department annually on or before the first day of March, a statement which shall contain information with respect to its transactions, condition, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed and shall be in such form as is approved by the Department. The Department may, at any time, require the MMJUA to furnish additional information as would be considered material and of assistance in evaluating the scope, operation and experience of MMJUA.

Six (6) members of the board shall constitute a quorum for the transaction of business and the acts of a majority of the directors present in person, by telephone or other electronic, real time or by proxy, at a meeting which a quorum is present shall be the acts of the board. Each member is entitled to one (1) vote in person or by proxy.

The members of the Board of Directors at December 31, 2019, together with the principal business or professional affiliation of each director is as follows:

Name	Business Affiliation	Term Expires
Earl Cottam, Jr. (Chair)	Chief Financial Officer and Treasurer The Providence Mutual Fire Insurance Company	June 1, 2020
Timothy Knapp (Vice-Chair)	Northeast Regional Counsel Allstate Insurance Company	June 1, 2020
Donald Baldini	Assistant Vice President and Sr. Legislative Counsel Liberty Mutual Insurance Company	June 1, 2020
Virginia Burke, RN, JD	Retired	June 1, 2020
Barbara Cavicchio, DDS	Retired	June 1, 2020
Lars Bo Christiansen	Corporate Counsel Nationwide Insurance Company	June 1, 2020
Jennifer Morrison	Corporate Counsel Amica Mutual Insurance Company	June 1, 2020
James Pascalides, DPM	Retired	June 1, 2020
Eric Paynter	Senior Vice President Hanover Insurance Company	June 1, 2020
Newell Warde	Rhode Island Medical Society	June 1, 2020
Daniel Wright	Corporate Counsel and Assistant Secretary Metropolitan Property and Casualty Insurance Company	June 1, 2020

The following are the officers of the Board of Directors at December 31, 2019:

Chairperson	Earl Cottam, Jr
Vice Chairperson	Timothy Knapp
Secretary	Lars Bo Christiansen
Assistant Secretary	Jerilynn Leahy

The composition of the standing committees of the Board of Directors at December 31, 2019 is as follows:

Executive Committee	Finance and Audit Committee
Earl Cottam, Jr. - Chair	Earl Cottam, Jr. - Chair
Timothy Knapp	Berni Bussell
Lars Bo Christiansen	Peter Kranz
	Newell Warde
	Eric Paynter

TERRITORY AND PLAN OF OPERATION

The MMJUA is authorized to transact the business of medical malpractice and incidental liability insurance for physicians, hospitals, and other health care providers in the State of Rhode Island.

Under a Plan of Operation, originally filed and approved effective June 25, 1975, and as amended and approved by the Department effective December 18, 2018, the MMJUA was created to provide medical malpractice insurance for physicians, hospitals and other health care providers, on a self-supporting basis.

The MMJUA is authorized to issue medical malpractice policies with limits not to exceed \$1,000,000 for each medical incident under one policy and \$3,000,000 in the aggregate under one policy in any one year. Also, the MMJUA is authorized to underwrite incidental coverage for any provider of health care, but only if such provider is insured by the MMJUA for medical malpractice. Other liability policies are issued with limits not to exceed \$1,000,000 for each medical incident under one policy year and \$2,000,000 in the aggregate under one policy in any one year. All policies are on an annual basis and shall be subject to the Group Retrospective Rating Plan and Stabilization Reserve Fund as authorized by 230-RICR-20-10.1.4(d) and 230-RICR-20-10.1.4(e). The Group Retrospective Rating Plan and Stabilization Reserve Fund are described below.

Policies may be written on a “claims-made” or “occurrence” basis. Occurrence basis provides coverage for claims incurred during the policy year regardless of when the claims are reported, while claims-made basis provides coverage to the policyholder for claims reported during the policy year regardless of when the claims are incurred. All policies issued prior to October 1, 1983 were issued on an occurrence basis. Effective October 1, 1983, and July 1, 1990, policies became available for hospitals, facilities and physicians, respectively, on a claims-made basis.

Group Retrospective Rating Plan

Pursuant to 230-RICR-20-10.1.4(e), all policies shall be subject to a non-profit Group Retrospective Rating Plan (“GRRP”). A GRRP document was submitted and approved by the Director of the Department of Business Regulation, effective for policies issued on or after June 16, 1975.

The GRRP provides for the equitable return to policyholders of any excess premium paid in a policy year after calculation of the final premium due for that annual rating period. The final premium for an annual rating period must be equal to: the incurred losses, loss adjustment expenses and operating expenses for each annual rating period, plus a reasonable contingency to offset any deficits of any one or more annual rating periods expiring before the return of excess premiums, less investment income received during the rating period.

As provided within Section 17 of the Plan of Operation, and 230-RICR-20-10.1.4 (e) the GRRP will be established to allow for possible return of premiums to the policyholders or the assessment of an additional premium if necessary.

Stabilization Reserve Fund

230-RICR-20-10-1.4(d) creates a Stabilization Reserve Fund (“SRF”). Prior to being repealed effective July 25, 1996, each policyholder initially contributed to the SRF an amount equal to one-third their first annual premium.

The Stabilization Reserve Fund (“SRF”) is held in trust by the Department. The Department has authorized the MMJUA to enter into contracts for the custody of and the asset/portfolio management of the SRF, with the Department’s prior approval. All investment income of the SRF, less all expenses of administering the SRF, is to be credited annually to the Underwriting Fund of the MMJUA.

Any funds remaining in the SRF after all retrospective premium charges have been paid to the Underwriting Fund are to be returned to the policyholders under procedures authorized by the Director.

Section 6 of the Plan Document requires that the Department return the original capital contribution to the SRF made by the contributing policyholders at the later of ten (10) years after the final policy expiration as to such policyholder or when all claims as to such policyholder are closed.

In 2012, the Department did approve the return of the SRF paid-in capital to the known qualified policyholders.

Recoupment of Deficit Funding

Section 1.4.C.6 of 230-RICR-20-10-1.4 provides that in the event that all resources of the Underwriting Fund and Stabilization Reserve Fund have been exhausted, the MMJUA is required to certify to the Director the amount of any deficit remaining. If sufficient funds are not available for the sound financial operation of the MMJUA, the members are required to contribute to the financial requirements of the MMJUA.

If such contributions to the MMJUA become necessary, all the insurance companies which are members would participate in the proportion that their gross direct premiums written for personal injury liability insurance during the preceding calendar year in Rhode Island bear to the aggregate gross direct premiums written for such insurance in Rhode Island that year by all members. Such participation is to be determined annually.

The Director is then required to authorize the members of the MMJUA to recoup their respective share of the deficit by either (1) applying a surcharge to be determined by the MMJUA at a rate not to exceed 1% of the annual premiums on future policies affording those kinds of insurance which form the basis for their participation in the MMJUA, or (2) deducting their share of the deficit from past or future taxes due the State of Rhode Island. As amounts of incurred losses become finalized and the deficit is adjusted, the members of the MMJUA will adjust their recoupment procedure accordingly.

Servicing Carrier

The MMJUA had operated under the terms of a Servicing Carrier Agreement with Marsh USA, Inc. from 1989 through December 31, 2006. Effective for a three-year period commencing on January 1, 2007, the MMJUA entered into a Servicing Carrier Agreement (“current agreement”) with Beecher Carlson Insurance Services, LLC., a limited liability company licensed to operate in the State of Rhode Island, in association with its subcontractor Western Litigation, Inc., so as to carry out all duties and obligations as servicing carrier. The current agreement was renewed for subsequent three-year periods effective January 1, 2010, January 1, 2013, January 1, 2016 and January 1, 2019, as approved by the Department of Business Regulation of the State of Rhode Island. Under the terms of the current agreement, the servicing carrier is to provide general administrative, accounting and statistical services, underwriting, policyholder services, claims administration, risk management and loss control services.

Part B of Section 16 of the Plan of Operations contains eligibility requirements and service standards applicable to the servicing carrier.

Part D of Section 3 of the Plan of Operation allows amendments to the Plan to be made subject to the approval of the Director.

REINSURANCE

The MMJUA maintains three (3) catastrophic reinsurance contracts. The reinsurance contracts are intended to cover any losses that arise out of litigated court rulings that are in excess of the original policy limits of \$1,000,000. The MMJUA has 0% coinsurance under each of the three contracts. The layers of each of the three contracts are as follows: \$4,000,000 excess of \$1,000,000, \$5,000,000 excess of \$5,000,000, and \$10,000,000 excess of \$10,000,000.

FINANCIAL STATEMENTS

The following financial statements are based on the statutory financial statements filed by the Association with the State of Rhode Island Department of Business Regulation and present the financial condition of the Association for the period ending December 31, 2019. The accompanying comments on financial statements reflect any examination adjustments to the amounts reported in the annual statements and should be considered an integral part of the financial statements:

Comparative Statement of Assets
December 31, 2019 and December 31, 2015

Comparative Statement of Liabilities, Surplus and Other Funds
December 31, 2019 and December 31, 2015

Statement of Income
Year Ended December 31, 2019

Reconciliation of Capital and Surplus
December 31, 2015 to December 31, 2019

Analysis of Examination Adjustments
December 31, 2019

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION OF RHODE ISLAND
Comparative Statement of Assets
December 31, 2019 and December 31, 2015

	December 31, 2019	December 31, 2015	Increase (Decrease)
Bonds	\$88,468,445	\$93,728,443	(\$5,259,998)
Cash, cash equivalents, and short-term investments	1,178,705	1,855,461	(676,756)
Other Invested Assets	64,772,187	52,895,483	11,876,704
Receivables from securities	3,992	72	3,920
Investment income due and accrued	1,280,684	1,467,352	(186,668)
Uncollected premiums and agents' balances in the course of collection	(42,255)	167,059	(209,314)
Deferred premiums and agents' balances and installments booked but deferred and not yet due	126,690	245,046	(118,356)
Aggregate write-ins for other-than-invested assets	5,583	-	5,583
Current federal and foreign income tax recoverable and interest thereon		1,370,896	(1,370,896)
Net deferred tax asset		184,241	(184,241)
Aggregate write-ins for other than invested assets		8,906	(8,906)
Total Assets	<u>\$155,794,031</u>	<u>\$151,922,959</u>	<u>\$3,871,072</u>

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION OF RHODE ISLAND
Comparative Statement of Liabilities, Surplus and Other Funds
December 31, 2019 and December 31, 2015

	December 31, 2019	December 31, 2015	Increase (Decrease)
Losses	\$ 21,002,589	\$ 41,778,035	\$ (20,775,446)
Loss adjustment expense	7,397,459	12,955,778	(5,558,319)
Commissions payable, contingent commissions, and other similar charges	71,572	61,375	10,197
Other expenses (excluding taxes, licenses, and fees)	270,532	176,824	93,708
Current federal and foreign income taxes	25,633	-	25,633
Net deferred tax liability	497,845		497,845
Unearned premiums	1,894,009	2,279,956	(385,947)
Advance Premium	84,764	31,866	52,898
for account of others	960,527	1,707,873	(747,346)
Aggregate write-ins for other liabilities	223,983	131,000	92,983
Total Liabilities	<u>\$ 32,428,913</u>	<u>\$ 59,122,707</u>	<u>\$ (26,693,794)</u>
Unassigned funds (surplus)	<u>123,365,118</u>	<u>92,800,252</u>	<u>30,564,866</u>
Total Capital and Surplus	<u>\$ 123,365,118</u>	<u>\$ 92,800,252</u>	<u>\$ 30,564,866</u>
Total Liabilities, Capital and Surplus	<u>\$ 155,794,031</u>	<u>\$ 151,922,959</u>	<u>\$ 3,871,072</u>

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION OF RHODE ISLAND

Statement of Income
Year Ended December 31, 2019

Underwriting Income:

Premiums earned \$1,810,548

Deductions:

Losses incurred (1,407,913)

Loss adjustment expenses incurred (741,284)

Other underwriting expenses incurred 1,511,968

Total underwriting deductions (637,229)

Net underwriting gain (loss) 2,447,777

Investment Income:

Net investment income earned 4,987,734

Net realized capital gains (losses) 1,571,565

Net investment gain (loss) 6,559,299

Other Income:

Finance and service charges not included in premiums 15,503

Aggregate write-ins from miscellaneous income (536,020)

Total other income (520,517)

Net income, after dividends to policyholders, after
capital gains tax, and before all other federal
and foreign income taxes 8,486,559

Federal and foreign income taxes incurred 1,226,217

Net income \$7,260,342

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION OF RHODE ISLAND
Reconciliation of Capital and Surplus
December 31, 2015 to December 31, 2019

Capital and Surplus, December 31, 2015		\$ 92,800,252
	<u>Gains</u>	<u>Losses</u>
Net income	30,810,204	
Change in net unrealized capital gains	915,940	
Change in net deferred income tax	<u> </u>	<u>(1,161,278)</u>
Total Gains and Losses	<u>31,726,144</u>	<u>(1,161,278)</u>
Net change in Capital and Surplus for the period		<u>30,564,866</u>
Capital and Surplus, December 31, 2019		<u><u>\$ 123,365,118</u></u>

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION OF RHODE ISLAND
Analysis of Examination Adjustments
December 31, 2019

The examination of the Association, performed as of December 31, 2019, did not disclose any material misstatements to the financial statements contained in its 2019 Annual Statement filing. Accordingly, the amounts reported by the Association have been accepted for purposes of this report.

COMMENTS ON FINANCIAL STATEMENTS

ASSETS

Bonds

\$88,468,445

The above amount is the net admitted value of bonds held by the Association at December 31, 2019 and is the same amount reported in its 2019 Annual Statement. All the bonds are held in accordance with the terms of custodial agreements with third-party financial institutions.

The quality ratings of all securities included in the Association's bond portfolio were reviewed based upon criteria established by the National Association of Insurance Commissioners ("NAIC"). It was noted that 79.5% of the bond portfolio represents class NAIC-1, which are bonds of the "highest" quality according to the NAIC rating system, while 20.5% were NAIC-2 ("high" quality).

The book/adjusted carrying value, fair value, actual cost, and par value of the bond portfolio at December 31, 2019, are as follows:

<u>Book/Adjusted Carrying Value</u>	<u>Fair Value</u>	<u>Actual Cost</u>	<u>Par Value</u>
\$88,468,445	\$93,680,592	\$89,955,963	\$87,117,746

Other Invested Assets**\$64,772,187**

The above-captioned amount represents the net admitted value of the Stabilization Reserve Fund (“SRF”) assets at December 31, 2019. The SRF, which is described in greater detail under the ‘Territory and Plan of Operation’ section, is composed of the following asset categories at year-end 2019:

Cash and Short-Term Investments	\$162,083
Bonds	47,106,302
Equity Securities	4,973,902
Mutual Funds	12,529,901
Total	\$64,772,188

All assets held in the SRF at year-end 2019 are held in accordance with a custodial agreement with a third party.

LIABILITIES

<u>Losses and Loss Adjustment Expenses</u>	<u>\$28,400,048</u>
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Losses	\$ 21,002,589
Loss Adjustment Expenses	<u>7,397,459</u>
Total	<u>\$ 28,400,048</u>

The reserves for losses and loss adjustment expenses reflected above are the same as those reported by the Association in its 2019 Annual Statement. The Association's recorded reserves were reviewed for reasonableness by The INS Companies ("INS"), consulting actuaries for the Rhode Island Insurance Division. INS relied upon the underlying data reported by the Association, and their analyses included a review of the actuarial assumptions and methods utilized in determining the reserves, and such tests of actuarial calculations as deemed necessary.

Based upon the review performed by INS, the Association's recorded reserves were found to be calculated in accordance with commonly accepted reserving methods and are based on appropriate actuarial factors given the risk exposures under the policy provisions. INS also concluded that the reported reserves make reasonable provision for all unpaid losses and loss adjustment expenses, and claims-made extended loss and expense reserve obligations of the Association, in the aggregate, under the terms of its policies and agreements.

SUBSEQUENT EVENTS

A review of financial information, Association records, and the minutes to the Board of Directors' meetings for the period subsequent to the examination period was performed to ascertain whether any subsequent events have occurred which would have a material impact on the Association's operations or financial statements. In addition, an inquiry was made of the Association's management regarding subsequent events. Based upon our review, there was one significant event that occurred subsequent to December 31, 2019 as follows:

The COVID-19 pandemic has continued to develop throughout 2020 and 2021, with significant uncertainty remaining regarding the full effect of COVID-19 on the U.S. and global insurance and reinsurance industry. At the time of releasing this report, the examination's review of the Association noted that there has not been a significant impact to the Association. The Insurance Division has been in communication with the Association regarding the impact of COVID-19 on its business operations and financial position. The Insurance Division continues to closely monitor the impact of the pandemic on the Association and will take necessary action if a solvency concern arises.

CONCLUSION

We have applied verification procedures to the data and information contained in this report using sampling techniques and other examination procedures as deemed appropriate. While sampling and other examination procedures do not give complete assurance that all errors and irregularities will be detected, had any been detected during the course of this examination, such errors and/or irregularities would have been disclosed in this report. Other than what has been noted in the body of this report, we were not informed of, and did not become aware of any errors or irregularities that could have a material effect on the financial condition of the Association as presented in this report.

Participating in the examination with the undersigned were various insurance examiners from the Rhode Island Insurance Division. Acknowledgment is also made of the services rendered by The INS Companies, the Rhode Island Insurance Division's consulting actuaries and information technology specialists.

Respectfully submitted,



Joseph R. Rapczak, CPA, CIA, AFE
Examiner-in-Charge
Rhode Island Insurance Division