

OHIO DEPARTMENT OF INSURANCE

**A
TARGETED
MARKET CONDUCT EXAMINATION
OF
THE DOCTORS COMPANY
NAIC #34495**

As Of

June 30, 2003





Bob Taft, Governor

Ann Womer Benjamin, Director

2100 Stella Court, Columbus, OH 43215-1067
(614) 644-2658 www.ohioinsurance.gov

Honorable Ann Womer Benjamin
Director
Ohio Department of Insurance
2100 Stella Court
Columbus, Ohio 43215-1067

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a target market conduct examination was conducted on the Ohio business of:

The Doctors Company
NAIC Company Code 34495

The examination was conducted at the Company's Ohio Regional Office located at:

1301 E. 9th Street, Suite 1130, Cleveland, Ohio 44114

A report of the examination is enclosed.

Respectfully submitted,

A handwritten signature in black ink that reads 'David R. Beck'.

David R. Beck

Chief, Market Conduct Division

Date: 12-2-2004



Accredited by the National Association of Insurance Commissioners (NAIC)

Consumer Hotline: 1-800-686-1526

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SCOPE OF EXAMINATION

The examination of The Doctors Company (the Company) commenced on October 20, 2003, at the Company's regional office in Cleveland, Ohio. The initial examination of the Company was restricted to the underwriting and marketing of medical malpractice insurance from July 1, 2002, through June 30, 2003. The scope was limited to medical health providers and did not include emergency facilities or hospitals. The Company's 2003-2004 Underwriting Guidelines were also reviewed.

This examination was conducted under the authority provided by section 3901.11 of the Ohio Revised Code (ORC). This examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and Ohio's applicable statutes, rules, and regulations.

METHODOLOGY

The examination was conducted through a review of the Company's underwriting of new business files, in-force business files, non-renewal files, and cancellation files. A review was also conducted of the Company's corresponding policy and procedure manuals, rate filings, and system manuals. This information was supplemented, as necessary, with written inquiries to the Company requesting clarification and/or additional information.

The initial examination phase included: staff interviews, an overview of practices and procedures, clarifying the data requests, and understanding the Company's terminology and systems. Only files with Ohio insureds, policyholders and provider entities were reviewed. Tests were designed and applied to the files to determine the Company's level of compliance with Ohio insurance laws. These tests are described, and the results are noted in this report. The results of each test applied to a sample are reported separately. Each test is expressed as a "yes/no" question. A "yes" response indicates compliance, and a "no" response indicates failure to comply. In instances where errors were noted, the Examiners submitted a request for information to the Company concerning the apparent error.

SAMPLING

The Examiners requested, and the Company supplied, reports of policy data (new business, applications, renewals, non-renewals, in-force and cancellations) in file formats specified by the Examiners. Except as otherwise noted, all tests were conducted on a sample of files randomly selected from a given report. These samples were selected using a standard business database application that provides a true random sample since it supplies a random starting point from which to pull the sample. In some cases, the populations were relatively small. In those instances, the entire population was reviewed.

COMPANY HISTORY

The Company is a reciprocal exchange incorporated on April 15, 1976, under the laws of California. The Company began doing business the same day with an emphasis on solo health practitioners. On June 9, 1986, the California Insurance Department conferred upon the exchange the status of perpetual non-assessability. Initially, the Company performed all underwriting in California.

COMPANY OPERATIONS

The Company is licensed in the District of Columbia, Guam, and all states except New York. The Company's statutory home office and main administrative office is located in Napa, California. A strategic decision was made by the Company to aggressively participate in the Ohio market, and this decision prompted the Company to open a field office in Cleveland, Ohio, to handle both underwriting and claims. The Company recruited experienced local insurance professionals to provide those services.

MANAGEMENT

The Doctors Management Company, the attorney-in-fact and a wholly owned subsidiary of The Doctors Company, administers the affairs of the exchange. Under a management agreement, the attorney-in-fact provides all underwriting, administrative and claim services for a compensation fee equal to actual expenses incurred.

During the examination period, the officers of the Attorney-in-Fact included:

Chairman of the board of governors: Richard E. Anderson, M.D.

President: Manuel S. Puebla

Executive Vice President and Chief Financial Officer: Michael Yacob

Executive Vice President and Chief Operating Officer: Bruce Crile

Executive Vice President: Mark Gorney, M.D. (medical services)

Senior Vice President: Richard Diamond (information systems)

Senior Vice President: Paula Jenkins (claims)

Senior Vice President: James Marietta (business acquisitions/strategic planning)

Senior Vice President: Jack Meyer (marketing and business development)

Senior Vice President: Andre Stewart (underwriting)

Vice President and Controller: Douglas Will

Vice Presidents: Joan Bristow (risk management), Jeff Donaldson (actuarial), Leona Egeland Siadek (government relations), Jean Parker (underwriting), John Suesens (claims), Marco Vanderlaan (reinsurance), and Gary Virkus (administrative services), Secretary and Treasurer: Charles A. O'Brien.

CERTIFICATE OF AUTHORITY

The Company operates under a Certificate of Authority issued in accordance with the laws of Ohio. In the course of the examination, the Examiners found the Company to be within the scope of its Certificate of Authority for Ohio.

UNDERWRITING

Methodology

- The Examiners reviewed all Company written policies and procedures that instructed the underwriters and the agents on underwriting procedures and requirements concerning providers. Healthcare facilities were not included in the examination.
- The Company supplied the following data files pertaining to Ohio:
 1. A list of all new business written during the examination period,

2. A list of all policies cancelled during the examination period,
3. A list of policies non-renewed during the examination period,
4. A list of applications submitted during the examination period, and
5. A list of policies active/in-force as of the last day of the exam period.

Underwriting Considerations

- A policy may have one or multiple insureds.
- Each list is reviewed as an entire population.
- Each list is divided into the unique territories provided by the Company. The Company has three territories in the state of Ohio for this examination period. Territory “C” included the counties of Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Fairfield, Fayette, Franklin, Greene, Hamilton, Licking, Madison, Miami, Montgomery, Pickaway, Preble, and Warren counties. Territory “B” included Columbiana, Cuyahoga, Lorain, Mahoning, Portage, and Trumbull counties. Territory “A” includes the remaining 63 counties in Ohio. Because of the low volume of unique policies in each territory for cancellations, non-renewals, in-force, and new business, it was necessary to review the entire population for each territory instead of pulling samples.

APPLICATIONS

Methodology:

- A random sample of fifty individual applications was reviewed in each of the three Territories A, Territories B, and Territories C.
- In addition, the original data run contained 17 files for which no territory information was provided. Therefore, all 17 of those files were reviewed to confirm that correct quotes were provided. After reviewing the files, it was determined the correct territory was used in the underwriting process and no further review was needed.

Standard: Company rules pertaining to underwriting requirements regarding applications are in compliance with applicable statutes, rules, and regulations. ORC 3937.03 requires, in part, that every insurer file every form of a policy, endorsement, rider, manual of classifications, rules, and rates, every rating plan, and every modification of any of them, which the insurer proposes to use.

Test: Did the Company adhere to their underwriting guidelines in applying the rates and rules filed with the Department?

Findings:

	Population	Yes	No
Territory A	243	50	0
Territory B	186	50	0
Territory C	131	50	0
Unknown	17	17	0

NEW BUSINESS

Standard: Company rules pertaining to rating, credits/debits, scheduled modifications, documentation for modifications, and rating for modification for multiple locations are in compliance with applicable statutes, rules, and regulations. ORC 3937.03 requires, in part, that every insurer file every form of a policy, endorsement, rider, manual of classifications, rules, rates, every rating plan, and every modification of any of them, which the insurer proposes to use.

Test: Did the Company correctly calculate the premiums in accordance with the rates, credits/debits, and scheduled modifications on file with the Department?

Findings:

	Population	Yes	No
Territory A	87	87	0
Territory B	210	210	0
Territory C	171	171	0

IN-FORCE BUSINESS

Standard: Were Company rules pertaining to the underwriting requirements of in-force policies in compliance with applicable statutes, rules, and regulations?

Test: Did the Company adhere to the requirements of their underwriting guidelines and the rates and rules filed with the Department?

Findings:

	Population	Yes	No
Territory A	253	50	0
Territory B	390	50	0
Territory C	143	50	0

CANCELLATIONS

Standard: Cancellations comply with policy provisions, statutes, rules, and regulations. Specifically, ORC 3937.25(c) states, in part, that no less than 30 days notice must be given when a policy is being cancelled for a reason other than non-payment of premium if that policy has been in effect for more than ninety days. If a policy is cancelled for non-payment of premium, the notice requirement is ten days.

Test: Did the Company comply with the cancellation requirements of ORC 3937.25(c)?

Findings:

	Population	Yes	No
Territory A	61	61	0
Territory B	79	79	0
Territory C	284	284	0

Examiner Comments

When the Company cancels a policy, notices are prepared in the Company's Napa, California office and sent to the Cleveland, Ohio office for review. The Cleveland office mails the cancellation notices to the physician. Although it did not affect these specific test results, this process resulted in mail delays as long as 13 days. The Company acknowledged this problem, and it has been rectified for 2004. These notices will be generated in the Cleveland office, which should eliminate these delays.

NON-RENEWALS

Standard: Company rules pertaining to non-renewal notices are in compliance with an Ohio Department of Insurance ("Department") memorandum, applicable statutes, rules and regulations including ORC 3937.26.

Test: Did the Company provide a 45-day notice when non-renewing a policy?

Findings:

	Population	Yes	No
Territory A	10	10	0
Territory B	86	86	0
Territory C	18	18	0

Note: On August 16, 2002, the Department asked medical malpractice insurers to provide additional notice when a policy is not going to be renewed. This memorandum was issued as a result of deteriorating market conditions. In response, the Company agreed to provide a 45-day notice to its insureds prior to non-renewal.

EXAMINERS OBSERVATIONS AND RECOMMENDATIONS

Deductibles

Mandatory deductibles and surcharges may be used by the Company in lieu of non-renewal or declinations of a risk. Insureds with higher than expected claim frequency for their specific specialty, may be given a mandatory deductible.

Nursing Home Exposure

As part of this examination, the Examiners reviewed Nursing Home Exposures for physicians and surgeons. As a general guideline, the Company writes and renews private practice physicians who continue to follow their established patients when their patients move to a nursing home or other long-term healthcare facility. The Company is primarily a physician insurer, so they generally will not write healthcare facilities or doctors with healthcare facility exposure. For instance, a doctor serving as a Medical Director for a long-term care facility will not be eligible for coverage in the Company's physicians and surgeons programs.

File Documentation

The use of risk modifications (schedule rating) and/or individual risk rating plans was not consistently documented in policy files. It was often not clear from the information in the file why schedule rating was not used or why certain debits and/or credits were applied.

Recommendation:

The Examiners recommend that the Company develop procedures, forms, and internal controls to ensure that consistent file documentation is used to document the underwriting process and application of risk modifications (schedule rating),

and/or individual risk rating plans are in compliance with ORC 3937.03(E), OAC 3901-1-22, and Bulletin 2000-3.

Statistical Agents

The Company does not report statistical data to insurance departments (other than annual/quarterly financial statements and special data calls).

Recommendation:

The Examiners recommend the Company submit its statistical data annually to a Department designated statistical agent as required by ORC 3937.12.

American Professional Agency

The Examiners noted a 3% premium discount was given to some psychiatry program policies that are issued through the Managing General Agent, American Professional Agency. The reason for the discount was not documented in the files. The Company advised the Examiners that American Professional Agency, Inc. used a 3% premium discount if an insured paid the annual premium in one installment, instead of making quarterly payments. The 3% premium discount was not filed with the Department.

Recommendation

The Examiners recommend that the Company ensure that American Professional Agency, Inc. discontinue use of the 3% discount until and unless an appropriate filing has been made with the Ohio Department of Insurance consistent with ORC 3937.03.

The Examiners recommend that the Company develop procedures and internal controls to ensure appropriate oversight of its Managing General Agents and compliance with underwriting and file documentation standards.

The Examiners recommend that the Company develop procedures and internal controls to ensure that all rates and rules are filed in accordance with ORC 3937.03.

Further, the examiners recommend that the Company develop procedures and internal auditing controls to review Managing General Agent laws and regulations in all states in which the Company and/or its Managing General Agent do business.

Implementation of New Rates and /or Rules:

The Examiners observed that the Company's psychiatry program issued through the American Professional Agency did not routinely implement rate changes and rule changes as of the effective date of the changes. Underwriting file documentation allowed the Examiners to determine that the Company was contractually bound to honor a quote or had issued a policy prior to the approval date of change, therefore no error was noted. The examiners observed that in some underwriting files old rates and/or old rules were applied inappropriately after the approval date. The Company acknowledged that there had been occasional delays in implementing rate and /or rule changes. It was noted that policyholders were not injured by the delays in implementation because the insureds were charged a lower premium than the approved rates.

Recommendation:

The Examiners recommend that the Company develop procedures and internal controls to select implementation dates that provide sufficient lead time to ensure that new rates and rules are implemented on their effective dates for the psychiatry business issued through the American Professional Agency.

Additional Information

A mandatory request for additional information, beyond the specified examination period, was sent to the Company. This data request pertained to underwriting guidelines, non-renewals, cancellations and quotes given and accepted for the months of October 2003 through February

2004. The requested information was provided by the Company and reviewed by the examiners. The Examiner's concluded that the Company was following its underwriting guidelines.

CONCLUSION

This concludes the report of Examination of The Doctors Company by the Market Conduct Division of The Ohio Department of Insurance. The Examiners, Rodney Beetch, Stan Garlington, Roger Hinkle, Robert Kelley, Angela Dingus, and Cheryl Davis would like to acknowledge the assistance and cooperation provided by the management and the employees of the Company.

Rodney E. Beetch
Rodney E Beetch
Examiner in Charge

12-2-04
Date