

# STATE OF ILLINOIS

## DEPARTMENT OF INSURANCE



IN THE MATTER OF THE EXAMINATION OF

THE MEDICAL PROTECTIVE COMPANY  
5814 REED ROAD  
FORT WAYNE, IN 46835

### MARKET CONDUCT EXAMINATION WARRANT

I, the undersigned, Director of Insurance of the State of Illinois, pursuant to Sections 132, 401, 401.5, 402, 403 and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/401.5, 5/402, 5/403, and 5/425) do hereby appoint Examiner-In-Charge, Bernie Sullivan and associates as the proper persons to examine the insurance business and affairs of The Medical Protective Company, NAIC #11843, and to make a full and true report to me of the examination made by them of The Medical Protective Company, with a full statement of the condition and operation of the business and affairs of The Medical Protective Company, with any other information as shall in their opinion be requisite to furnish me a statement of the condition and operation of its business and affairs and the manner in which it conducts its business. The costs of this examination shall be borne by the company.

The persons so appointed shall also have the power to administer oaths and to examine any person concerning the business, conduct, or affairs of The Medical Protective Company.



*IN TESTIMONY WHEREOF*, I hereto set my hand and cause to be affixed this Seal.

Done at the City of Springfield, this 21<sup>st</sup> day of August, 2012.

*Andrew Boron*  
Andrew Boron

Director

This Market Conduct Examination was conducted pursuant to Sections 5/132, 5/401, 5/402, 5/403 and 5/425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/402, 5/403 and 5/425). It was conducted in accordance with standard procedures of the Market Conduct Examination Section by duly qualified examiners of the Illinois Department of Insurance.

This report is divided into five parts. They are as follows: Summary, Background, Methodology, Findings and Technical Appendices. All files reviewed were reviewed on the basis of the files' contents at the time of the examination. Unless otherwise noted, all overcharges (underwriting) and/or underpayments (claims) were reimbursed during the course of the examination.

No company, corporation, or individual shall use this report or any statement, excerpt, portion, or section thereof for any advertising, marketing or solicitation purpose. Any company, corporation or individual action contrary to the above shall be deemed a violation of Section 149 of the Illinois Insurance Code (215 ILCS 5/149).

The Examiner-in-Charge was responsible for the conduct of this examination. The Examiner-in-Charge did approve of each criticism contained herein and has sworn to the accuracy of this report.

Amanda J. Kimble  
Staff Attorney  
Illinois Department of Insurance  
[Amanda.Kimble@illinois.gov](mailto:Amanda.Kimble@illinois.gov)

THE MEDICAL PROTECTIVE COMPANY

## MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: September 17, 2012, through October 12 2012

EXAMINATION OF: The Medical Protective Company  
(P & C Foreign) NAIC #11843

LOCATION: 5814 Reed Rd.  
Fort Wayne, IN 46835

PERIOD COVERED BY EXAMINATION: May 1, 2011 through April 30, 2012

EXAMINER: Bernie Sullivan Jr. LUTCF  
Examiner-in-Charge

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I. SUMMARY

No general or class trends were uncovered during the examination.

## II. BACKGROUND:

### The Medical Protective Company (Company)

Medical Protective Company a/k/a MedPro was incorporated under the laws of Indiana on December 2, 1909, and commenced business on January 1, 1910. The company is the successor to the Physicians Defense Company, formed in 1901, and the Physicians Guaranty Company, organized in 1899. Paid-in capital of \$34.8 million consists of 120,000 shares of \$40 par value common stock and \$30 million of contributed surplus. All authorized shares are issued and outstanding. On October 15, 1998, the company's parent, Medical Protective Corporation (MPC), became a wholly owned subsidiary of Employers Reinsurance Corporation (ERC). Subsequently, on December 29, 1999, ERC assigned to GE Insurance Solutions Corporation (formerly GE Global Insurance Holding Corporation) (GEIS) 100% of its investment in the common stock of MPC. On June 30, 2005, MPC was acquired from GEIS by Columbia Insurance Company, an indirect wholly owned subsidiary of Berkshire Hathaway, Inc.

Examiner in charge's 2011 NAIC Annual Statement Page 19 (Illinois) reflects the following:  
NAIC #11843

	Line	Direct premium written	Direct premium earned	Direct losses paid	Direct losses incurred
11	Medical professional liability	\$26,860,894	\$24,612,683	\$4,033,952	\$9,983,202
17.1	Other liability-occurrence	\$0	\$0	\$0	\$1,000
35	Total	\$26,860,894	\$24,612,683	\$4,033,952	\$9,984,202

### III. METHODOLOGY:

The Market Conduct Examination places emphasis on an insurer's systems and procedures used in dealing with insureds and claimants.

The following categories are the general areas examined:

1. Risk Selections
2. Underwriting
3. Claims
4. Complaints & Producer Termination & Licensing

The review of these categories is accomplished through examination of individual underwriting and claim files, written interrogatories and interviews with Company personnel. Each of these categories is examined for compliance with Department of Insurance rules and regulations and applicable state laws.

The report concerns itself with improper practices performed with such frequency as to indicate general business practices. Individual criticisms are identified and communicated with the insurer, but not cited in the report if not indicative of a general trend, except to the extent that there were underpayments and/or overpayments.

The following method was used to obtain the required samples and to assure a methodical selection. Surveys were developed from Company generated Excel spreadsheets. Random statistical printout reports were generated by the examiners and presented to the Company for retrieval.

#### Risk Selection

Nonrenewals were requested on the basis of the effective date of the transaction falling within the period under examination. They were reviewed for their compliance with statutory requirements, the accuracy and validity of reasons given and for any possible discrimination.

#### Underwriting

New files were selected based on the inception date falling within the period under examination. New policies were reviewed for rating accuracy, use of filed rates, use of filed forms, compliance with company underwriting guidelines and to insure that the protection provided was as requested.

#### Claims

Claims were requested based on the settlement occurring or the claim file being closed without payment within the period under examination.



All claims were reviewed for compliance with policy contracts and endorsements and applicable sections of the Illinois Insurance Code (215 ILCS 5/1 *et seq.*).

IV: SELECTION OF SAMPLE

<u>Survey</u>	<u>Population</u>	<u># Reviewed</u>	<u>% Reviewed</u>
Risk Selection:			
Medical Liability Cancellations	5	5	100.00%
Medical Liability Nonrenewals	2	2	100.00%
Underwriting:			
Medical Liability New Business	683	72	10.54%
Medical Liability Renewals	3267	74	2.26%
Claims:			
Medical Liability Paid & Median	19	19	100.00%
Medical Liability Closed without Payment	97	97	100.00%
Complaints & Producer Review:			
Producer Terminations	0	0	0
Appointed Agent Review	82	22	26.82%
Department/Consumer Complaints	0	0	0

V. FINDINGS:

A. Risk Selections:

1. Medical Liability Cancellations

Five (5) cancellation files were reviewed to insure compliance with the following Illinois Insurance Code sections:

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># of Violations Identified</u>
215 ILCS 5/141.01	agent termination not grounds for cancellation	5	0
215 ILCS 5/143.10	previous refusal not grounds for cancellation	5	0
215 ILCS 5/143.10a	previous 3 yrs loss information must be provided with the cancellation	5	0
215 ILCS 5/143.16	must provide insured and producer 10 days advance notice of cancellation for non-payment	5	1
215 ILCS 5/143.14	must maintain proof of mailing	5	0
215 ILCS 5/143.23	must provide insured with a notice of the right to appeal and procedures for requesting a hearing	5	0

There were no trends or areas of concern.

2. Medical Liability Nonrenewals

Two (2) nonrenewal files were reviewed to insure compliance with the following Illinois Insurance Code sections:

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># of Violations Identified</u>
215 ILCS 5/141.01	agent termination not grounds for nonrenewal	2	0
215 ILCS 5/143.10	previous refusal not grounds for nonrenewal	2	0
215 ILCS 5/143.10a	previous 3 yrs loss information must be provided with the nonrenewal	2	0
215 ILCS 5/143.16	must provide insured and producer 10 days advance notice of cancellation for non-payment	2	0
215 ILCS 5/143.17a	must maintain proof of mailing, provide a specific reason, provide 60 day notice of nonrenewal	2	0

There were no criticisms in this survey.

B. Underwriting:

1. Medical Liability New Business

To assess compliance with 215 ILCS 5/155.21, underwriting files were reviewed to determine if the company was refusing to offer insurance to applicants who had entered into or intended to enter into arbitration agreements pursuant to the Malpractice Arbitration Act. Policy forms were reviewed to determine if they had been filed with the Director of Insurance (the Director) for approval as required by 215 ILCS 5/143. Premiums were reviewed to assess compliance with 215 ILCS 5/155.18 and the Illinois

Department of Insurance (Department) Company Bulletin 2011-05, "Illinois Medical Professional Liability Insurance Schedule Rating Plan Guidelines."

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.21	Refusing to offer insurance to applicants who had entered into or intended to enter into arbitration agreements pursuant to the Malpractice Arbitration Act.	72 No applicants were denied coverage during the examination period and no files were reviewed.	0
215 ILCS 5/143	Submission of forms and applications to the Director for approval.	72 All forms reviewed were approved by the Director.	0
215 ILCS 5/155.18 and Department Company Bulletin 2011-05, "Illinois Medical Professional Liability Insurance Schedule Rating Plan Guidelines."	No files exceeded the 25% maximum in Bulletin 2011-05. All files reviewed which had been underwritten after 4/1/11 complied with the 25% maximum credit.	72	0

No errors were noted in this survey.

2. Medical Liability Renewals

To assess compliance with 215 ILCS 5/155.21, underwriting files were reviewed to determine if the company was refusing to offer insurance to applicants who had entered into or intended to enter into arbitration agreements pursuant to the Malpractice Arbitration Act. Policy forms were reviewed to determine if they had been filed with the Director for approval as required by 215 ILCS 5/143. Premiums were reviewed to assess compliance with 215 ILCS 5/155.18 and Department Company Bulletin 2011-05, "Illinois Medical Professional Liability Insurance Schedule Rating Plan Guidelines."

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.21	Refusing to offer insurance to applicants who had entered into or intended to enter into arbitration agreements pursuant to the Malpractice Arbitration Act.	74 No applicants were denied coverage during the examination period and no files were reviewed.	0
215 ILCS 5/143	Submission of forms and applications to the Director for approval.	74 All forms reviewed were approved by the Director.	0
215 ILCS 5/155.18 and Insurance Department Company Bulletin 2011-05, "Illinois Medical Professional Liability Insurance Schedule Rating Plan Guidelines."	No files exceeded the 25% maximum in Bulletin 2011-05. All files reviewed which had been underwritten after 4/1/11 complied with the 25% maximum credit.	74	0

No errors were noted in this survey.

## C. Claims

### 1. Medical Liability Paid & Median

Claims files were reviewed to determine if claims were being reported to the Department of Financial and Professional Regulation ("IDFPR") and the National Practitioners Data Bank as required by 215 ILCS 5/155.19 and 42 USC Section 11101 and 45 CFR Part 60 respectively. The Company's records indicated that all claims had been reported as required, which was confirmed by IDFPR.

Claim files were also reviewed to determine whether arbitration awards were being honored as required by 215 ILCS 5/155.20.

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.19	Report claims to the DFPR.	19	Zero. Each file had documentation indicating that the claim had been reported to IDPFR. IDPFR confirmed that it received the claim reports.
42 USC Sec. 11101 45 CFR Part 60	Report claims to the National Practitioners Data Bank (NPDB).	19	Zero. Each file had documentation indicating that the claim had been reported to the NPDB.
215 ILCS 5/155.20	Provide coverage for and honor arbitration awards.	19	Zero. Of the nineteen files reviewed, 0 had been resolved by arbitration. The policy forms do not exclude coverage for arbitration awards.

No errors were noted in this survey.

## 2. Medical Liability Closed without Payment

All files closed without payment claims were reviewed for compliance with 215 ILCS 5/155.19 and 215 ILCS 5/155.20.

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.19	Report claims to the IDPFR.	97	Zero. Each file had documentation indicating that the claim had been reported to IDPFR.
215 ILCS 5/155.20	Provide coverage for and honor arbitration awards.	97	No files involved claims which were resolved via arbitration.

No errors were noted in this survey.

D. Complaints and Producer Review

1. Producer Terminations

No producers were terminated by the Company during the examination period.

2. Appointed Agent Review

No errors were noted in this survey.

3. Department Complaints

No Department complaints were filed against the Company during the examination period.



V. TECHNICAL APPENDICES: None.

STATE OF ILLINOIS            )  
  ) ss  
COUNTY OF COOK            )

Bernie Sullivan, being first duly sworn upon his oath, deposes and says:

That he was appointed by the Director of Insurance of the State of Illinois (the "Director") as Examiner-In Charge to examine the insurance business and affairs of:

The Medical Protective Company, NAIC #11843

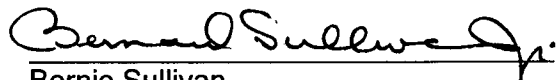
That, as Examiner-In-Charge, he was directed to make a full and true report to the Director of the examination with a full statement of the condition and operation of the business and affairs of the Companies with any other information as shall in the opinion of the Examiner-In-Charge be requisite to furnish the Director with a statement of the condition and operation of the Companies' business and affairs and the manner in which the Companies conduct their business;

That neither he nor any other persons designated as examiners nor any members of their immediate families is an officer of, connected with, or financially interested in the Companies nor any of the Companies' affiliates other than as policyholders, and that neither he nor any other persons designated as examiners nor any members of their immediate families is financially interested in any other corporation or person affected by the examination;

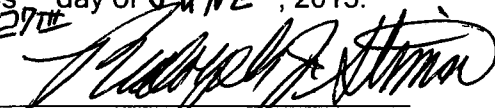
That an examination was made of the affairs of the Companies pursuant to the authority vested in the Examiner-In-Charge by the Director of Insurance of the State of Illinois;

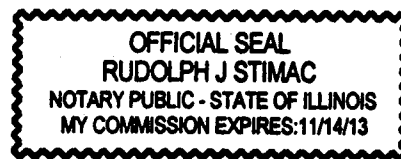
That he was the Examiner-in-Charge of said examination and the attached report of examination is a full and true statement of the condition and operation of the insurance business and affairs of the Companies for the period covered by the Report as determined by the examiners;

That the Report contains only facts ascertained from the books, papers, records, or documents, and other evidence obtained by investigation and examined or ascertained from the testimony of officers or agents or other persons examined under oath concerning the business, affairs, conduct, and performance of the Companies.

  
Bernie Sullivan  
Examiner-In-Charge

Subscribed and sworn to before me  
this 27<sup>th</sup> day of JUNE, 2013.

  
\_\_\_\_\_  
Notary Public





# Illinois Department of Insurance

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PAT QUINN  
Governor

ANDREW BORON  
Director

August 7, 2013

*Sent via USPS certified mail  
return receipt requested*

Benjamin Thomas, Counsel  
The Medical Protective Company  
5814 Reed Rd.  
Fort Wayne, IN 46835

Re: Market Conduct Examination of the Medical Protective Company, NAIC # 11843

Dear Mr. Benjamin:

The Department is in receipt of your letter dated July 23, 2013 in which MedPro indicated that it will not demand a hearing or submit a rebuttal to this exam. As a result, the Department is closing its files on this exam. As mentioned in previous correspondence, this exam will be made public by posting on the Department's website as authorized by 215 ILCS 5/132.

Please contact me if you have any questions. I may be reached at 312-814-2420.

Sincerely,

A handwritten signature in black ink that reads "Amanda J. Kimble".

Amanda J. Kimble

Staff Attorney

Illinois Department of Insurance

[Amanda.Kimble@illinois.gov](mailto:Amanda.Kimble@illinois.gov)