GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Risk Management

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DISTRICT OF COLUMBIA

MEDICAL LIABILITY CAPTIVE INSURANCE AGENCY

FY 2012 ANNUAL REPORT TO:

THE HONORABLE VINCENT C. GRAY

AND

THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 30, 2013

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DISTRICT OF COLUMBIA MEDICAL LIABILITY CAPTIVE INSURANCE COMPANY

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INTRODUCTION

The District of Columbia Medical Liability Captive Insurance Company ("D.C. Captive") submits this annual report to the Mayor and the Council as required by D.C. Official Code § 1-307.88. The report summarizes the activities of the D.C. Captive in the preceding calendar year, including net earned premiums, health center enrollment, expense of administration, and paid and incurred losses. The annual report must be filed within 60 days of the D.C. Captive's filing of its annual report with the Department of Insurance, Securities, and Banking ("DISB") as required by D.C. Official Code § 1-307.86.

D.C. CAPTIVE CREATION AND PURPOSE

In 2008, the D.C. Captive was created as a subordinate agency under the Mayor and is managed by the D.C. Office of Risk Management ("ORM"). ORM's mission is to reduce the probability, occurrence and cost of risk to the District of Columbia government through the provision of risk identification and insurance analysis and support to District agencies, and by efficiently and fairly administering the District's public sector workers' compensation, tort liability, and Captive insurance programs.

The purpose for creating the D.C. Captive was to limit the District of Columbia's exposure to potential medical malpractice losses of health centers that was previously assumed under the D.C. Free Clinic Assistance Act of 1986[1], and to issue affordable medical malpractice insurance policies to participating health centers. The policies provide medical malpractice insurance coverage to health center staff, contractors, and volunteer service providers for services provided by the health centers to patients, regardless of their ability to pay. Doing so furthers the District of Columbia's goal of providing access to quality health care for all residents.

D.C. CAPTIVE SUMMARY FOR FY 2008 - FY 2011

To facilitate the creation of the D.C. Captive in 2008, $8,600,000 was set aside. The $8,600,000 allowed the D.C. Captive to: (1) hire an internal Insurance Program Officer, (2) hire Aon Risk Services as the captive manager (3) conduct a comprehensive risk assessment of eight health centers before offering membership into and medical malpractice liability coverage through the D.C. Captive, and (4) develop and offer the D.C. Captive primary and tail medical malpractice insurance policies to eligible health centers in the District of Columbia.

From 2008 2011,[2] the D.C. Captive issued medical malpractice insurance to seven health centers in the amount of $1,000,000 for a single occurrence, with a $3,000,000 aggregate for all occurrences. The year 2010 was a year marked by transition and change for the D.C. Captive. During 2010, ORM identified and strengthened five key areas of the D.C. Captive.

[1] The District of Columbia Free Clinic Assistance Program Act ("D.C. Free Clinic Program") was enacted in 1986 to create a program for medical malpractice liability coverage to non-profit health centers in the District. The D.C. Free Clinic Program provided for unlimited indemnification for any medical malpractice liabilities incurred by those health centers that were enrolled in the program.

[2] The D.C. Captive medical malpractice insurance policy period for the years 2008 and 2009 was July 1 through June 30.

1. ORM revised key language in the D.C. Captive's medical malpractice insurance policy to ensure that the policy was legally sufficient and conformed to its enabling statute.

2. ORM reduced the D.C. Captive's overall aggregate insurance program from $10,000,000 to $3,000,000 to conform to the downward adjustment in the financial support it was receiving from the District at that time. Prior to 2010, all the health centers shared maximum coverage of $10,000,000.

3. ORM and the D.C. Captive developed a more objective process for determining the appropriate level of premium subsidies provided to insured health centers. A major advantage the D.C. Captive provides to the clinics is its ability to subsidize medical malpractice premiums to below market rates. The subsidies allow health centers to spend more funds on their core mission of providing healthcare services.

4. ORM determined that it was in the best interest of the D.C. Captive and the health centers to have its policy renewal process operate simultaneously with the District's budgeting process in order for the D.C. Captive to operate within a certain level of predictability. As such, the policy term was extended to expire on September 30, 2011 as opposed to June 30, 2011.[3]

5. ORM and the D.C. Captive drafted a comprehensive plan of operation, a risk management assessment procedure, and underwriting guidelines to create a more formalized management approach, as required by its enabling legislation.

During FY12, ORM successfully implemented the 2010 changes, re-hired Aon as the captive manager after a competitive RFP process, and continued defending an insurance claim against one of the insured health centers.

D.C. CAPTIVE RESULTS FOR FY12

During FY12 (policy period October 1, 2011 to September 30, 2012), the D.C. Captive (1) provided excellent service to four health centers - Bread for the City, Carl Vogel Center, Family Medical Counseling Service, and So Others Might Eat; (2) managed and defended an insurance claim against one of the D.C. Captive's former insured health centers, and (3) initiated a plan to expand the D.C. Captive's insurance products and services.

Continued Implementation of Underwriting and Risk Management Procedure

During the FY12 D.C. Captive renewal period, ORM and Aon collected underwriting data and visited each health center as part of the annual underwriting and risk assessment process. This process included a visual inspection of each health center's HIPAA protocol, evaluation of the credentialing process and procedure for assessing the loss history for medical providers, and a discussion concerning the health center's financial stability. After conducting this review, the D.C. Captive determined that the health centers maintained strong risk management programs.

[3] The 2010 policy was originally set to expire on December 31, 2010 because of the D.C. Captive's budget uncertainty. ORM's Interim Director extended the policy to September 30, 2011.

The insured health centers for 2012 were underwritten based on the number of physicians and their specialties, the hours worked by the physicians, the number of persons who visit the health center, and the number and type of medical procedures undertaken each year. This data was then submitted to and reviewed by the D.C. Captive manager's actuary team, which then determined the appropriate premium for each health center. The underwriting guidelines that were formally adopted in 2010 continued to prove to be an effective tool in helping to determine the D.C. Captive membership as well as premium levels.

The First Lawsuit Against an Insured Health Center

On January 24, 2011, the lawsuit of *Hugley v. Family Health and Birth Center ("FHBC"), et al* was filed in the Superior Court of the District of Columbia. Plaintiffs' complaint was for wrongful death of an infant and survival. This is the first and only lawsuit filed against a member of the Captive since the D.C. Captive's creation in 2008. During FY12, Bonner Kiernan Trebach and Crociata LLP, the D.C. Captive's legal counsel defended the D.C. Captive and FHBC against the claim.[4]

D.C. Captive Expansion to Include Property Insurance

FY12 marked another exciting year of transition for the D.C. Captive, as discussions began about how to expand its scope to include the issuance of property insurance for D.C. government buildings. This discussion came about, in part, because on August 23, 2011, a 5.8 magnitude earthquake occurred in Washington, D.C., that caused $6,800,000 in damage to District-owned property, including 31 school buildings. On November 8, 2011, President Barack Obama signed a disaster declaration for the District of Columbia making the District eligible to receive public assistance from the Federal Emergency Management Agency ("FEMA") equal to seventy-five (75%) percent of the total cost to repair damage to buildings. FEMA regulations require that in order to receive the FEMA public assistance, the District must obtain and maintain earthquake insurance equal to the amount of the eligible and paid funding, which is approximately $5,100,000.

After much consultation with the Office of the Mayor, the City Administrator, HSEMA, DISB, and DGS, as well as the Captive Advisory Council, the Gray Administration proposed emergency and temporary legislation for the D.C. Captive to provide earthquake insurance in order to qualify the District for the $5,100,000 FEMA reimbursement. The Council of the District of Columbia approved the legislation in FY13.

In FY13, the D.C. Captive is proposing a broader expansion of its scope (beyond medical malpractice and earthquake insurance) to insure D.C. real property assets, generally. This expansion will not only improve the District's risk management and minimize the District's exposure to loss, it will also strengthen and further stabilize the D.C. Captive.

[4] The lawsuit was filed against FHBC. FHBC was a member of the D.C. Captive at the time of the incident that gave rise to the claim. The lawsuit was settled on March 4, 2013.

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D.C. CAPTIVE FINANCIAL SUMMARY FOR 2012

Financial Summary for D.C. Captive:

For the period ending on September 30, 2012, the D.C. Captive submitted a comprehensive CPA-prepared financial statement to DISB. Below is a financial summary of the key results reported to DISB:

Source: District of Columbia Medical Captive Insurance Company Annual Statement for the period ended September 30, 2012 and as prepared by Peter Snell, CPA

Fund Balance:	**$3,611,450**
Net earned premiums:	**$66,092**
Health center enrollment:	**Four Health Centers**
Expense of administration:	**$137,606***
Paid and incurred losses:	**$140,651**

*The expense of administering the D.C. Captive includes consulting expenses, legal fees, office supplies, and uncollectible receivables.

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SOCIAL IMPACT OF THE D.C. CAPTIVE

Thanks in part to the D.C. Captive's reduced rate for medical malpractice insurance, the member health centers were able to remain in operation and accommodate more than 95,000 patient visits for the 2012 policy year. Additionally, the D.C. Captive's lower cost policy has allowed health centers to expand medical and non-medical services and has created the opportunity for job retention and new employment.

"The availability of D.C. Medical Liability Captive has resulted in increased resources for services at FMCS…because of the savings from not having to purchase expensive commercial malpractice insurance." Flora Terrell Hamilton, DSW, LICSW CEO, FMCS, Inc.

"…SOME was without a permanent medical director for three months during this period. Because of the D.C. Medical Liability Captive, we were able to hire a temporary physician, knowing that the medical malpractice would be covered. Our level of staffing was able to remain stable during this period." Mary Ann Sack, Assistant Executive Director, So Others Might Eat (SOME).

"*The captive is a program that defrays costs we might otherwise have to pay directly for private insurance, thus reducing the amount of care we can provide to D.C. residents who historically have difficulty accessing primary medical care.*" George A. Jones, Executive Director, Bread for the City.

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MEMBER HEALTH CENTERS INSURED BY THE D.C. CAPTIVE

Bread for the City - www.breadforthecity.org

Mission and Vision

"The mission of Bread for the City is to provide vulnerable residents of Washington, D.C., with comprehensive services, including food, clothing, medical care, and legal and social services, in an atmosphere of dignity and respect. We recognize that all people share a common humanity, and that all are responsible to themselves and to society as a whole."

Carl Vogel Center - www.carlvogelcenter.org

Mission

"Carl Vogel Center (CVC) is a nonprofit community-based organization that provides multidisciplinary and integrated medical healthcare that embodies all aspects of a person's physical, mental, and emotional well-being. CVC helps medically underserved individuals to become full partners and informed advocates in managing their health."

Family Medical Services, Inc. - www.fmcsinc.org

Mission

"The mission of Family and Medical Counseling Service, Inc. (FMCS) is to employ community-based, culturally competent approaches to provide comprehensive services that promote the emotional and physical health of families and individuals, regardless of income or social status, and maximize their quality of life."

So Others Might Eat - www.some.org

Mission

"SOME (So Others Might Eat) is an interfaith, community based organization that exists to help the poor and homeless of our nation's capital. We meet the immediate daily needs of the people we serve with food, clothing, and health care. We break the cycle of homelessness by offering services, such as affordable housing, job training, addiction treatment, and counseling to the poor, the elderly, and individuals with mental illnesses. Each day, SOME is restoring hope and dignity one person at a time. We invite you to join us."