



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Risk Management



Phillip A. Lattimore, III
Chief Risk Officer

DISTRICT OF COLUMBIA
MEDICAL LIABILITY CAPTIVE INSURANCE AGENCY

FY 2011 ANNUAL REPORT TO:
THE HONORABLE VINCENT C. GRAY
AND
THE COUNCIL OF THE DISTRICT OF COLUMBIA

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DC CAPTIVE ANNUAL REPORT

INTRODUCTION

The DC Medical Liability Captive Insurance Agency (“DC Captive”) submits an annual report to the Mayor and the Council as required by DC Official Code § 1-307.88. This annual report summarizes the activities of the DC Captive for the preceding calendar year, including: net earned premiums, health center enrollment, administrative expenses, and paid and incurred losses. DC Captive annual reports must be filed within 60 days of the DC Captive filing its annual report with the Department of Insurance, Securities, and Banking (“DISB”) as required under DC Official Code § 1-307.86. DISB received the FY11 annual report and all supporting documents on June 26, 2012.

DC CAPTIVE CREATION AND PURPOSE

The DC Captive was created in 2008 as a subordinate agency under the Mayor and is managed by the DC 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 workers compensation, tort liability, and Captive programs.

The DC Captive's mission is to limit the District of Columbia's exposure to potential medical malpractice losses of health centers¹ by issuing affordable medical malpractice insurance policies to participating health centers and providing advice to reduce potential risk exposure. The insurance policies provide limited dollar medical malpractice insurance coverage to health center staff, contractors, and volunteer service providers for medical service provided to patients, regardless of the patient's ability to pay. The DC Captive and the insurance policies that it provides, help further the District of Columbia's goal of providing access to quality health care for all District of Columbia residents.

DC CAPTIVE SUMMARY FOR 2008, 2009, AND 2010

In 2008, the District of Columbia set aside \$8,600,000 to support the establishment of the DC Captive. The \$8,600,000 allowed the DC 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 DC Captive; and (4) develop and offer the DC Captive primary and tail medical malpractice insurance policies to eligible health centers in the District of Columbia.

¹ The DC Captive replaced the unlimited risk exposure assumed under District of Columbia Free Clinic Assistance Program Act (“DC Free Clinic Program”) which was enacted in 1986 to create a program for medical malpractice liability coverage to non-profit health centers in the District. The DC Free Clinic Program provided for unlimited indemnification for any medical malpractice liabilities incurred by those health centers that were enrolled in the program.



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The DC Captive issued medical malpractice insurance to seven health centers in 2008, 2009², and 2010. The insurance policy limits during those times were in the amount of \$1,000,000 for a single occurrence, with a \$3,000,000 aggregate for all occurrences. In 2010, ORM performed a comprehensive review of the DC Captive's operations and financial solvency. As a result of the comprehensive review, ORM identified and strengthened five key areas of the DC Captive.

1. ORM revised key language in the DC Captive's medical malpractice insurance policy to ensure that the policy was legally sufficient and conformed to its enabling statute.
2. ORM reduced the DC Captive's overall aggregate coverage from \$10,000,000 to \$3,000,000 to conform to the downward adjustment in the financial support from the District. Prior to 2010, all the health centers shared maximum coverage of \$10,000,000. Due to the change in financial support (i.e. the budget); the aggregate coverage was reduced to \$3,000,000.
3. ORM and the DC Captive developed a more objective process for determining the appropriate level of premium subsidies provided to insured health centers. A major advantage to the DC Captive is its ability to subsidize medical malpractice premiums thereby reducing the cost to the health centers. The subsidies allow health centers to deploy funds that would have otherwise been used for insurance to expand and sustain medical services.
4. ORM determined that it was in the best interest of the DC Captive and the health centers to have its policy renewal process operate simultaneously with the District's budgeting process in order for the DC 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, 2011³.
5. ORM and the DC Captive drafted a comprehensive plan of operation, risk management assessment procedures, and underwriting guidelines to create a more formalized management approach as required by its enabling legislation.

DC CAPTIVE RESULTS FOR 2011

During the calendar year 2011 (policy period July 1, 2010 to September 30, 2011), the DC Captive (1) implemented the underwriting guidelines established in 2010, (2) conducted risk assessments of its insured members, (3) inserted language into the District's Budget Request Act to ensure the roll-over of Captive funds across fiscal years, as intended by the enabling statute, (4) facilitated the transition of three of its inaugural health centers by graduating them from the DC Captive to other medical malpractice providers, (5) re-bid the captive manager contract resulting in the re-hiring of Aon Risk Services of DC, and (6) began managing and defending an insurance claim against one of our insured members.

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

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



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Implementation of Underwriting and Risk Management Procedure

During the 2011 DC Captive renewal period, ORM, with the assistance of Captive Manager Aon, conducted risk assessments of each Captive member as part of the annual underwriting and risk assessment process. The assessment process included a visual inspection of each health center's HIPAA protocol, an evaluation of each health center's credentialing process and procedure for assessing the loss history of each medical provider, and a discussion concerning each health centers financial stability. After conducting this review, ORM analyzed the information and determined that each health center maintains strong risk management programs. Consequently, each health center was offered low cost medical malpractice insurance through the DC Captive. The underwriting guidelines that were formally adopted in 2010 proved to be an effective tool in evaluating the renewal application of each health center.

Graduation of Three Health Centers to the Standard Insurance Market

During 2011, the continued success of the DC Captive was realized when three of its members informed ORM that they were able to obtain insurance in the standard medical malpractice insurance market.⁴ The three health centers that graduated to other sources of medical malpractice insurance are: La Clinica Del Pueblo, Spanish Catholic, and Family Health and Birth Center. ORM is proud that the DC Captive was able to provide medical malpractice coverage for these three health centers during a time in which DC residents needed continued access to low cost health care.

The DC Captive Manager Contract

The inaugural DC Captive Manager contract expired in 2011. Subsequent to the contract expiration, ORM publicly advertised an RFP for a DC Captive Manager. The only responsive respondent was Aon Risk Services of DC. The DC Captive entered into a one year contract with two one-year options. The contract is valued at \$52,900 annually. The prior three-year captive manager contract was valued at \$90,000 annually. The new contract realizes an annual savings of approximately \$37,000. ORM is pleased to continue its partnership with Aon, a nationally recognized insurance broker and captive manager.

First Lawsuit Against an Insured Health Center

On January 24, 2011, the lawsuit of *Hugley v. FHBC, et al* was filed in the Superior Court of the District of Columbia. Plaintiffs' complaint is for wrongful death of an infant and survival. This is the first and only lawsuit filed against a member of the Captive. In anticipation of the lawsuit, ORM publicly advertised an RFP for legal services for the DC Captive. Three law firms responded. After careful review of each proposal, the law firm of Bonner, Kiernan, Trebach, and Crociata (BKTC) LLP was selected. BKTC is defending the Captive and FHBC against the pending claim.

⁴ The initial reason the District became involved in guaranteeing medical malpractice losses for health centers was due to the market conditions and crisis of the medical malpractice insurance industry. Health centers were either denied medical malpractice insurance coverage or quoted unaffordable premiums. The DC Captive addressed this crisis by offering affordable medical malpractice to health centers throughout the District.



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DC CAPTIVE FINANCIAL SUMMARY FOR 2011

Financial Summary for DC Captive:

For the period ending on September 30, 2011 the DC 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 Captive Insurance Company Annual Statement for the period ended September 30, 2011 and as prepared by Peter Snell, CPA

Fund Balance: **\$3,032,472.35**

Net earned premiums: **\$155,895.42**

Health center enrollment: **7 Health Centers**

Expense of administration: **\$156,544.14***

Paid losses: Litigation Expenses as of FY 2011: \$25,459.14

*The expense of administering the DC Captive includes salaries, consulting, legal and advertising expenses.



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SOCIAL IMPACT OF THE DC CAPTIVE

Thanks in part to the DC Captive's reduced rate for medical malpractice insurance, the member health centers were able to continue providing health care services to District residents for the 2011 policy year. Additionally, the DC 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.

"There are many challenges facing community-based primary care providers, not the least of which is the cost of providing high quality health care to a low income population. One of the significant costs of providing health care in this country is the necessity to make malpractice coverage available to our healthcare providers, particularly in DC where there are no limits on damage awards. Without the DC Captive some centers would have to shut their doors, and many District residents would be without a medical home." Sharon Baskerville, CEO, DC Primary Care Association (DCPCA).

Every year, Bread for the City provides primary medical care to about 3000 low-income residents of Washington, DC. Thanks to medical malpractice insurance provided by the DC Captive, our professional providers and volunteer doctors have been able to provide high quality care with peace of mind due to the backing of this critical malpractice program. At the same time, we have been able to use the funds saved by the modest Captive premiums we pay to provide even more access to patient care for the medically uninsured and under-insured. George Jones, CEO - Bread for the City.

...SOME was without a permanent medical director for three months during this period. Because of the DC 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 DC Medical Liability Captive leverages the District's financial strength to make affordable medical malpractice insurance available to the private health facilities serving some of the District's neediest citizens. It is a creative way to use the partnership between the city and our private health care facilities to ensure the highest quality care at the least cost to our community." Lawrence H. Mirel, Partner in the Washington, DC law firm of Wiley Rein LLP, he is a former Commissioner of the District of Columbia's Department of Insurance, Securities and Banking.



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Bread for the City - www.breadforthecity.org

Mission and Vision

“The mission of Bread for the City is to provide vulnerable residents of Washington, DC, 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 Health and Birth Center - www.yourfhbc.org

Mission

“The mission of the Family Health and Birth Center is to improve the health status of the families of the District of Columbia.”

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.”

La Clinica Del Pueblo - lcdp.org

Mission

“To provide culturally appropriate health services to persons in the Latino community.”

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.”

Spanish Catholic - www.catholiccharitiesdc.org

Mission

“Catholic Charities is the social ministry outreach of the Archdiocese of Washington. Motivated by the Gospel message of Jesus Christ, and guided by Catholic social and moral teaching, Catholic Charities strengthens the lives of all in need by giving help that empowers and hope that lasts. To this end we affirm and support the dignity of all human life, strengthen families and serve the poor and most vulnerable.”