



**FILED**

JAN 20 2011

OFFICE OF INSURANCE REGULATION

Dictated by: KP

KEVIN M. McCARTY  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 91450-07

THE MEDICAL PROTECTIVE COMPANY

Market Conduct Examination  
\_\_\_\_\_ /

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between THE MEDICAL PROTECTIVE COMPANY (hereinafter referred to as "MEDICAL PROTECTIVE") and the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of, and the parties to, this proceeding.
2. MEDICAL PROTECTIVE is a foreign property and casualty insurer authorized to transact insurance in the State of Florida and is subject to the jurisdiction and regulation of the OFFICE pursuant to the Florida Insurance Code and the Florida Administrative Code.
3. The OFFICE conducted a market conduct examination of the professional liability closed claim reporting system of all Florida medical malpractice carriers, including MEDICAL PROTECTIVE, pursuant to Section 624.3161, Florida Statutes, and as a result it has been determined that during the scope date of June 1, 2004, through September 29, 2005, that MEDICAL PROTECTIVE violated the following provisions of the Florida Insurance Code:

## Medical Malpractice

a. Section 627.912, Florida Statutes – Professional liability claims and actions; reports by insurers and health care providers – Failure to report closed claims.

b. Section 627.912, Florida Statutes – Professional liability claims and actions; reports by insurers and health care providers – Failure to timely report closed claims.

c. Section 627.912, Florida Statutes – Professional liability claims and actions; reports by insurers and health care providers – Failure to accurately report closed claims.

4. MEDICAL PROTECTIVE enters into this Consent Order for the purpose of settlement and without any admission of wrongdoing.

5. MEDICAL PROTECTIVE expressly waives a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and all further and other proceedings herein to which the parties may be entitled, by law or rules of the OFFICE. MEDICAL PROTECTIVE hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

6. However, MEDICAL PROTECTIVE does not waive any rights regarding any and all future examinations by the OFFICE, including but not limited to the “next Target Market Conduct Examination relating to the issues examined here” and “substantial compliance with the professional liability closed claim requirements” as referenced in Paragraph 8.a. herein.

7. Subsequent to the OFFICE’s Market Conduct Examination, MEDICAL PROTECTIVE has implemented corrective action to address the OFFICE’s findings in the examination report including but not limited to the following: Restructuring elements of its Claims Operations Department to include extensive changes to reporting processes; adding

employees to the department which oversees reporting requirements that vary by state, including making the department leader position full-time and assigning analysts so they become subject matter experts on those jurisdictions; changes were made to the claims transactional system; and the new department leader position monitors on a monthly basis the timeliness of reporting.

8. MEDICAL PROTECTIVE agrees that upon the execution of this Consent Order, it shall be subject to the following terms and conditions:

a. MEDICAL PROTECTIVE is assessed an administrative penalty of Eight Hundred Thousand Dollars (\$800,000.00), Four Hundred Thousand Dollars (\$400,000.00) of which shall be suspended pending the outcome of MEDICAL PROTECTIVE's next Target Market Conduct Examination relating to the issues examined here, and shall be satisfied upon a finding by the OFFICE of substantial compliance with the professional liability closed claim requirement of Section 627.912, Florida Statutes, by MEDICAL PROTECTIVE. MEDICAL PROTECTIVE shall pay Four Hundred Thousand Dollars (\$400,000.00) and administrative costs of Three Thousand Dollars (\$3,000.00) within thirty (30) days of the execution of this Consent Order.

b. MEDICAL PROTECTIVE shall within thirty (30) days of the execution of this Consent Order, provide to the OFFICE a certification signed by an officer of the Company that the corrective action outlined in the examination report has been completed.

c. MEDICAL PROTECTIVE is hereby placed on notice of the requirements of the above-referenced laws and agrees that any future violations of these sections of law by MEDICAL PROTECTIVE may be deemed willful, subjecting MEDICAL PROTECTIVE to appropriate penalties.

d. MEDICAL PROTECTIVE shall henceforth comply with all of the provisions of the Florida Insurance Code and Florida Administrative Code.

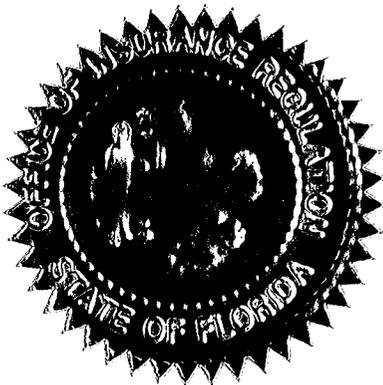
9. MEDICAL PROTECTIVE agrees that failure to adhere to one or more of the terms and conditions of this Order shall constitute a violation of a lawful order of the OFFICE, and shall subject MEDICAL PROTECTIVE to such administrative action as the OFFICE may deem appropriate.

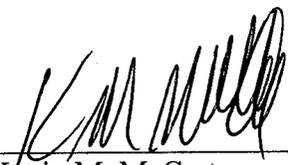
10. Except as noted hereinabove, each party to this action shall bear its own costs and attorneys' fees.

THEREFORE, the agreement between MEDICAL PROTECTIVE and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE and ORDERED this 20<sup>th</sup> day of January, 2011.



  
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Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation

By execution hereof, THE MEDICAL PROTECTIVE COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind THE MEDICAL PROTECTIVE COMPANY to the terms and conditions of this Consent Order.

THE MEDICAL PROTECTIVE COMPANY

By: Trent C Heinemeyer

Print Name: TRENT C. HEINEMEYER

Corporate Seal

Title: SVP, GENERAL Counsel & Secretary

Date: 1/3/11

STATE OF Indiana

COUNTY OF Allen

On Jan 3, 2011 before me, a Notary Public, personally appeared Trent C. Heinemeyer, personally known to me (or proven to me on the basis of satisfactory evidence) to be the person whose name is subscribed to within the instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf which the person acted, executed the instrument.

Subscribed and sworn to before me this 3rd day of January, 2011.

Signature Helen Sue Shumaker  
(Signature of Notary Public)  
Helen Sue Shumaker

[NOTARIAL SEAL]

My Commission Expires: May 14, 2016

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