

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: MC IDOI-0606-031

IN THE MATTER OF:

Healthcare Industry Liability)
Reciprocal Insurance Company, Respondent)

NAIC Code: 11832)

Market Conduct Examination)
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)
)

FILED

JUN 25 2009

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

The Indiana Department of Insurance ("Department") and Healthcare Industry Liability Reciprocal Insurance Company ("Respondent") signed an Agreement to resolve all issues concerning the market conduct examination of the Respondent.

The Commissioner of the Department of Insurance ("Commissioner") after reviewing the Agreement finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Commissioner hereby incorporates the Agreement and its terms and conditions, as if fully set forth herein, and as attached as "Exhibit A", and approves and adopts the Agreement as a resolution of the market conduct examination.

IT IS NOW ORDERED, ADJUDGED AND DECREED:

1. The Commissioner has subject matter jurisdiction over the matters at issue in this administrative proceeding and personal jurisdiction over the respondent.

2. Respondent was represented by legal counsel, understands the terms and scope of this Agreement, voluntarily entered into this Agreement without duress and has waived their right to a hearing on the matter.

3. The Respondent understands that failure to comply with the Agreement and resulting Order may result in further administrative actions or consequences.
4. The Respondent shall remit to the Department five hundred thousand dollars (\$500,000) to be deposited into the Indiana Patient's Compensation Fund within thirty (30) days of the date of this Order.
5. This Order, as per agreement, is not subject to judicial review.

ALL OF WHICH IS ORDERED THIS 25th day of June, 2009.



Carol Cutter, Commissioner
Indiana Department of Insurance

Distribution:

Debra M. Webb, Attorney, Indiana Department of Insurance, 311 W. Washington Street, Suite 300, Indianapolis, IN 46204

J. Marc Feeney, Attorney & Secretary, HILRIC, 201 S. Maine Street, Suite 200 Ann Arbor, Michigan 48104

John T. Murphy, IceMiller, One American Square, Suite 2900, Indianapolis, IN 46282

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AGREEMENT TO RESOLVE MARKET CONDUCT EXAMINATION

This Agreement ("Agreement") to resolve the above captioned Market Conduct Examination (the "Examination") is executed by Debra M. Webb, Attorney for and on behalf of the State of Indiana, Consumer Protection Unit of the Indiana Department of Insurance ("Department") and the Indiana Patient's Compensation Fund ("Fund"), and J. Marc Feeney, Attorney & Secretary for Healthcare Industry Liability Reciprocal Insurance Company ("HILRIC"), an insurance company licensed to do and engaged in business in Indiana. This Agreement is subject to the review and approval of Carol Cutter, Commissioner of the Department of Insurance ("Commissioner").

WHEREAS, HILRIC is a Risk Retention Group domiciled in Washington, D. C. and licensed to do business in the State of Indiana; and operates in conjunction with its affiliated entities, Chelsea-Rhone, LLC, HealthCap RRG, and HealthCap Bermuda, (collectively, HILRIC and these entities are referred to herein as "Respondent"), and

WHEREAS, the Department has the authority pursuant to Indiana Code Sections 27-1-1-1 and 27-1-3.1-9 to conduct examinations of any insurance company licensed in Indiana as often as the Commissioner, in the Commissioner's sole discretion, considers appropriate and the Department is responsible for enforcing the statutory provisions applicable to companies engaging in the business of insurance in the State of Indiana; and

WHEREAS, on June 6, 2006 the Department issued Examination Warrant No. MC IDOI 0606-031, pursuant to Indiana Code 27-1-3.1 et seq. ("Examination"), for the purpose of determining whether Respondent had adequately contributed surcharges to the Fund; and

WHEREAS, pursuant to the authority provided in Indiana Code Section 27-1-3.1-9(d), the Commissioner appointed Milliman Consultants and Actuaries ("Milliman") as examiner for the purpose of examining the Respondent's policies and files in connection with the Fund surcharge submissions to determine Respondent's compliance with Indiana insurance laws; and

WHEREAS, the Fund is funded solely through the annual surcharges paid by health care providers; and

EXHIBIT

A

WHEREAS, all health care providers electing to be qualified under the Indiana Medical Malpractice Act through their insurers that provide liability coverage shall submit the appropriate surcharge amount to the Fund; and

WHEREAS, Respondent submitted Certificates of Insurance to the Department verifying financial responsibility of certain health care providers; and

WHEREAS, on September 18, 2006 the examiners filed a preliminary Report with the Department as a result of the market conduct examination pursuant to Indiana Code 27-1-3.1-10(b); and

WHEREAS, said Report finds an underpayment of approximately one million six hundred thousand dollars (\$1.6 million) had been made to the Fund by the Respondent on behalf of its insureds; and

WHEREAS, Respondent has submitted to the Department a written rebuttal wherein it disputes the findings, conclusions and methodology employed by Milliman in the Report; and

WHEREAS, Respondent asserts that the Report overstated the amount of any potential underpayment, and that Respondent has submitted annual surcharges in full compliance with Indiana Code §34-18-5-2 (d) ; and

WHEREAS, the Department and Respondent desire to resolve their differences and settle the issues relating to the Examination without further adjudicative efforts;

NOW, THEREFORE, the Department and Respondent agree to the following;

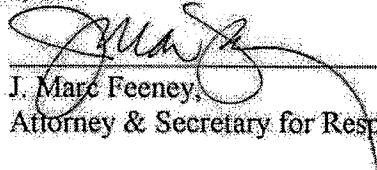
- 1. The Commissioner has jurisdiction over the subject matter and Respondent in all matters relating to the Fund.**
- 2. This Agreement is executed voluntarily by the parties.**
- 3. Respondent voluntarily and freely waives its right to a public hearing on the Examination.**
- 4. Respondent further waives its rights to judicial review of the final order adopting this Agreement.**
- 5. This Agreement is not, and shall not be construed as, an admission of liability by Respondent.**
- 6. Respondent will remit to the Department for the Fund the sum of five hundred thousand dollars (\$500,000). Respondent will remit this amount no later than thirty days following the date of the order adopting this agreement.**
- 7. The Department agrees to accept Respondent's compliance with the terms of this Agreement as full resolution of the Examination, and further agrees that this Agreement applies to and fully resolves now and forever all claims, demands,**

causes of action, charges, surcharges, and actions of any kind whatsoever, whether known or unknown, that the Department has asserted or could have asserted in the Examination, or a similar examination, or thereafter, against Respondent, related in any way to the Fund, for all Respondent's members or policies with policy terms beginning prior to March 4, 2007.

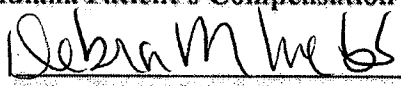
8. Respondent and the Department have read and understand the terms of this Agreement and agree to be bound by the terms and conditions set forth herein.

9. The undersigned acknowledge, agree and represent that they have all corporate and/or governmental authority necessary and sufficient to execute this Agreement and bind the Department and Respondent respectively.

**Healthcare Industry Liability Reciprocal Insurance Company, Chelsea-Rhone, LLC,
HealthCap RRG, and HealthCap Bermuda, BY:**

19 JUNE 09 
Date Signed J. Marc Feeney,
Attorney & Secretary for Respondent

Indiana Department of Insurance, and Indiana Patient's Compensation Fund, BY:

June 19, 2009 
Date Signed Debra M. Webb, Attorney
Indiana Department of Insurance

Distribution:

Debra M. Webb, Attorney, Indiana Department of Insurance, 311 W. Washington Street, Suite 300, Indianapolis, IN 46204

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