

## Missouri Medical Malpractice Joint Underwriting Association

### Minutes for the Meeting of

September 30, 2004

**Location:** Boardroom of Missouri Employers Mutual Insurance  
1000 W. Nifong, Building 7  
Columbia, MO 65203

**Time:** 10:10 AM

**Attending:** Bill Turley, Chairman (Shelter Insurance Companies/NAII)\*  
**(Board)** Dennis Smith, *via teleconference* (Missouri Employers Mutual/AIA)  
Don Ainsworth (Safety National Casualty Corp/the Alliance)  
Craig Kjellberg (state Farm Ins./Unaffiliated Cos.)  
Paul Blume, *via teleconference* (AIG/Unaffiliated Cos.)  
Steve Divine, (Savers Property & Casualty Ins. Co./the Alliance)  
Patty Williamson, *via teleconference* (Uhlemeyer Services, Inc./AIA)

**(MDI Staff):** Linda Bohrer, Director, MDI Division of Market Regulation  
Susan Schulte, Chief, MDI Property & Casualty Section  
Mark Doerner, Senior Counsel, MDI P&C Section

**(Audience):** Keith Wenzel, Hendren & Andrae  
Jean-Paul Rebillard, Marsh USA  
Andrew Teigen, Marsh USA  
Sheryl Manger, Marsh USA  
Jim Vaccarino, *via teleconference* Marsh USA

Chairman Turley called the meeting to order at 10:10 AM. First item discussed was a review of JUA Program Data as of September 24, 2004. Andrew Teigen reported that a total of 25 policies have been written. Total written premium was \$1,602,005, of which \$1,165,335.55 has been collected, and \$464,740.50 earned. Sheryl Manger then reviewed status of Risk Management Program activities as of 9-24-04. The first periodic newsletter will be produced for insureds and agents within the next thirty days. Marsh is in the process of setting up a telephone consultation line for risk management questions, and this should also be online shortly. The first three site inspections have been scheduled for prior to the end of this year. Inspections will be done at one physician practice, and two skilled care nursing homes, one in the Kansas City area, and the other outside of St. Louis. With respect to educational/seminar programs, Marsh is currently meeting with health care provider association representatives to co-sponsor continuing education options and provide speakers for already scheduled programs. The programs will help providers insured by the JUA meet any continuing education responsibilities they have under the JUA's schedule rating plan or other rating guidelines. Marsh will proceed toward offering independent programs once the volume of clients is sufficient to support them. The question was asked as to whether the JUA had declined anyone, and Sheryl advised that one nursing home had been declined on the basis of ineligibility because they were "conducted by and for those who rely upon treatment by spiritual

means alone in accordance with the creed or tenets of any well-recognized church or religious denomination". These organizations are specifically excluded from eligibility under Section 383.150 of the Revised Statutes of Missouri. Don Ainsworth mentioned that he felt we should consider proposing a change in the statute to amend the nursing home criteria to remove this limitation. A discussion ensued regarding long-term care markets and type of business and where it is coming from. Sheryl advised that a significant portion of the business is either already written on occurrence forms, or is currently uninsured. The availability of coverage for this segment of the marketplace is very limited, and appears to be overpriced. Susan Schulte advised that the department has received inquiries regarding markets for long term care facilities. Marsh has begun meetings with various medical societies' executive directors in order to inform them of the existence and capabilities of the JUA.

A discussion was held regarding the legislation that might be introduced in the upcoming session. Mark indicated he would circulate copies of the provisions the Department drafted at the end of this year's legislative session.

Bill advised the board of his decision to step-down as Chairman as of this meeting. Paul thanked Bill for his work, and everyone present concurred, agreeing that Bill's considerable efforts were crucial in setting up the JUA in the relatively short timeframe required by the statutes. Bill indicated he was willing to continue to help with miscellaneous policy issues and other special projects. Under the Plan of Operation, the Director of Insurance must name a new chair, and also appoint a replacement for the seat on the board. Mark will work with the Director and with Marsha Mills on this. Mark asked whether there is a change needed to the Plan of Operation regarding vacancies on the board, and what constitutes a quorum. Bill advised he didn't think so, as the Plan simply states approval by a majority of the board members is necessary. Bill recommended a possible replacement for his seat, and indicated he would provide the Department with the necessary contact information. Mark said he would mention the recommendation to the the Department's Director and Deputy Director.

Keith provided an update regarding the Declaratory Judgment. The suit was filed by the JUA on June 1, and answered by the Department of Insurance on July 1. Joint Stipulation of Facts were filed August 13, followed by a meeting with Judge Brown on August 16. Answers were due to the judge by September 30, and a tentative court date set for October 8. On August 23, Missouri Physicians Mutual filed a motion to intervene. On September 3 the JUA filed an objection to that motion. Additional briefs were due from MPM on September 13 with answer due from the JUA by September 30. At that point the record will be closed, and oral arguments and filing of briefs have now been pushed back. A new scheduling order will need to be issued.

Prior Board Meeting Minutes were discussed for the 5-19-04, 6-6-04 and 7-1-04 meetings. Don Ainsworth made motion to approve all of the minutes, seconded by Steve Divine, voted and approved. Mark will post to MDI website, and Sheryl will post to JUA website.

Andrew distributed a proposed informational brochure for review of the board members and the department.

Motion to adjourn was made by Patty, and seconded by Don. Voted and Approved. Meeting adjourned at 11:45 am.