

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE



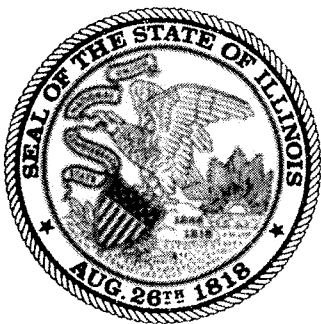
IN THE MATTER OF
THE EXAMINATION OF:

ILLINOIS STATE MEDICAL INSURANCE EXCHANGE
20 NORTH MICHIGAN, #700
CHICAGO, IL. 60602-4811

MARKET CONDUCT EXAMINATION WARRANT


I, the undersigned, Director of Insurance of the State of Illinois, pursuant to Sections 5/132, 5/401, 5/402, 5/403 and 5/425 of the Illinois Insurance Code (215 ILCS, 5/132, 5/401, 5/402 and 5/425) do hereby appoint Bernie Sullivan, Examiner-In-Charge, Caryn Carmean, Examiner, and associates as the proper persons to examine the insurance business and affairs of Illinois State Medical Insurance Exchange, NAIC # 32921, of Chicago, Illinois, and to make a full and true report to me of the examination made by them of Illinois State Medical Insurance Exchange with a full statement of the condition and operation of the business and affairs of Illinois State Medical Insurance Exchange with any other information as shall in my opinion be necessary to examine the condition and operation of its business and affairs and the manner in which it conducts its business. The costs of this examination shall be borne by the company.

The persons so appointed shall also have the power to administer oaths and to examine any person concerning the business, conduct, or affairs of Illinois State Medical Insurance Exchange.



IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed this Seal.

Done at the City of Springfield, this 24th day of August 2011.


Jack Messmore

Acting Director

This Market Conduct Examination was conducted pursuant to Sections 5/131.21, 5/132, 5/402 and 5/425 of the Illinois Insurance Code (215 ILCS 5/131.21, 5/132, 5/402 and 5/425). It was conducted in accordance with standard procedures of the Market Conduct Examination Section by duly qualified examiners of the Illinois Department of Insurance.

This report is divided into five parts. They are as follows: Summary, Background, Methodology, Findings and Technical Appendices. All files reviewed were reviewed on the basis of the files' contents at the time of the examination. Unless otherwise noted, all overcharges (underwriting) and/or underpayments (claims) were reimbursed during the course of the examination.

No company, corporation, or individual shall use this report or any statement, excerpt, portion, or section thereof for any advertising, marketing or solicitation purpose. Any company, corporation or individual action contrary to the above shall be deemed a violation of Section 149 of the Illinois Insurance Code (215 ILCS 5/149).

The Examiner-in-Charge was responsible for the conduct of this examination. The Examiner-in-Charge did approve of each criticism contained herein and has sworn to the accuracy of this report.

James J. Morris
Assistant Deputy Director
Market Conduct and Analysis Section

ISMIE MUTUAL INSURANCE COMPANY

MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: October 24, 2011, through November 10, 2011

EXAMINATION OF: ISMIE Mutual Insurance Company
(P & C Domestic) NAIC #32921

LOCATION: 20 N. Michigan, Suite 700
Chicago, IL 60602

PERIOD COVERED BY EXAMINATION: August 1, 2010 through July 31, 2011

EXAMINERS: Bernie Sullivan Jr. LUTCF
Examiner-in-Charge
Caryn Carmean

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I. SUMMARY

1. The Company was criticized under 215 ILCS 5/143.17a for failing to provide a 60 day advance notice of nonrenewal. A general trend criticism was issued in the nonrenewal risk selection portion of the survey.

II. BACKGROUND:

ISMIE Mutual Insurance (ISMIE)

ISMIE Mutual Insurance Company is an Illinois domestic mutual insurance company. Its predecessor, Illinois State Medical Inter-Insurance Exchange, was organized as a reciprocal exchange under the laws of the State of Illinois on March 18, 1976 under the sponsorship of the Illinois State Medical Society. It commenced operations on June 11, 1976. With the approval of the Illinois Department of Insurance, the reciprocal exchange converted to a mutual insurance company on January 1, 2002 and adopted the name ISMIE Mutual Insurance Company.

ISMIE is the largest provider of medical professional liability coverage in Illinois with more than 50% share of the direct professional liability premium written in the state. ISMIE has also been admitted to Indiana, Iowa, Michigan, Missouri and Wisconsin.

ISMIE's 2010 NAIC Annual Statement Page 19 (Illinois) reflects the following:

	Direct premium written	Direct premium earned	Direct losses paid	Direct losses incurred
11 Medical professional liability	\$305,498,239	\$310,310,787	\$137,829,770	\$129,009,625

III. METHODOLOGY:

The Market Conduct Examination places emphasis on an insurer's systems and procedures used in dealing with insureds and claimants. The Market Conduct Examination did not examine all systems and procedures used in dealing with insureds and claimants. The scope of this market conduct examination was limited to the following general areas.

1. Risk Selections
2. Underwriting
3. Claims

The review of these categories is accomplished through examination of individual underwriting and claim files, written interrogatories and interviews with Company personnel. Each of these categories is examined for compliance with selected Department of Insurance rules and regulations and applicable state laws.

The report concerns itself with improper practices performed with such frequency as to indicate general business practices. Individual criticisms are identified and communicated with the insurer, but not cited in the report if not indicative of a general trend, except to the extent that there were underpayments and/or overpayments.

The following method, based on the guidance in NAIC Market Regulation Handbook, Chapter 14, Sampling, was used to obtain the required samples and to assure a statistically sound selection. Surveys were developed from Company generated Excel spreadsheets. Random statistical printout reports were generated by the examiners and presented to the Company for retrieval.

Risk Selection

Non-renewals and cancellations of existing policy holders were requested on the basis of the effective date of the transaction falling within the period under examination. Non-renewals and cancellations were reviewed for their compliance with statutory requirements, the accuracy and validity of reasons given and for any possible discrimination.

Underwriting

The underwriting of new applicants for coverage with ISMIE were selected based on the inception date of the policy falling within the period under examination. New policies were reviewed for rating accuracy, use of filed rates, use of filed forms, compliance with company underwriting guidelines and to ensure that the coverage provided was as requested by the applicant.

Claims

Claims were requested based on the settlement occurring or the claim file being closed without payment within the period under examination.

All claims were reviewed for compliance with policy contracts and endorsements and applicable sections of the Illinois Insurance Code (215 ILCS 5/1 et seq.).

Selection of Samples

<u>Survey</u>	<u>Population</u>	<u># Reviewed</u>	<u>% Reviewed</u>
Risk Selection:			
Medical Liability Cancellations	30	30	100.00%
Medical Liability Non-renewals	14	14	100.00%
Underwriting:			
Medical Liability New Business	4525	60	1.32%
Claims:			
Medical Liability Paid & Median	232	50	21.55%
Medical Liability Closed without Payment	1115	50	4.48%

IV. FINDINGS:

A. Risk Selections:

1. Medical Liability Cancellations

The examiner requested a list of policies that had been cancelled by ISMIE for reasons other than non-payment of premium or at the request of the insured during the examination period. ISMIE advised the examiner that no policies had been cancelled by ISMIE for reasons other than non-payment of premium or at the request of the insured during the examination period. ISMIE advised the examiner that 30 policies had been cancelled for non-payment of premium and that 391 policies had been cancelled at the request of the insured. The examiner reviewed the 30 cancellations for non-payment of premium to determine compliance with the following provisions of the Illinois Insurance Codes:

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># of Violations Identified</u>
215 ILCS 5/143.16	cancellation notice sent 10 days in advance	30	0
215 ILCS 5/143.10a	Provide 3 previous policy years loss information within 30 days of request by insured	30	0

2. Medical Liability Non-renewals

Fourteen transactions where the Company did not renew an existing policyholder nonrenewal files were reviewed to determine compliance with the following provisions of the Illinois Insurance Codes:

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># of Violations Identified</u>
215 ILCS 5/141.01	agent termination not grounds for nonrenewal	14	0
215 ILCS 5/143.10	previous refusal not grounds for nonrenewal	14	0
215 ILCS 5/143.10a	previous 3 yrs loss information must be provided with the nonrenewal	14	1

215 ILCS 5/143.17a	must provide insured and producer 60 days advance notice of non-renewal	14	2
215 ILCS 5/143.17a	must maintain proof of mailing,	14	0
215 ILCS 5/143.17a	must be specific in explanation of reason	14	0

Two (2) non-renewals (14.28% of the 14 files reviewed) failed to provide a 60 day prior notice of nonrenewal as required by 215 ILCS 5/143.17a. A general trend criticism was issued.

	<u>Policy Number</u>	<u>Non-renewal Date</u>	<u>Mailed Date</u>	<u>Number of Days</u>
1	66562	10/02/10	09/16/10	16
2	64892	05/05/11	03/09/11	57

B. Underwriting:

1. Medical Liability New Business

To assess compliance with 215 ILCS 5/155.21, underwriting files were reviewed to determine if the company was refusing to offer insurance to applicants who had entered into or intended to enter into arbitration agreements pursuant to the Malpractice Arbitration Act. Policy forms were reviewed to determine if they had been filed with the Director for approval as required by 215 ILCS 5/143. Premiums were reviewed to assess compliance with 215 ILCS 5/155.18 and Insurance Department Company Bulletin 2011-05, "Illinois Medical Professional Liability Insurance Schedule Rating Plan Guidelines."

<u>Insurance Code</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.21	refusing to offer insurance to applicants who had entered into or intended to enter into arbitration agreements pursuant to the Malpractice Arbitration Act	no applicants were denied coverage during the examination period	0

215 ILCS 5/143	submission of forms and applications to the Director for approval	all forms reviewed had been approved by the Director	0
215 ILCS 5/155.18 and Insurance Department Company Bulletin 2011-05, "Illinois Medical Professional Liability Insurance Schedule Rating Plan Guidelines."	Only one (1) file exceeded the 25% maximum in Bulletin 2011-05. However, the Bulletin was issued on May 11, 2011 and indicated that "Starting in March 2012, the maximum permissible size of the total premium adjustments will be 25%." The only file examined which exceeded the 25% standard was written in January of 2011, i.e., prior to the issuance of the Bulletin. The company stated that it implemented the 25% maximum effective 4/1/11. All files reviewed which had been underwritten after 4/1/11 complied with the 25% maximum credit.	60	0

C. Claims

1. Medical Liability Paid & Median

Claims files were reviewed to determine if claims were being reported to the Department of Financial and Professional Regulation (“IL DFPR”) and the National Practitioners Data Bank as required by 215 ILCS 5/155.19 and 42 USC Section 11101 and 45 CFR Part 60 respectively. ISMIE’s records indicated that all claims had been reported as required. A list of claims which ISMIE’s records indicated had been reported to IL DFPR was provided to IL DFPR with a request that IL DFPR confirm that the claims had been reported. IL DFPR confirmed that it had received each of the claim reports.

Claim files were also reviewed to determine whether arbitration awards were being honored as required by 215 ILCS 5/155.20.

<u>Insurance Code Section</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.19	Report claims to the DFPR	50	Zero. Each file had documentation indicating that the claim had been reported to IL DPFR. IL DFPR confirmed that it received the claim reports.
42 USC Sec. 11101 45 CFR Part 60	Report claims to the National Practitioners Data Bank (NPDB)	50	Zero. Each file had documentation indicating that the claim had been reported to the NPDB.
215 ILCS 5/155.20	Provide coverage for and honor arbitration awards	50	Zero. Of the fifty files reviewed, 0 had been resolved by arbitration. The policy forms do not exclude coverage for arbitration awards.

2. Medical Liability Closed without Payment

All closed without payment claims files were reviewed for compliance with 215 ILCS 5/155.19 and 215 ILCS 5/155.20.

<u>Insurance Code Section</u>	<u>Overview</u>	<u># files reviewed</u>	<u># Violations Identified</u>
215 ILCS 5/155.19	Report claims to the DFPR	50	Zero. Each file had documentation indicating that the claim had been reported to IL DPFR.
215 ILCS 5/155.20	Provide coverage for and honor arbitration awards	50	Zero. No files involved claims which were resolved via arbitration.

D. Producer Terminations and Department Complaints

1. Producer Terminations

No producers were terminated by the Company during the examination period.

2. Department Complaints

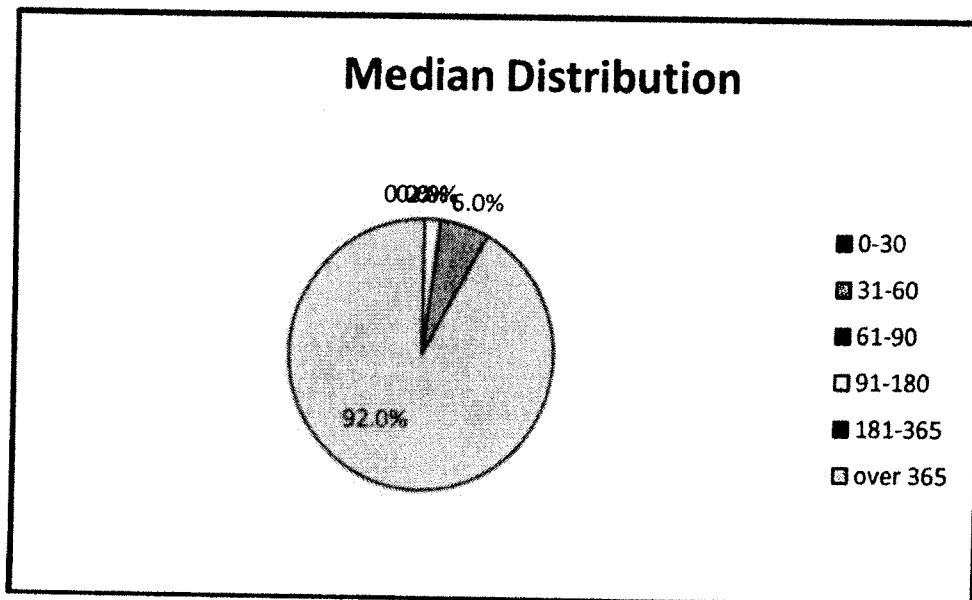
No Department Complaints were filed during the examination period

V. TECHNICAL APPENDICES:

MEDICAL LIABILITY PAID & MEDIAN

The median time period between the date the claim was opened and the date it was paid was 1278 days distributed as follows:

MEDIAN DISTRIBUTION		
No. Days Category	Number	Percent
0-30	0	0.00%
31-60	0	0.00%
61-90	0	0.00%
91-180	1	2.00%
181-365	3	6.00%
over 365	46	92.00%
Total	50	100.00%





Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

April 17, 2012

Harold L. Jensen MD
President
ISMIE Mutual Insurance Company
NAIC # 32921
20 North Michigan #700
Chicago, IL 60602-4811

*sent via USPS certified mail
return receipt requested*

Dear Mr. Jensen:

A Market Conduct Examination of your company was conducted by authorized examiners designated by the Director of Insurance pursuant to Illinois Insurance Code Sections 132, 401, 402, 403 and 425 of the Illinois Insurance Code. The examination covered the period 8-1-10 through 7-31-11.

As required by Illinois Insurance Code Section 132, please find attached a copy of the verified examination report. This Department is providing your company an opportunity to make a written submission or rebuttal with respect to any matters in the attached report. Please provide any such written submission or rebuttals to the undersigned by close of business, Friday, May 25, 2012.

Illinois Insurance Code Section 132 provides that the Director of Insurance must afford your company an opportunity to demand a hearing with reference to the facts and other evidence contained in this report. Section 132 further provides that your company may request a Hearing within ten (10) days after receipt of the above Report by giving the Director of Insurance written notice of such request together with a statement of your objections. The deadline to request a hearing is hereby extended until May 25, 2012.

Please contact me if you have any questions.

Yours Truly,

James J. Morris
Assistant Deputy Director
Market Conduct and Analysis
Illinois Department of Insurance
320 West Washington Street
Springfield IL 62767
312-833-5582 mobile
217-557-8463 fax
james.j.morris@illinois.gov

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF:

ISMIE Mutual Insurance Company, NAIC # 32921

STIPULATION AND CONSENT ORDER

WHEREAS, the Director (Director) of the Illinois Department of Insurance (Department) is a duly authorized and appointed official of the State of Illinois, having authority and responsibility for the enforcement of the insurance laws of this State; and

WHEREAS, ISMIE Mutual Insurance Company (ISMIE) is authorized under the insurance laws of the State of Illinois and by the Director as a domestic mutual insurance company, to engage in the business of soliciting, selling and issuing insurance policies; and

WHEREAS, a Market Conduct Examination of the Company was conducted by duly qualified examiners of the Department pursuant to Sections 132, 401, 402 and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/402 and 5/425); and

WHEREAS, the Department examiners have filed an examination report as an official document of the Department as a result of the Market Conduct Examination; and

WHEREAS, said report cited two instances in which ISMIE had not complied with Section 143.17 a of the Illinois Insurance Code (215 ILCS 5/1 et seq.); and

WHEREAS, nothing herein contained, nor any action taken by the in connection with this Stipulation and Consent Order, shall constitute, or be construed as, an admission of fault, liability or wrongdoing of any kind whatsoever by ISMIE; and

WHEREAS, ISMIE is aware of and understands its various rights in connection with the examination and report, including the right to counsel, notice, hearing and appeal under Sections 132, 401, 402, 407 and 407.2 of the Illinois Insurance Code and 50 Ill. Adm. Code 2402; and

WHEREAS, ISMIE understands and agrees that by entering into this Stipulation and Consent Order, they waive any and all rights to notice and hearing; and

WHEREAS, ISMIE and the Director, for the purpose of resolving all matters raised by the report and in order to avoid any further administrative action, hereby enter into this Stipulation and Consent Order.

NOW, THEREFORE, IT IS agreed by and between ISMIE and the Director as follows:

1. That the Market Conduct Examination indicated two areas in which ISMIE was not in compliance with provisions of the Illinois Insurance Code and/or Department Regulations; and
2. That the Director and ISMIE consent to this order requiring ISMIE to take action to come into compliance with 215 ILCS 5/143.17a.

THEREFORE, IT IS HEREBY ORDERED by the undersigned Director that ISMIE shall:

1. Institute and maintain procedures (a) to provide to the named insured sixty days advance written notice of its intention to nonrenew the policy and (b) maintain proof of mailing as required by 215 ILCS 5/143.17a.
2. Submit to the Director of Insurance, proof of compliance with the above Order within 30 days of the execution of these Orders.
3. Pay to the Director of Insurance, State of Illinois, a civil forfeiture in the amount of four thousand dollars (\$4,000) to be paid within thirty (30) days of receipt of these Orders.

NOTHING contained herein shall prohibit the Director from taking any and all appropriate regulatory action as set forth in the Illinois Insurance Code, including but not limited to levying additional forfeitures, should the Company violate any of the provisions of this Stipulation and Consent order or any provisions of the Illinois Insurance Code or Department Regulations.

On behalf of:

ISMIE Mutual Insurance Company

Signature:

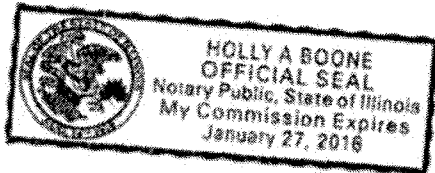
Name: JEFFREY M. HOLDEN

Title: CHIEF OPERATING OFFICER

Subscribed and sworn to before me this

28th day of June 2012.

Holly A. Boone
Notary Public



DEPARTMENT OF INSURANCE of the
State of Illinois;

DATE

July 13, 2012

Andrew Boron

Andrew Boron
Director



Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

July 17, 2012

Harold L. Jensen MD
President
ISMIE Mutual Insurance Company
NAIC #32921
20 North Michigan Avenue
Suite #700
Chicago, IL 60602-4811

Re: ***ISMIE Mutual Insurance Company
Market Conduct Examination Report***

Dear Mr. Jensen,

This is in response to a June 15, 2012 e-mail from Allan Allphin on this subject.

Under separate correspondence were two copies of a Stipulation and Consent Order resulting from the captioned Report. Both copies of the Stipulation and Consent Order had been signed by an officer of your company. The Director of Insurance has signed both copies one of which is attached for your records.

Also attached to the signed Stipulation and Consent Order was a \$4,000 check in payment of the civil forfeiture set forth in Order # 3. The June 15, 2012 e-mail from Mr. Allphin described the company's proof of compliance with Order # 1 and Order # 2 in the Stipulation and Consent Order. Please provide me with a copy of the procedure implemented to comply with 215 ILCS 5/143.17a as proof of compliance of these Orders. Please provide the requested information by August 24, 2012.

Yours Truly,

James J. Morris
Assistant Deputy Director
Market Conduct and Analysis
Illinois Department of Insurance
320 West Washington Street
Springfield IL 62767
312-833-5582 mobile
217-557-8494 fax
james.j.morris@illinois.gov

July 26, 2012

James J. Morris
Assistant Deputy Director
Market Conduct and Analysis
Illinois Department of Insurance
320 West Washington Street
Springfield, Illinois 62767

Dear Mr. Morris:

This is in response to your letter of July 17, 2012.

I have attached a copy of ISMIE Mutual's 'Non-renewal Procedure', implemented to comply with 215 ILCS 5/143.17a, and as evidence of compliance with the Illinois Department's Stipulation and Consent Order dated, July 13, 2012.

Sincerely,



Alan J. Allphin
Vice President, Underwriting

DIVISION: UNDERWRITING	Volume 1	EDITION DATE 7/12	PAGE: 1 of 1
SECTION NAME: Processing Changes			
PREPARED BY: Alan J. Allphin		APPROVED BY: Alan J. Allphin	

Non-renewal Procedure:

- Underwriter identifies the policy which is to be non-renewed.
- The recommendation of the underwriter, which must include the reason for non-renewal action, is forwarded to the Underwriting Director/Assistant Vice President for sign off.
- After review and approval by Underwriting Director/Assistant Vice President, the policy to be non-renewed is forwarded to the designated Underwriting Technician for processing. Backup for the Underwriting Technician is the Assistant Vice President, Support.
- Non-renewal must be issued with at least sixty days advance notice of the effective date of non-renewal. Note that the computer system is programmed to prevent the issuance of a 'Notice of Non-Renewal (L-2500)' with an effective date less than sixty days from the date of processing.
- Underwriting Technician prints the 'Notice of Non-Renewal (L-2500)', named insured's loss history and 'Certificate of Mailing' sheet. Concurrently, all documents are printed to the Image Right/Underwriting file.
- Underwriting Technician forwards all documents to the 6th floor file room for further processing.
- File room prepares received documents for mailing and walks documents to U.S. Post Office.
- U.S. Post Office stamps a copy of 'Certificate of Mailing' sheet.
- File room retains stamped copy of 'Certificate of Mailing sheet in binder in the File Room.



Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

November 28, 2012

Alan J. Allphin
Vice President, Underwriting
ISMIE Mutual Insurance Company
NAIC #32921
20 North Michigan #700
Chicago, IL 60602-4811

Re: ***ISMIE Mutual Insurance Company
Market Conduct Examination Report***

Dear Mr. Allphin,

Your letter of July 26, 2012 has been reviewed. It provides satisfactory proof of compliance with the attached Stipulation and Consent Order. Accordingly, this Department will be closing its file on this examination.

Please be advised that I intend to ask that the Director make the Market Conduct Examination Report a public document as authorized by 215 ILCS 5/132.

Yours Truly,

James J. Morris
Assistant Deputy Director
Market Conduct and Analysis
Illinois Department of Insurance
320 West Washington Street
Springfield IL 62767
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james.j.morris@illinois.gov