

## Report for Special Master’s Status Conference

January 24, 2023

### R-561 Capson Physicians Insurance Company

Special Deputy Receiver (“SDR”): CANTILO & BENNETT, L.L.P.  
Primary Responsible Person: Joseph N. West  
Estate Counsel: Greg Pierce and Christopher Fuller  
Receiver’s Counsel: David Ashton and Brian Riewe  
RLO Analyst: Lori Talley

#### Background on Receivership

- Date of Permanent Injunction (Rehabilitation/Liquidation): February 11, 2019/June 28, 2019
- Date of SDR Rehabilitation Appointment: February 11, 2019
- Date of Conversion to Liquidation: June 28, 2019
- Claims Filing Deadline: December 28, 2020
- States Where Licensed: TX, AL, AK, AZ, AR, D.C., ID, IL, IN, KY, LA, MD, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, WA, WV, WI
- Lines of Business: Medical Malpractice
- Texas Property and Casualty Insurance Guaranty Association Triggered: June 28, 2019
- Initial Early Access Distribution: \$6,689,544.21 Issued July 2, 2021

#### Statement of Assets and Liabilities as of December 31, 2022

Total Assets:	\$10,821,247
Cash & Invested Assets:	\$ 3,853,814
Non-Cash Assets:	\$ 6,967,433
Total Liabilities:	\$52,924,509
Negative Equity:	(\$42,103,262)

#### Status and Activity Since Last Status Conference

##### General Matters

**Operations During Coronavirus Pandemic:** The SDR continues to conduct receivership operations utilizing video conferencing for all meetings of the receivership staff, as well as most other meetings required for administration of the receivership estate.

**Federal Waiver:** Efforts remain underway to secure a federal waiver for the CPIC estate. The SDR continues working to determine if all matters involving a potential Medicare or Medicaid reimbursement obligation have been properly reported to the Centers for

Medicare & Medicaid Services. Following the completion of our investigation, we will file the request for federal waiver with the U.S. Department of Justice.

## Claims Activity

**Proof of Claim (“POC”) Process:** As of December 31, 2022, claimants have filed approximately 495 POCs (excluding any companion POC’s arising from the same medical incident) with the CPIC receivership estate. As of December 31, 2022, claim determinations have been issued on three-hundred seventy (370) POC’s.

**Claim Litigation:** There were no new lawsuits filed against CPIC and/or the SDR during the last quarter.

**Guaranty Association Reporting:** As of December 31, 2022, the Guaranty Associations have submitted the loss reports summarized below.

State	Report Date	Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Paid Unearned Premium
AK	11/30/22	\$475,000.00	\$338,603.86	\$0.00	\$0.00	\$11,218.65
AL	12/31/22	\$140,000.00	\$196,488.36	\$55,000.00	\$15,589.32	\$21,588.00
AR	12/31/22	\$12,000.00	\$524,091.21	\$475,001.00	\$36,416.08	\$12,379.12
AZ	12/31/22	\$714,800.00	\$446,609.18	\$0.00	\$0.00	\$44,970.40
DC	05/31/21	\$0.00	\$0.00	\$0.00	\$0.00	\$8,203.50
IA	12/31/19	\$0.00	\$0.00	\$0.00	\$0.00	\$180.00
IL	11/30/22	\$182,061.65	\$166,146.46	\$0.00	\$0.00	\$24,792.00
IN	12/31/22	\$362,001.00	\$125,924.35	\$3,000.00	\$11,313.37	\$272.11
KY	12/31/22	\$600,000.00	\$439,325.55	\$145,002.00	\$212,852.50	\$28,672.60
LA	12/31/22	\$339,900.00	\$452,209.16	\$344,900.00	\$220,019.29	\$19,181.07
MD	08/31/21	\$0.00	\$0.00	\$0.00	\$0.00	\$23,030.65
MO	11/30/22	\$988,380.49	\$290,544.81	\$0.00	\$45,837.50	\$123,766.15
MS	10/31/22	\$0.00	\$10,434.81	\$0.00	\$0.00	\$18,536.09
NM	12/31/22	\$1,537,500.00	\$802,276.17	\$125,000.00	\$49,551.15	\$44,081.95
NV	12/31/22	\$810,000.00	\$167,959.56	\$0.00	\$25,000.00	\$11,751.60
OK	11/30/22	\$910,601.00	\$503,391.72	\$101,899.00	\$38,609.84	\$34,623.77
OR	12/31/22	\$30,000.00	\$50,523.26	\$0.00	\$0.00	\$11,303.55
TN	11/30/22	\$170,000.00	\$178,118.56	\$116,400.00	\$155,887.97	\$0.00
TX	11/30/22	\$2,339,849.86	\$2,456,848.27	\$2,307,511.00	\$842,823.15	\$486,135.02
WA	12/31/22	\$40,000.00	\$50,971.61	\$20,000.00	\$129,028.39	\$7,758.00
WV	12/31/22	\$825,000.00	\$939,517.24	\$500,001.00	\$233,880.94	\$109,368.15
<b>Total</b>	<b>12/31/22</b>	<b>\$10,477,094.00</b>	<b>\$8,139,984.14</b>	<b>\$4,193,714.00</b>	<b>\$2,016,809.50</b>	<b>\$1,041,812.38</b>

## Asset Recovery Activity

**Recovery of Unpaid Premium and Agent Balances:** As of December 31, 2022, the SDR has collected unpaid premium totaling approximately \$15,874 out of the \$47,039.49 sought for recovery. Agent balances collected as of December 31, 2022, totaled approximately \$16,398 out of the \$18,751.80 sought for recovery.

**Statutory Deposits:** CPIC has statutory deposits in New Mexico (\$330,000) and Oregon (\$425,000). The New Mexico and Oregon statutory deposits are being held in ancillary receiverships for the protection of policyholders within these states. With respect to the Oregon statutory deposit, the SDR believes that all claims at the Oregon Insurance Guaranty Association are closed and is currently working with the Oregon ancillary receiver on a special deposit release agreement to facilitate refund of any unused portions of the statutory deposit.

**Reinsurance:** The SDR continues to report to reinsurers as required under CPIC's reinsurance agreements. Reinsurance recoveries from inception through December 31, 2022, total \$1,365,607. The SDR has completed its assessment of the commutation value of all reinsurance treaties and has begun discussions with CPIC's reinsurance intermediary, AON, regarding its planned commutation process with reinsurers. The SDR anticipates that it will begin the actual commutation process with reinsurers within the next few weeks.

## General Legal Activities

**Litigation:** No first party lawsuits involving CPIC exist at this time.

**Regulatory Action:** CPIC's license has been suspended or revoked in Alabama, Alaska, Arkansas, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maryland, Missouri, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Washington, and West Virginia.

## Summary of Major Achievements

- Continued issuance of claim determinations for POCs filed with the receivership estate.
- Achieved substantial progress on the SDR's request for federal waiver including confirmation of the satisfaction of many Medicare and Medicaid reimbursement obligations provided for in settlements funded by CPIC.
- Completed assessment of the commutation value of all XOL and quota share reinsurance treaties and began discussions with reinsurance intermediary, AON, regarding the commutation process.
- Initiated discussions with the Oregon ancillary receiver regarding a special deposit release agreement.

### **Estate Goals to Achieve Prior to Next Status Conference**

- Achieve further progress on commutation discussions with reinsurers.
- Continue issuance of claim determinations for POCs filed with the receivership estate.
- File request for federal waiver with the U.S. Department of Justice.
- Complete Special Deposit Release Agreement with the Oregon ancillary receiver.

**Estate Closing Date of Receivership:** September 30, 2023

**Identification of Factors Affecting Closing Date and Final Distribution:** Completion of asset recovery actions including collection of amounts due under reinsurance agreements. Securing federal waiver for the CPIC receivership estate.