

**[IN ACCORDANCE WITH CALIFORNIA INSURANCE CODE (CIC) SECTION 12938,  
THIS REPORT WILL BE MADE PUBLIC AND PUBLISHED ON THE  
CALIFORNIA DEPARTMENT OF INSURANCE (CDI) WEBSITE]**

**WEBSITE PUBLISHED REPORT OF THE  
MARKET CONDUCT EXAMINATION OF THE  
CLAIMS HANDLING, RATING, AND UNDERWRITING PRACTICES OF**

**NCMIC Group, Inc.  
(NAIC Group #2638)**

**Professional Solutions Insurance Company, NAIC #11127  
and  
NCMIC Insurance Company, NAIC #15865**

**AS OF DECEMBER 31, 2014**

**ADOPTED OCTOBER 22, 2015**

**STATE OF CALIFORNIA**



**CALIFORNIA DEPARTMENT OF INSURANCE  
MARKET CONDUCT DIVISION**

## NOTICE

**The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code (CIC) describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every adopted report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.**

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**DEPARTMENT OF INSURANCE**

Market Conduct Division  
300 Capitol Mall  
Sacramento, CA 95814



October 22, 2015

The Honorable Dave Jones  
Insurance Commissioner  
State of California  
300 Capitol Mall  
Sacramento, California 95814

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under the California Insurance Code Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04; and California Code of Regulations Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a), a limited examination was made of the claims handling, rating, and underwriting practices and procedures of the NCMIC Group, Inc. (NAIC Group #2638), comprised in California of:

**Professional Solutions Insurance Company  
NAIC #11127, CDI #5159-9**

**and**

**NCMIC Insurance Company  
NAIC #15865, CDI #2090-9**

Hereinafter, the Companies listed above also will be referred to individually as PSIC, NCMIC or collectively as the Companies.

This report is made available for public inspection and is published on the California Department of Insurance website ([www.insurance.ca.gov](http://www.insurance.ca.gov)) pursuant to California Insurance Code section 12938(b)(1).

## FOREWORD

This limited desk examination covered the claims handling, rating, and underwriting practices of the aforementioned Companies' professional liability and medical malpractice lines of business during the period January 1, 2014 through December 31, 2014. The limited examination was made to discover, in general, if these and other operating procedures of the Companies conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law.

This report pertains to Section 790.03 and Title 10, California Code of Regulations, Section 2695.1 et seq. A separate report pertains to laws other than Section 790.03 and Title 10, California Code of Regulations, Section 2695.1 et seq.

The report does not present a comprehensive overview of the subject insurer's practices. The report contains a summary of pertinent information about the lines of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer's proposals for correcting the deficiencies. When identified violations result in payments by the Companies to policyholders or claimants, those amounts paid are identified as recoveries in this report. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices and the Companies' responses, if any, have not undergone a formal administrative or judicial process.

## **SCOPE OF THE EXAMINATION**

To accomplish the foregoing, the examination included:

1. A review of specified guidelines, procedures, and forms adopted by the Companies for use in California.

2. A review of the California Department of Insurance's (CDI) market analysis results; a review of consumer complaints and inquiries about the Companies closed by the CDI during the period January 1, 2014 through December 31, 2014; and a review of reports on the previous CDI market conduct examination of the Companies; and a review of prior CDI enforcement actions.

This limited examination was conducted at the offices of the California Department of Insurance in Sacramento, California.

## **EXECUTIVE SUMMARY**

This desk examination was limited in scope to market analysis information, including California consumer complaint information, to national enforcement activity and to information provided by the Companies in response to the Department's data request. There was no review of underwriting or claims files during this examination.

The primary findings resulting in alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 269.15 et seq. that were identified in the course of the examination include failure to comply with the California Fair claims Settlement Practices Regulation as it pertains to the certification of training claims adjusters and the failure to include reference to the California Department of Insurance on its claim denial letters. Details of the findings are provided in the Summary of Examination Results section of this report.

Professional Solutions Insurance Company reported \$6,226,748 in written premiums on profession liability insurance coverage in California during 2014. PSIC closed 20 professional liability claims during 2014.

NCMIC Insurance Company reported \$7,254,719 in written premiums on medical on medical malpractice insurance coverage in California during 2014. NCMIC closed 28 medical malpractice claims during 2014.

## **RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES, PREVIOUS EXAMINATIONS, AND PRIOR ENFORCEMENT ACTIONS**

The market analysis did not identify any specific issues of concern within the scope of this report.

There were no specific areas of concern identified in the complaints.

No prior market conduct examinations have been conducted upon PSIC by the Department; however, NCMIC's previous examination was completed by the Field Rating and Underwriting Bureau and reviewed the period from October 1, 2007 through December 31, 2007. There was no specific area of concern identified during the previous examination.

## DETAILS OF THE CURRENT EXAMINATION

The following tables summarize the Companies’ responses, within the scope of this report, to the Department’s data request and the alleged violations under Section 790.03 and title 10, California Code of Regulations, Section 2695.1 et seq. that resulted from the review of that data. All “NO” answers in the Areas of Review table are addressed in the Summary of Examination Results section of this report. A summary of each of the laws cited due to a “NO” answer is provided in the Cited Statutes and Regulations table.

<b>AREAS OF REVIEW</b>			
<b>SPECIFIC ISSUE REVIEWED</b>	<b>INDICATION OF COMPLIANCE (YES/NO)</b>		<b>SUMMARY OF RESULTS ITEM NUMBER</b>
	<b>PSIC</b>	<b>NIC</b>	
Compliance with the California Fair claims Settlement Practices Regulations--- Certification signed by principal of Company under penalty of perjury. CCR §§2695.6, 2695.6(b)(1)(2)(3) [CIC 790.03(h)(3)]	NO	NO	1
Compliance with the California Fair claims Settlement Practices Regulations --- Written standards for prompt investigation and process of claims provided to all agents/examiners. CCR §2695.6(a) [CIC §790.03(h)(3)]	YES	YES	--
Compliance with the California SIU Regulations--- CIC §1875.20 and CCR §§ 2698.30 through 2698.43 [CIC §790.03(h)(3)]	YES	YES	--
Compliance of letters and forms by identifying underlying insurer— CIC §880 [CIC §790.03(h)(3)]	YES	YES	--

Compliance of letters and forms by inclusion of proper fraud language— CIC §1879.2(a), CCR §2695.7(b)3 [CIC §790.03(h)(3)]	YES	YES	--
Compliance of Quality controls & procedures identified --- CCR §§2695.4, 2695.5 and 2695.7 [CIC §790.03(h)]	YES	YES	--
Disclosure of benefits— CCR §2695.4(a) [CIC §790.03(h)(1)]	YES	YES	--
Timely response to communications— CCR §2695.5(b) [CIC §790.03(h)(2)]	YES	YES	--
Timely acknowledgement of receipt of claim— CCR §2695.5(e) [CIC §790.03(h)(2)]	YES	YES	--
Acceptance as notice of claim an attorney letter sent to the medical professional— CIC §790.03(h)(2)	YES	YES	--
Timely assistance to claimant to perfect claim— CCR §2695.5(e)(2) [CIC §790.03(h)(3)]	YES	YES	--
Timely commencement of investigative activities— CCR §2695.5(e)(3) [CIC §790.03(h)(3)]	YES	YES	--
Denials are written— CCR §2695.7(b)(1) [CIC §790.03(h)(13)]	YES	YES	--
Denial letter to include reference to Dept. of Insurance, including address, telephone number and name of unit reviewing claims practices. CCR §2695.7(b)(3) [CIC § 790.03(h)(3)]	NO	NO	2
Timely acceptance or denial of claims— CCR §2695.7(b) [CIC §790.03(h)(4)]	YES	*N/A	--
Written notice sent every 30 days for extended time to evaluate a claim after initial 40 day review period. CCR §2695.7(c)(1) [CIC §790.03(h)(3)]	YES	*N/A	--
Timely payment of accepted claims— CCR §2695.7(h) [CIC §790.03(h)(5)]	YES	YES	--
Advise unrepresented claimants of any statute of limitation or other time period requirements— CCR §2695.7(f) [CIC §790.03(h)(15)]	YES	YES	--
Compliance of written notification regarding applicable statute of limitations for unrepresented claimants to whom partial payments are made— CIC §11583 [CIC §790.03(h)(3)]	*N/A	*N/A	--

\*N/A – Not applicable; the Company indicates that this law is not relevant to its particular claims handling, rating or underwriting practice.

<b>CITED STATUTES AND REGULATIONS</b>	
<b>Citation</b>	<b>Description</b>
CCR § 2695.6(b)(1)(2)(3) *[CIC §790.03(h)(3)]	Compliance with the California Fair claims Settlement Practices Regulations--- Certification signed by principal of Company under penalty of perjury.
CCR § 2695.7(b)(3) *[CIC §790.03(h)(3)]	Denial letter to include reference to Dept. of Insurance, including address, telephone number and name of unit reviewing claims practices.

**\*DESCRIPTONS OF APPLICABLE  
UNFAIR CLAIMS SETTLEMENT PRACTICES**

CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.
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## SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the practices, within the scope of this report, that were alleged to be non-compliant during the course of this limited examination. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695.1 et seq.

In response to each of the Department's allegations of non-compliance, the Companies were required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Companies are obligated to ensure that compliance is achieved and maintained.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Companies were asked if they intend to take appropriate corrective action in all jurisdictions where applicable. The Companies indicate that these practices are not applicable in other jurisdictions.

Within the scope of this report, there were no claims recoveries or return premium as a result of the issues described in this report.

### **Professional Liability and Medical Malpractice**

1. PSIC and NIC reported that they could not provide copies of the certifications of adjuster training for the time period pertinent to the Examination Review Period, and did not provide the dates upon which training was administered. The Department alleges this does not comply with CCR §2695.6(b)(1)(2)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of Company Response:** PSIC and NCMIC state that as of April 6, 2015, all required certifications are on file to meet the requirements of the California regulation.

2. PSIC and NIC reported that their denial letters fail to include a reference to the California Department of Insurance, including address, telephone number and name of the unit reviewing claims practices. The Department alleges this does not comply with CCR §2695.7(b)(3) and is an unfair practice under CIC §790.03(h)(3).

**Summary of Company Response:** PSIC and NCMIC state that as of April 6, 2015, the California denial letters have been amended to include reference to the California Department of Insurance, including address, telephone number and name of unit reviewing claims practices.