



**REPORT ON EXAMINATION
OF
ACADEMIC HEALTH PROFESSIONALS INSURANCE
ASSOCIATION - A RECIPROCAL INSURER**

AS OF DECEMBER 31, 2022

**EXAMINER:
DATE OF REPORT:**

**SUSAN WEIJOLA
APRIL 8, 2024**

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

April 8, 2024

Honorable Adrienne A. Harris
Superintendent
New York State Department of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 32554 dated June 27, 2023, attached hereto, I have made an examination into the condition and affairs of Academic Health Professionals Insurance Association - A Reciprocal Insurer as of December 31, 2022, and submit the following report thereon.

Wherever the designation "the Reciprocal" appears herein without qualification, it should be understood to indicate Academic Health Professionals Insurance Association - A Reciprocal Insurer.

Wherever the term "Department" appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

1. SCOPE OF EXAMINATION

The Department has performed an examination of the Reciprocal, a single-state insurer. The previous examination was conducted as of December 31, 2017. This examination covered the five-year period from January 1, 2018 through December 31, 2022. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook, which requires that we plan and perform the examination to evaluate the financial condition and identify current and prospective risks of the Reciprocal by obtaining information about the Reciprocal including corporate governance, identifying and assessing inherent risks within the Reciprocal and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with New York laws, statutory accounting principles, and annual statement instructions.

This examination report includes, but is not limited to, the following:

- Company history
- Management and control
- Territory and plan of operation
- Reinsurance
- Holding company description
- Financial statement presentation
- Loss review and analysis
- Significant subsequent events
- Summary of recommendations

This report on examination is confined to financial statements and comments on those matters that involve departures from laws, regulations, or rules, or that are deemed to require explanation or description.

2. DESCRIPTION OF RECIPROCAL

The Reciprocal was incorporated on November 27, 1990, as the Academic Health Professionals Insurance Association, pursuant to the provisions of Section 6102(b) of the New York Insurance Law, as a reciprocal insurer as defined in Section 107(a)(37) of the New York Insurance Law. It commenced business

on January 1, 1991. In September 2000, the Reciprocal changed its name to Academic Health Professionals Insurance Association - A Reciprocal Insurer.

The business and affairs of the Reciprocal are managed by its attorney-in-fact, AHPIA Solutions, Inc., (“Solutions”). The Reciprocal entered into an Amended and Restated Management Agreement with Solutions, which was executed by the parties on May 16, 2012. The agreement was non-disapproved by the Department on April 16, 2012. Pursuant to the agreement, Solutions shall have the responsibility for the general management and operational functions of the Reciprocal’s operations, subject to the Reciprocal’s Articles of Association, applicable laws, including Article 61 of the New York Insurance law, and the authority of the Board. The agreement is automatically renewed on January 1 of each year through 2026.

The Reciprocal and Solutions are also party to an amended and restated tax allocation agreement, effective December 13, 2017. This agreement was submitted to the Department pursuant to the provisions of Department Circular Letter No. 33 (1979).

A. Corporate Governance

Pursuant to the Reciprocal’s Articles of Association, management of the Reciprocal is vested in an advisory committee, referred to as the board of governors. The Articles of Association provide that the board of governors shall have the ultimate power and responsibility for the management and control of the affairs of the Reciprocal. The board of governors meets four times during each calendar year. At December 31, 2022, the board of governors was comprised of the following 10 members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Audree A. Bendo, M.D. Brooklyn, New York	Distinguished Service Professor, Department of Anesthesiology, SUNY at Downstate Health Sciences University
Lawrence DiGiulio, Esq. Buffalo, New York	Counsel and Chief Compliance Officer, UBMD/UB Associates, Inc.
Lisa Dresner, M.D. Brooklyn, New York	Associate Professor of Surgery and Program Director, Chief of Breast Surgery, SUNY at Downstate Health Sciences University

Name and ResidencePrincipal Business Affiliation

Kevin J. Gibbons, M.D.
Buffalo, New York

Senior Associate Dean for Clinical Affairs,
Jacobs School of Medicine and Biomedical
Sciences,
University at Buffalo
Executive Director,
UBMD Physicians Group
Medical Director,
Operational Performance and Physician Director
of Surgical Services,
Buffalo General Medical Center and Gates
Vascular Institute
Chief of Neurosurgery,
Kaleida Health – Buffalo General Medical Center

Andrea T. Manyon, M.D.
Buffalo, New York

Clinical Professor, Chair, President and
Chief Executive Officer,
Family Medicine,
Jacobs School of Medicine and Biomedical
Sciences,
University at Buffalo

Robert McCormack, M.D.¹
Buffalo, New York

Professor and Chairman,
Emergency Medicine,
Jacobs School of Medicine and Biomedical
Sciences,
University at Buffalo
President,
UBMD Emergency Medicine

Brian McGrath, M.D.
Buffalo, New York

Chief Executive Office and Chief Medical Officer,
Allied Joint Reconstruction Management, LLC
Professor of Orthopaedics,
UBMD Orthopaedics & Sports Medicine

John Nosovitch, M.D.¹
Syracuse, New York

Associate Professor of Obstetrics and Gynecology,
SUNY Upstate Medical University

Steven Schwaizberg, M.D.
Buffalo, New York

Professor and Chair,
Department of Surgery,
University at Buffalo
Professor of Biomedical Informatics
Jacobs School of Medicine and Biomedical
Sciences,
University at Buffalo

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
David Wlody, M.D. Brooklyn, New York	Professor of Clinical Anesthesiology and Chairman, Department of Anesthesiology, SUNY Downstate College of Medicine

¹ Messrs. McCormack and Nosovitch were elected in 2020 but not included in the jurat page until June 2023.

As of December 31, 2022, the principal officers of the Reciprocal were as follows:

<u>Name</u>	<u>Title</u>
Andrea T. Manyon, M.D.	Chairman
Mark Lastner	President and Chief Executive Officer
Kevin J. Gibbons, M.D.	Vice Chairman and Secretary
Robert McCormack, M.D.	Treasurer
Beata Biernacka	Assistant Vice President and Chief Underwriter

B. Territory and Plan of Operation

As of December 31, 2022, the Reciprocal was licensed to write business solely in New York.

As of the examination date, the Reciprocal was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Line of Business</u>
13	Personal injury liability
14	Property damage liability

Based upon the lines of business for which the Reciprocal is licensed, and pursuant to the requirements of Articles 13 and 61 of the New York Insurance Law, the Reciprocal is required to maintain a minimum surplus to policyholders in the amount of \$700,000.

The Reciprocal issues medical malpractice insurance policies (primarily on an occurrence basis) pursuant to the terms of a subscriber's agreement. These subscribers include, but are not limited to, individual physicians, allied health professionals and dentists who are members of the faculty at medical teaching institutions such as State University of New York ("SUNY") medical schools, New York Medical College and Westchester Medical Center. In 2020, the board of governors approved writing private practitioners up to 10% of the annual premium. The Reciprocal cooperates with two brokers who submit

private practitioners' applications for coverage review and issuance. The remaining business is written directly.

The following schedule shows the direct premiums written by the Reciprocal for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>
2018	\$75,939,673
2019	\$19,268,327
2020	\$15,904,260
2021	\$16,097,511
2022	\$15,318,166

The decline in premiums written during the examination period is primarily due to the loss of some of the Reciprocal's largest subscribers, such as Stony Brook Hospital and Winthrop University Hospital, to their institutional captives.

As a New York medical malpractice carrier, the Reciprocal is required to participate in the Medical Malpractice Insurance Pool ("MMIP"), a state created insurance pool designed to provide insurance to entities, physicians and medical professionals unable to obtain medical malpractice insurance through the voluntary market. The MMIP also writes excess medical malpractice insurance for physicians in New York. For the 2022 year, the Reciprocal held a 1.90% participation in MMIP based on its proportion of writings in the state.

C. Reinsurance Ceded

The Reciprocal has structured its ceded reinsurance program as follows:

Type of Treaty

Cession

Medical Professional Liability Excess of Loss

\$1,800,000 excess of \$500,000 ultimate net loss as respects each loss, any one insured. The reinsurer shall also be liable for an additional \$1,800,000 for loss in excess of policy limits and/or extra contractual obligations as respects each loss, any one insured.

The liability of the reinsurer shall not exceed \$3,000,000 for loss in excess of policy limits and/or extra contractual obligations as respects all losses, all insureds during the term of this contract.

The reinsurer's liability for ultimate net loss and loss adjustment expense under all policies written or renewed during the term of this contract shall not exceed 250% of the premium ceded hereunder for the term of this contract. Such percentage shall include a maximum of \$1,000,000 for loss adjustment expense for the term of this contract.

A majority of the business was ceded to authorized, unaffiliated reinsurers.

It is the Reciprocal's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. The letter of credit obtained by the Reciprocal to take credit for cessions to unauthorized reinsurers was reviewed for compliance with Department Regulation 133. No exceptions were noted.

All significant ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

Examination review found that the Schedule F data reported by the Reciprocal in its filed annual statement accurately reflected its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in the NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles ("SSAP") No. 62R. Representations were supported by appropriate risk transfer analyses and an attestation from the Reciprocal's Chief Executive Officer and Chief Financial Officer pursuant to the NAIC annual statement instructions. Additionally, examination review indicated that the Reciprocal was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in SSAP No. 62R.

Loss Portfolio Transfer Agreement

Effective January 1, 2015, the Reciprocal entered into a ceded loss portfolio transfer agreement with an authorized non-affiliated reinsurer, whereby the reinsurer agreed to assume 100% of the Reciprocal's loss and allocated loss adjustment expense reserves outstanding as of January 30, 2015, relating to certain insurance policies covering medical malpractice risks to healthcare providers in the state of Kentucky for which the Reciprocal paid a final consideration of \$4,460,000. The agreement provides that the reinsurer will assume any losses over the \$4,460,000 paid by the Reciprocal. Any profit the reinsurer recognizes on this transaction will be shared with the Reciprocal. The retroactive reinsurance recoverable, included in the

liabilities section of the December 31, 2022, balance sheet of \$(2,062,507) represents the case and loss adjustment expense reserves outstanding on the one claim still covered by this agreement.

D. Significant Ratios

The Reciprocal's operating ratios, computed as of December 31, 2022, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the NAIC.

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to policyholders' surplus	29%
Adjusted liabilities to liquid assets	99%
Two-year overall operating	71%

Underwriting Ratios

The underwriting ratios presented below are on an earned/incurred basis and encompass the five-year period covered by this examination:

	<u>Amount</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$ 11,769,406	8.28%
Other underwriting expenses incurred	31,227,461	21.97%
Net underwriting gain (loss)	<u>99,116,050</u>	<u>69.75%</u>
Premiums earned	<u>\$142,112,917</u>	<u>100.00%</u>

Pursuant to Section 1324(b)(2)(B)(i) and Section 1325 of the New York Insurance Law, because the Reciprocal's total direct premiums comprise at least 90% of medical malpractice liability insurance, the Reciprocal is exempt from risk-based capital requirements.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2022, as reported by the Reciprocal:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$192,895,288	\$ 0	\$192,895,288
Preferred stocks	3,069,576	0	3,069,576
Common stocks	28,245,433	0	28,245,433
Cash, cash equivalents and short-term Investments	15,558,913	0	15,558,913
Other invested assets	10,121,670	0	10,121,670
Investment income due and accrued	1,519,754	0	1,519,754
Uncollected premiums and agents' balances in the course of collection	1,597,396	929,935	667,461
Deferred premiums, agents' balances and installments booked but deferred and not yet due	16,589,337	2,795,105	13,794,232
Amounts recoverable from reinsurers	957,667	0	957,667
Funds held by or deposited with reinsured Companies	110,001	0	110,001
Other amounts receivable under reinsurance Contracts	4,623	0	4,623
Current federal and foreign income tax recoverable and interest thereon	4,180,191	0	4,180,191
Net deferred tax asset	456,859	22,282	434,577
Receivables from parent, subsidiaries and Affiliates	1,094,515	0	1,094,515
Receivable for Medical Malpractice Insurance Pool of NY	26,669,446	33	26,669,413
State taxes recoverable	2,596	0	2,596
Receivable from deposit with TPA	571,742	0	571,742
New York State assessment receivable	<u>14,676</u>	<u>0</u>	<u>14,676</u>
Total assets	<u>\$303,659,683</u>	<u>\$3,747,355</u>	<u>\$299,912,328</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$243,877,146
Commissions payable, contingent commissions and other similar charges	18,803
Other expenses (excluding taxes, licenses and fees)	21,742
Unearned premium	7,145,909
Advance premium	1,095
Ceded reinsurance premiums payable (net of ceding commissions)	2,635,411
Payable to parent, subsidiaries and affiliates	1,420
Premium deficiency reserve	51,336
Retroactive reinsurance recoverable	(2,062,507)
Timing differences on losses paid	(177,154)
Timing differences on lae paid	173,303
Liability on sublet	697,479
Security deposit – tenant	<u>206,000</u>
Total liabilities	\$252,589,983

Surplus and Other Funds

Retroactive reinsurance	\$ (701,806)
Surplus notes	31,062,523
Gross paid in and contributed surplus	2,015,755
Unassigned funds (surplus)	<u>14,945,873</u>
Surplus as regards policyholders	\$ <u>47,322,345</u>
Total liabilities, surplus and other funds	<u>\$299,912,328</u>

Note: The Internal Revenue Service has not audited tax returns covering tax years 2018 through 2022. The examiner is unaware of any potential exposure of the Reciprocal to any tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Income

The net income for the examination period as reported by the Reciprocal was \$118,884,286, as detailed below:

Underwriting Income

Premiums earned		\$142,112,917
Deductions:		
Losses and loss adjustment expenses incurred	\$11,769,406	
Other underwriting expenses incurred	31,149,583	
Change in premium deficiency reserve	(680,543)	
Medical Malpractice Insurance Pool of New York expenses	<u>758,421</u>	
Total underwriting deductions		<u>42,996,867</u>
Net underwriting gain or (loss)		\$ 99,116,050

Investment Income

Net investment income earned	\$41,880,086	
Net realized capital gain	<u>15,248,317</u>	
Net investment gain or (loss)		\$ 57,128,403

Other Income

Other income	\$ 2,752,442	
Discount on loss and loss adjustment expense reserves	<u>(40,148,846)</u>	
Total other income		<u>\$(37,396,404)</u>
Net income before federal taxes		\$118,848,049
Federal income taxes incurred		<u>(36,237)</u>
Net income		<u>\$118,884,286</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$120,434,601 during the five-year examination period January 1, 2018 through December 31, 2022, as reported by the Reciprocal, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2017			\$(73,112,256)
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$118,884,286		
Net unrealized capital gains or (losses)	1,393,716		
Change in net deferred income tax	325,878		
Change in nonadmitted assets		\$2,704,746	
Change in surplus notes	968,560		
Prior period adjustment to surplus	<u>1,566,907</u>	<u>0</u>	
Total gains and losses	\$123,139,347	\$2,704,746	
Net increase (decrease) in surplus			<u>120,434,601</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2022			\$ <u>47,322,345</u>

The Reciprocal maintains separate accounts for each of its subscribers, which indicates the funds attributable to each subscriber's Section 1307 loan account ("surplus notes"). Subscribers contributed 49.5% of their first-year base premium to the Reciprocal. This contribution rate was moved to 0% for new members effective May 26, 2021. As of December 31, 2022, surplus notes paid from subscribers total \$31,062,523. Pursuant to Section 1307 of the New York Insurance Law, no subscriber has a right to demand a return of the Section 1307 loan except upon prior written consent of the Superintendent.

During the examination period, the Reciprocal implemented several initiatives to restore its financial health and improve its cashflow position. One such initiative was a premium assessment on former subscribers. On January 1, 2018, the Department approved an assessment on subscribers in accordance with the terms of the Reciprocal's subscriber's agreement and policy form. On April 6, 2018, the Reciprocal assessed its former and current subscribers' premiums totaling \$47.5 million. This assessment, coupled with favorable discounted loss and loss adjustment expense development, as well as favorable investment

returns, are the primary reasons the Reciprocal moved from a surplus deficit of \$(73.1 million) in 2017 to surplus of \$47.3 million at the end of 2022.

Gross paid in and contributed surplus of \$2,015,755 was unchanged during the examination period.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$243,877,146 is the same as reported by the Company as of December 31, 2022. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with actuarial standards of practice and statutory accounting principles, including SSAP No. 55. The Reciprocal's reported loss and loss adjustment expenses are discounted by \$25,994,000.

5. SUBSEQUENT EVENTS

The Reciprocal was engaged in litigation with certain former subscribers (and their practice groups) for the collection of premium assessments. In 2022, settlements were reached for the full amount being sought by the Reciprocal from certain clinical practices at the State University of New York at Stony Brook hospital ("Stony Brook"), Westchester County Health Care Corporation ("WCHCC") and New York Medical College ("NYMC," together with WCHCC, "Westchester Group"). The settlements totaled \$20,299,898 plus interest. The Reciprocal received the bulk of this settlement amount during 2022. The settlement agreements between the parties contain a release of the parties from any and all claims and counterclaims. Therefore, the Reciprocal has concluded that Stony Brook and Westchester Group released any right to its subscriber accounts, which include surplus notes being reported by the Reciprocal on the December 31, 2022, balance sheet. On February 3, 2024, the Reciprocal notified the Department of its intention to reclassify certain surplus notes, proceeded to increase gross paid in and contributed surplus reported in the 2023 Annual Statement by \$10,650,163, and reduced its surplus notes balance, attributing the change to "released surplus notes" that have been reclassified.

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

This report on examination does not contain any comments or recommendations.

Respectfully submitted,

_____/S/_____
Susan Weijola
Associate Insurance Examiner

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

Susan Weijola, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____/S/_____
Susan Weijola

Subscribed and sworn to before me

this _____ day of _____, 2024.

APPOINTMENT NO. 32554

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Adrienne A. Harris, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Susan Weijola

*as a proper person to examine the affairs of the
Academic Health Professionals Insurance Association
and to make a report to me in writing of the condition of said*

COMPANY

with such other information as she shall deem requisite.

*In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York*

this 27th day of June, 2023

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By:

Joan Riddell

*Joan Riddell
Deputy Bureau Chief*

