



SUNSET REVIEW COMMITTEE REPORT

Submitted by the Ohio Medical Quality Foundation

Dr. Marion K. Schuda, OMQF Board Member

I. Agency's Primary Purpose, Goals, and Objectives

A. History of the Ohio Medical Quality Foundation

In the mid-1970s across the United States, insurance companies stopped selling medical malpractice insurance. To address this issue, the Ohio General Assembly, in 1975, enacted Am.Sub.H.B. No. 682 (Revised Code §§3929.71 to 3929.85) which was designed to assist physicians and hospitals in obtaining medical malpractice insurance. The legislation created two entities, the Joint Underwriting Association ("JUA") and the Stabilization Reserve Fund ("SRF"), to implement the provisions of Am.Sub.H.B.No. 682. Under the legislation, hospitals and physicians could purchase medical malpractice insurance from the JUA. The SRF was set up to reinsure the JUA in the event premiums collected were not sufficient to pay claims made against JUA policyholders. The SRF was funded by an assessment on all hospitals and physicians even if they did not purchase insurance coverage from the JUA. The clear intent of the SRF was a reinsurance mechanism and, if not needed, the funds paid into the SRF would be returned to those entities that paid the assessment.

In the four to five-year period that the JUA and the SRF were active, no claims were made against the moneys held in the SRF. Accordingly, in 1979, the Ohio General Assembly enacted Am.S.B.No. 271 which provided for the return of all moneys held in the SRF in excess of \$10 million. In 1980, pursuant to Am.S.B.No. 271, approximately \$25.5 million was returned to Ohio physicians and hospitals that had paid into the SRF. After the 1980 refund, no further action was taken concerning the moneys held in the SRF until 1991.

In 1991, the Ohio General Assembly enacted Am.S.B.No. 206 (the "Refund Legislation") which provided for the refund of all moneys held in the SRF to the Ohio physicians and hospitals who had contributed to the SRF. The Refund Legislation set forth the process for filing proofs of claim, accepting claims, paying claims, and paying administrative expenses. It was anticipated that the SRF would be unable to refund all of the moneys held in the SRF to the Ohio physicians and hospitals which had contributed to the SRF. The associations representing hospitals and physicians looked for a way to put this reserve to work to benefit hospitals, physicians, and the citizens of Ohio. Thus, it was agreed that any SRF funds that could not be returned after "best efforts" would be transferred to a charitable foundation to benefit hospitals, physicians, and the communities they served. The Ohio Medical Quality Foundation ("OMQF") was the charitable

foundation created by the Refund Legislation (Ohio Revised Code §3701.89) to receive the SRF funds that could not be returned to Ohio physicians and hospitals.

B. OMQF's Purposes, Goals, and Objectives

Ohio Revised Code §3701.89 created OMQF and, in part, defined its purposes, goals, and objectives. The statutory goal of OMQF is to fund activities to improve the quality of medical care rendered to the public. In seeking to accomplish that goal, OMQF is permitted to invest in the following programs:

(1) programs approved under criteria established under section 3727.01 of the Revised Code, (i.e. programs relating to the treatment of impaired physicians);

(2) programs designed to improve the quality of graduate medical education;

(3) programs designed to improve risk management and quality assurance in hospitals, as defined in section 3727.01 of the Revised Code, and in outpatient settings including physician offices; [and]

(4) other programs, meetings, and educational seminars that are designed to improve the quality of medical care in Ohio and are determined to be consistent with this section.

R.C. §3701.89.

Ohio Revised Code §3701.89 also empowers the Trustees of the OMQF to: (a) adopt rules and bylaws consistent with subsection 501(c)(3) of the Internal Revenue Code for the regulations of its affairs and the conduct of its business; (b) employ a staff and retain or contract with attorneys, financial consultants, and accounting experts as are necessary in its judgment to carry out the purposes of OMQF; and (c) seek and accept funding from any public or private source for the conduct of its business. Acting pursuant to this grant of authority, OMQF was organized as an Ohio not-for-profit corporation which also qualified as a 501(c)(3) tax exempt organization under federal law. A copy of the OMQF Purpose Statement, which was adopted the OMQF Board of Trustees at its February 29, 1996 meeting, is attached hereto as Exhibit A.

Since its inception in 1995, OMQF has distributed \$8.6 million in grants targeted at improving the quality of medical care in the State of Ohio. For the calendar year 2016, OMQF has committed to distribute an additional \$509,500 in grant funds. A copy of the OMQF Program Committee Policy adopted May 27, 2004 is attached hereto as Exhibit B.

Consistent with the purposes of OMQF, the primary recipient of OMQF funding has been the Ohio Physicians Health Program ("OPHP") (formerly named the Ohio Physicians

Effectiveness Program). OPHP was created to serve the physician community through interventions with practicing physicians when their practices have been affected by the use of alcohol or drugs, and other emotional issues. OPHP offers education initiatives to health care professionals, their families, and co-workers about personal health issues which can affect their practice. If and when necessary, OPHP's educational initiatives help to provide a bridge to restoring the health of a health care professional. In addition, OMQF has funded other programs designed to improve the quality of medical care in Ohio. Other grant recipients include Ohio University which received grants totaling \$395,493 to fund an E-Prescribing Study aimed at enhancing safety and efficiency of prescriptions, and the Research & Educational Foundation of the Ohio Hospital Association which received grants totaling \$800,150 to support the Ohio Patient Safety Institute and Patient Safety Discussion Forum.

For the fifteen years of its active existence, OMQF has met its goal of improving the quality of medical care in the State of Ohio through the funding of OPHP and other programs designed to improve medical care in this State. OMQF intends to continue to fulfill this goal in the years to come.

II. Workload and Staffing

The OMQF Board meets twice each year to consider grant decisions, monitor grant progress, and oversee the investment of OMQF funds. The Finance Committee and Program Committee meet between Board meetings as needs dictate. It is anticipated that the workload will remain consistent for the foreseeable future.

There are no staff members of the OMQF. All Board Trustees serve as volunteers. Since 1995, OMQF has contracted with The Columbus Foundation ("TCF") to handle all of the administrative functions of OMQF. TCF staff members provide all administrative, financial, research and grant-making services to assist the Trustees in accomplishing the purposes of the OMQF as established under Ohio Revised Code §3701.89. TCF currently charges OMQF a yearly administrative fee in the amount of 0.5% of the market value of OMQF assets. The annual fee paid to TCF is comparable to fees paid by TCF's thirty supporting organizations for the same type of services rendered. By contracting with TCF, OMQF is able to engage the professional services of one of the ten largest community foundations in the country. Instead of hiring its own staff, OMQF has access to professional staff specializing in the areas of grant-making, financial, administrative, and marketing and avoids the overhead associated with creation of an office, including the related expenses for employee benefits.

III. Budgets and Sources of Funding

In carrying out its purposes and goals, OMQF has adopted a spending rule which permits it to award annual grants up to 4.5% of the previous year-end market value of the funds held by OMQF. The spending rule adopted by OMQF excludes administrative expenses and also allows for the carry-over of unallocated funds from prior years. OMQF's administrative expense budget has averaged approximately \$58,000 per year over the last three years. Because of the comprehensive nature of services provided by TCF to OMQF, approximately 90% of the annual

expense budget is paid to TCF. The remaining 10% of the expense budget is used to pay for investment auditing services, state filing requirements, insurance, and legal expenses. As described more fully above, the source of all of the OMQF's funding was the transfer of "non-refunded moneys" from the SRF. OMQF receives no funding from the State of Ohio.¹

IV. Board Members and Compensation

The composition of the OMQF thirteen-member governing Board of Trustees is established by Ohio Revised Code §3701.89. One of the thirteen Trustees is the director of health and the remaining twelve Trustees are appointed by the Governor for three-year terms. Of the twelve appointed Trustees, five must hold the degree of doctor of medicine, four must be representatives of hospitals, two must hold the degree of doctor of osteopathic medicine, and one must hold the degree of doctor of podiatric medicine. The Trustees are not compensated for their service nor reimbursed for travel expenses.

The current roster of Trustees is as follows:

<u>Trustee</u>	<u>Degree or Affiliation</u>
Richard Hodges	Director, Ohio Department of Health
Craig W. Anderson, M.D.	Doctor of Medicine
Semirit K. Bhullar, D.A.	Doctor of Osteopathic Medicine
Richard A. Fankhauser, M.D.	Doctor of Medicine
William W. Harding	Hospital Representative
Brian Kaminski, D.O.	Doctor of Osteopathic Medicine
Molly A. Katz, M.D.	Doctor of Medicine
Costas H. Kefalas, M.D.	Doctor of Medicine
Kevin W. Lutz, D.P.M.	Doctor of Podiatric Medicine
Hagop Mekhjian, M.D.	Hospital Representative
Marian K. Schuda, M.D.	Doctor of Medicine

¹ Because it operates as an autonomous entity which does not use any public moneys to carry out its statutory purpose, OMQF questions whether it is an "agency" for purposes of Ohio Revised Code §101.82. OMQF submits this report without waiving its right to contest whether it constitutes an "agency" under Ohio Revised Code §101.82.

EXHIBIT A

OMQF Purpose Statement*

The purpose for which the Foundation is formed is exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). (This reference and all future references herein to any Section of the Code shall be deemed to include all regulations promulgated thereunder and any corresponding provision of any future United States internal revenue laws and the regulations thereunder.) The purpose is further limited to the purposes permitted by Chapter 1702 of the Ohio Revised Code. To the extent not inconsistent with the foregoing, the Foundation's purposes, which are specifically set forth by the Ohio General Assembly in R.C. §3701.89, include the following:

A. To fund programs approved under criteria established by the Ohio State Medical Board for treatment of impaired practitioners.

B. To fund programs designed to improve the quality of graduate medical education.

C. To fund programs designed to improve risk management and quality assurance in hospitals and in outpatient settings including physicians' offices.

D. To fund other programs, meetings, and educational seminars that are designed to improve the quality of medical care in Ohio and are determined by the Trustees to be consistent with the Authority of the Foundation.

E. To fulfill any other purposes permitted by Chapter 1702 of the Ohio Revised Code (the "Act") as may be deemed appropriate by the Trustees of the Foundation, and to exercise any powers or rights now or hereafter conferred on non-profit corporations under the laws of the State of Ohio which are in furtherance of the charitable purposes for which the Foundation is formed.

F. The above enumerated purposes shall be interpreted in connection with the limitation that the Corporation is organized exclusively for charitable, educational, and scientific purposes.

* as stated in the OMQF Code of Regulations

Note: This purpose statement was adopted by the OMQF Board of Trustees at its February 29, 1996 meeting.

EXHIBIT B

Ohio Medical Quality Foundation (OMQF) Program Committee Policy Adopted May 27, 2004

Eligible Organizations: Potential grant recipients are restricted to Ohio nonprofit organizations that have 501(c)(3) status.

Eligible Applications: Eligible applications must address one or more of the Purposes of the Foundation as set forth by the Ohio General Assembly in R.C. §3701.89, which are serving impaired physicians; improving the quality of graduate medical education; improving risk management and quality assurance in hospitals and in outpatient settings including physicians' offices; and improving the quality of medical care in Ohio in other ways determined by the Trustees to be consistent with the authority of the Foundation.

Trustee Sponsorship: All proposals considered shall be Board-sponsored in order to focus grantmaking on high-impact, major grants. Evidence of Trustee sponsorship will be based upon the application containing a signed statement from the "sponsoring" OMQF Trustee endorsing the application.

Un-sponsored Applications: Any unsponsored application for funding received will be contacted by staff and asked if they have an OMQF Trustee serving as sponsor. Applicants indicating that they have an OMQF Trustee sponsor will be asked to submit written and signed verification of sponsorship. For those applicants without a sponsor, staff will circulate a summary of the application to the Program Committee members asking if any member of the Program Committee would like to sponsor the application. Those applications that remain without a sponsor will be returned to the applicant organization, and the organization will be invited to reapply in the future if and when they have secured an OMQF Trustee sponsor and have such sponsorship verified in writing and signed by the Trustee.

Application Deadlines: The OMQF Trustees meet twice yearly, once in the spring and once in the fall. Deadline dates will be established, which will be approximately three to four months in advance of the meeting date. Deadline dates are available by contacting OMQF staff at The Columbus Foundation at 614/251-4000.

Application Review Process: All sponsored applications will be subject to a three-step review process. The first step will be a staff review and will include a face-to-face meeting to discuss the application. The second step is a review by the OMQF Program Committee. The third step is a review by the OMQF Trustees.

Application Narrative and Budget Detail: All applications submitted must include the following information:

- History of the organization;
- Description of the problem being addressed;

- Detailed description of the project;
- Names and qualifications of people responsible for the project;
- Detailed project budget and narrative, including income sources and expenditures;
- Plans for continuing the project beyond the requested grant period; and
- Project evaluation criteria.

Application Attachments: Additionally, the following forms and letters must be included in the application:

- Copy of organization's Federal IRS 501(c)(3) letter;
- Statement of the organization's board authorizing the request;
- Statement from the "sponsoring" OMQF Trustee endorsing the application (because OMQF Trustees have determined that all grantmaking will be board directed, this is extremely important, and applications without a sponsor will not be considered);
- Organization's annual operating budget;
- Organization's most recent annual audit; and
- Organization's most recent Form 990.

EXHIBIT C – OMQF Mission and Grantmaking Strategy Statement

Mission Statement

To advance the delivery of quality medical care for Ohio residents, the Ohio Medical Quality Foundation is dedicated to improving the health and well-being of healthcare providers.

Grantmaking Strategy Statement

In keeping with the intent of its Founders to improve, in perpetuity, the safety of patients and the quality of medical care, the Ohio Medical Quality Foundation's grantmaking program focuses on two main themes which animate and advance its mission:

- Ohio Physicians Health Program – supports practitioner health, well-being and ongoing wellness to better ensure quality medical care for patients.

- Quality of the Patient Experience – focuses on hospital and outpatient-based risk management and quality assurance efforts, as well as supporting convenings and learning experiences that bring broader awareness of the obstacles and opportunities to provide quality graduate medical education and to deliver quality medical care.

EXHIBIT D – Founders Intent Statement and OMQF Overview

April 22, 2014

Board of Trustees
Ohio Medical Quality Foundation 1234 E. Broad Street
Columbus, Ohio

To the Trustees of the Ohio Medical Quality Foundation:

We were among the original Trustees serving on the Board of the Ohio Medical Quality Foundation (OMQF) when the Board's first meeting was held in 1995, and served in succession as Chairman of the Board from 2000 through 2013. We would like to document the founders' intent that the Foundation serve as the primary funder for Ohio Physicians Effectiveness Program (also known as Ohio Physicians Health Program, hereafter OPEP/OPHP) and feel it is our duty to do so given our roles in the legislation creating OMQF and our long involvement with the Foundation.

The original Trustees of OMQF believed that the circumstances behind OMQF's creation and development should continue to influence decisions, especially grantmaking decisions, made by future Trustees. As the involvement of the original Trustees has come to an end, the attached Overview of the Foundation has been created to provide future Trustees with this context. We would be pleased if the Trustees were to make this Overview part of the permanent record of the Foundation.

The Overview also provides the reason for OMQF's long relationship with OPEP/OPHP: the intent of the Ohio State Medical Association, the Ohio Osteopathic Association, and the Ohio Hospital Association that OMQF, upon its creation, serve as the primary funding source for OPEP/OPHP. Since OMQF made its first grant to OPEP/OPHP in 1996, the Foundation's support for the organization has been instrumental in developing its capacity, resilience, and sustainability. As founding members of OMQF, we respectfully request that the Foundation continue to adhere to the founders' intent.

We are proud of our tenure as Trustees of OMQF, proud to have led it, and proud of the improvements to the safety of patients and the quality of medical care in Ohio. We wish the current and future leaders and Trustees of OMQF many years of success.

Sincerely,

Bernard F. Master, D.O.



James R. Castle Laurence P. Harkness Bernard F. Master

EXHIBIT E – Ohio Medical Quality Foundation Overview

OVERVIEW OF THE FOUNDATION

The Ohio Medical Quality Foundation (OMQF) originated in legislation passed by the Ohio General Assembly, and was created as a supporting foundation of the Ohio Department of Health. The Foundation's Board of Trustees has contracted with The Columbus Foundation since 1995 for staff services and assistance in all areas of OMQF's endeavors, ranging from strategic planning to grant and investment administration.

Since the Foundation began making grants in 1996, its primary grant recipient has been the Ohio Physicians Effectiveness Program (OPEP), now called the Ohio Physicians Health Program (OPHP). The synopsis below summarizes OMQF's history and the long-standing relationship between the Foundation and OPHP.

In response to mid-1970s medical malpractice insurance crisis, the Ohio General Assembly created the Joint Underwriting Association (JUA) and the Stabilization Reserve Fund (SRF) in 1975. The JUA was empowered to issue medical malpractice insurance policies to any licensed physician or hospital in Ohio. The SRF was created to provide a reserve against severe underwriting losses of JUA—essentially, to reimburse JUA should premiums collected not be sufficient to pay claims made against JUA policyholders. Funding for SRF was secured through an assessment on all medical malpractice insurance policyholders in Ohio, whether they were insured through JUA or a private carrier. These annual contributions were paid to SRF and were held in trust and invested under the direction of the SRF board of directors. If not needed, the funds were to be returned to the contributors.

In the period that JUA and SRF were active, no claims were made against SRF. Accordingly, SRF ceased to operate in 1979. The sum of \$10,000,000 was retained in case of potential reinsurance claims, and the rest of the money was returned to the Ohio physicians and hospitals who had paid into SRF. In total, approximately \$25.5 million was returned. No action was taken regarding the funds remaining in the SRF until 1991, when the Ohio General Assembly eliminated SRF with the intent of refunding the money to contributing hospitals and physicians. However, it was anticipated that SRF would be unable to refund all of the contributions. In order to put these unclaimed funds to work, the Ohio State Medical Association (OSMA), the Ohio Osteopathic Association (OOA), and the Ohio Hospital Association (OHA) endorsed transferring any unclaimed funds to a charitable foundation that would benefit hospitals, physicians, and the communities they served. Part of the Assembly's "Refund Legislation," therefore, created OMQF.

The creating statute empowered the Board of Trustees to organize it as an Ohio nonprofit corporation that could be recognized as a 501(c)(3) tax exempt organization under federal law. The 13 members of the Board of Trustees include the Director of the Ohio Department of Health and 12 Trustees selected by the Governor. The Governor's appointees are drawn from a variety of medical disciplines, but must include five medical doctors, four hospital representatives, two doctors of osteopathic medicine, and a doctor of podiatric medicine. The Trustees are volunteers who are neither compensated for their service nor reimbursed for expenses incurred on behalf of OMQF.

The statute that created OMQF also defined the Foundation's goal: to fund activities to improve the quality of medical care rendered to the public. In pursuit of this goal, OMQF was given broad authority to invest in a range of programs, including programs approved under criteria established by the Ohio State Medical Board for treatment of impaired practitioners, programs designed to improve the quality of graduate medical education, programs designed to improve risk management and quality assurance in hospitals and outpatient settings, and other programs, meetings, and educational seminars designed to improve the quality of medical care in Ohio.

OMQF's Trustees gathered for their first official meeting in 1995. In 1996, they adopted a formal Purpose Statement, an excerpt from the Foundation's Code of Regulations that echoes the language of the creating statute. They also adopted guidelines for the review and approval of grants to ensure that proposals for the Board's consideration were consistent with the Purpose Statement. These guidelines were revisited and updated in 2004.

Although OPEP was not specifically mentioned in the creating statute, the intent of OSMA, OOA, and OHA was for OMQF to be the primary funding source for OPEP, with grants to other programs or initiatives taking a secondary role if excess funds were available. In keeping with the intent of the statewide organizations, the primary recipient of OMQF's grants has been OPEP, now called OPHP. This organization is a confidential resource that assists with identification, intervention, referral, monitoring, and recovery documentation of physicians and other healthcare professionals who may be affected by substance use disorders or other issues impacting their health and well-being. OPHP provides recovery documentation, education, support, and advocacy; from evaluation, through treatment and recovery. OMQF has provided consistent support for OPHP since its first grant in 1996. This support, together with Trustees' recommendations and funding for improvements, has been crucial for OPHP's development into a more effective and more sustainable organization.

Other recipients of grants from OMQF include Ohio University, for a study exploring and evaluating e-prescribing, and the Research & Educational Foundation of the Ohio Hospital Association, for the Ohio Patient Safety Institute and Patient Safety Discussion Forum