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RESPONSE

## Oklahoma Patient Advocacy Group Rebukes Idea that Upcoming Tort Reform Necessary to Retain Doctors

In its March 2009 issue, *MEDICAL LIABILITY MONITOR* reported on the passage of the tort reform bill HB1603 in the Oklahoma State Congressional House Committee. It has since passed the State

Senate Judiciary Committee and is expected to reach Gov. Brad Henry's desk soon. Following is a response to HB1603 by Jeff Raymond, executive director of OKWatchdog, an Oklahoma nonprofit consumer and patient advocacy organization, who refutes the notion that physicians are leaving the state for ones with greater tort reforms. —ed.

### by Jeff Raymond

Doctors fleeing Oklahoma is simply a myth. The number of doctors in Oklahoma is increasing rapidly despite claims that they are leaving because of the legal environment.

Oklahoma had 193 physicians per 100,000 people in 2003, according to American Medical Association statistics. By 2007, the ratio had grown to 200 per 100,000 people. In 1998, Oklahoma had 6,412 physicians; by 2007 the number had grown to 7,245.

The growth in the number of physicians is an obvious sign that doctors are being trained in Oklahoma and practicing medicine here, despite scare tactics that depict a nonexistent mass exodus to

Texas and elsewhere. If doctors do leave, it's because of a relative lack of residency programs in Oklahoma, rather than concerns about liability.

The state's leading medical malpractice insurer, Physicians Liability Insurance Co. (PLICO), is doing well. PLICO is in the best financial shape of its three-decade existence, as its executives proclaim and its reports show.

In 2008 PLICO wrote \$63.9 million in premiums; reported claims of \$35.5 million. These numbers tell the real story.

The question the state's doctors should be asking is why PLICO is posting record profits while the number of lawsuits has fallen.

Lawsuits aren't the problem—insurance companies are. Oklahoma is clearly a profitable insurance market for PLICO; no wonder, with lawsuit filings decreasing rapidly.

From 2003-2007, medical negligence filings decreased by 29.7 percent in the state's 13 most populous counties. Moreover, 39 counties—51 percent of the state's total—had fewer than five medical lawsuits from 2004-2007.

The evidence of a lawsuit crisis simply isn't there. Those who claim there is one have yet to provide anything more

than hearsay and the kinds of anecdotes they regularly dismiss from opponents.

Sometimes what's not being said is much more important than what is. If the legal climate in Oklahoma is so hostile, as the medical and insurance lobbies often claim, why has *Physicians Practice* magazine ranked Oklahoma one of the nation's most physician-friendly states?

Improving healthcare should include insurance reform and reducing the 100,000 deaths annually from preventable medical errors. These subjects need to be part of the debate but are seldom mentioned. Disciplining the tiny number of physicians who are responsible for the bulk of medical malpractice payments would be a start.

Insurers also must stop charging doctors of the same specialties the same rates regardless of performance. Imagine paying the same for your car insurance as someone who has been in repeated wrecks or had a DUI. This is how medical malpractice insurance works.

Oklahoma doctors deserve better than to be pawns of the insurance companies that have made their practices unmanageable, shortchanged their patients and taken their money while blaming others.

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## 2009 PLUS Symposium: Looking Forward

On March 24-25, more than 400 people attended the 2009 Professional Liability Underwriting Society's Medical PL Symposium held at the Sheraton Chicago Hotel & Towers.

Sessions focused on managed care liability and quality indicators and how they affect managing and assessing risk, as well as the risks of contaminated medical products and Medicare's new payment and audit initiatives.

Of most interest to the medical liability insurance segment of the industry was the "Industry Overview: Check-Up, Check-Mate, Or Check Out?" discussion, moderated by Paul McKeon, MBA, Transatlantic Reinsurance Co. and featured panelists Ross Bertossi, CPCU, ACE Medical Risk president; Bonnita Boone, senior vice president of Alliant Healthcare Solutions; Nicholas Galton, Guy Carpenter managing director; John

Mize, FCAS, MAAA, Towers Perrin principal; and Stan Starnes, ProAssurance Corp. chairman and CEO.

The panel reviewed the events of the last few years and the market drivers, how the financial events of the past six to eight months have and will continue to affect business and what strategies carriers should employ to survive and thrive? Specifically discussed were issues such as constraints on capital/capital allocation, counter party risk, pricing, mergers and acquisitions, frequency and investment versus underwriting risk affect our industry in the coming year?

The panel drew attention to the fact that while claims severity flattened along with a decline in frequency, certain experts expect a hardening of medical malpractice insurance rates toward the end of this year.