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IIAV Response to Questions

JOINT SUBCOMMITTEE STUDYING RISK MANAGEMENT PLANS FOR PHYSICIANS AND HOSPITALS
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At the August 30, 2005, meeting of this committee there were several questions asked and comments made concerning company positions and industry methods, as related to companies currently offering medical malpractice insurance in the Commonwealth. We spoke with those companies that we represent and can respond to questions that were asked as follows:

1. **Are Virginia premiums based on Virginia experience?**

Yes. There are two components to the rates a company files in each state. The first is the "cost of doing business," general operating expenses that tend to vary little from state-to-state. The second component is the risk, which can be defined as the expected frequency and severity of claims, including the cost to defend a claim, and this varies greatly from state-to-state.

In terms of the risk, each state is unique in that each has its own laws of civil procedure, various limits on damages, different strengths and weaknesses of the plaintiff and defense bars, and the like. The combination of these factors would produce the following information, provided by The Medical Protective Company, which writes business in every state except New York. These manual rates are for a family physician for the limits noted:

Virginia (Area 1 – Northern Virginia):	$13,560 (limits of $1.8 million/$5.4 million)
Maryland (Area 1 – Prince Georges County):	$21,548 (limits of $1 million/$3 million)
District of Columbia:	$24,805 (limits of $1 million/$3 million)
West Virginia:	$27,521 (limits of $1 million/$3 million)
North Carolina (Area 1 – Durham County):	$27,812 (limits of $1 million/$3 million)
Illinois (Area 1 – Chicago):	$51,235 (limits of $1 million/$3 million)

It should also be noted that there are states in which the rates are lower than Virginia's rates.

One point mentioned by most company representatives is that Virginia currently enjoys one of the strongest, most competitive medical malpractice markets in the country. If you believe in free markets this would seem to indicate that the market will continue to hold rates down in Virginia. If one company tries to charge excessive rates physicians will be able to move their coverage elsewhere.

It should also be noted that the premium collected by insurance companies for Virginia physicians puts each company's capital at risk for up to $6 million, plus defense costs, for each physician insured. If the insurance companies were treating physicians unfairly it is unlikely they would have been able to remain in business for as long as they have.

2. **Is Virginia money used to pay claims in other states?**
   Virginia rates are established based on a company's loss experience in Virginia, as noted above. Rates are calculated to anticipate the risk of loss in Virginia in an attempt to ensure adequate premium is collected for each policy written in the state. Due to the strong competition in Virginia it would be foolish for one company to charge excessive rates to supplement lower rates in another state.

3. **Could doctors get lower rates if there was a Virginia-only mutual company?**
   Maybe, maybe not. No would know for at least five to seven years.
   Again, there are two components to an insurance rate, general expenses and the cost of insuring the risk. A for-profit carrier also builds in a load factor for profit. Theoretically a mutual would be able to eliminate the profit load and perhaps charge a lower premium.
   However, the calculations would not be as simple as eliminating the load factor for profit. One important consideration is the expense component. Mutual companies historically have higher expense ratios than for-profit companies, which tend to operate more efficiently. Also, would a Virginia-only mutual be charged with covering all physicians that applied for coverage, negating the advantage the other companies would have of tough underwriting standards? Similarly, the spread of risk in a single-state mutual would be smaller, potentially leading to larger swings in pricing if adverse experience occurs.
   For a single-state mutual to truly be successful it usually has to dominate the market in order to generate the premium necessary to maintain operations. To do this it must attempt to drive out competition by charging lower premiums and encouraging the physicians to support "their" company. This discourages competition and results, to some degree, in a monopoly. If the mutual is well run and successful, this may work over the long term. If not, the lack of competition fostered by the resultant monopoly leaves doctors with few options.
   Therefore, it would seem that the better course for Virginia physicians would be to encourage a strong market with intense competition, rather than encouraging a single carrier to control the market.

4. **The trial lawyers stated that there is no correlation between the medical malpractice insurance rates in Virginia and claims in Virginia**.
   Most of the companies mentioned something about this being a good illustration of why trial lawyers should not be considered insurance experts.
   If one company were to have a monopoly or some sort of competitive advantage, such as state protection, it might be able to charge rates in excess of expected losses. This is not the case in Virginia.
   A larger concern in a competitive market is not that carriers will charge too much but that a carrier will intentionally use inadequate rates to buy market share. Physicians that do not ask the correct questions will move to the company with the lowest rates, as happened repeatedly in the 1990's. When the losses eventually catch up with this company it will have to increase rates greatly and quickly to have adequate funds to stay in business (recall the presentation by the Bureau of Insurance regarding MIIX, or obtain a description of why Doctor's Insurance Reciprocal went bankrupt), exit the marketplace (see Princeton, FPIC, and others), or go out of business completely.
   In a competitive market no carrier can have rates that are too high, for fear of losing market share. Responsible carriers also cannot have rates that are too low, for fear of having insufficient funds to cover losses, being downgraded, and perhaps going out of business.

The Independent Insurance Agents of Virginia, Inc.
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