

EXHIBIT 10
DATE 1-26-05
HB HB 25

Testimony on House Bill No. 25
Limit Healthcare Provider Liability for Other Person's Act or Omission

Montana House of Representatives
Human Services Committee

Dr. David R. Chavez
Yellowstone Urology, P.L.L.C.
2900 12th Ave. N, Suite 503E
Billings, MT 59101

January 26, 2005

Honorable Members,

I am here today in support of HB 25 and I hope with my short discussion to point out a few malpractice issues that make Montana a less than desirable state to practice medicine.

By not holding a surgeon/healthcare provider liable for acts or omissions performed by another person or entity that was not an employee or agent under the direct control of the surgeon/healthcare provider, I believe "shotgun lawsuits" will be discouraged. A "shotgun lawsuit" is a lawsuit in which a plaintiff's attorney sues any healthcare provider that is even peripherally involved in the care of a patient that may have suffered a medical injury. Your support of HB 25 will maintain an environment that discourages groundless medical malpractice lawsuits and encourages malpractice insurance companies to remain in our state and provide an essential service for the common good of all Montanans.

As many of you may be aware, only two malpractice insurance companies provide coverage to physicians in Montana; Utah Medical Insurance Association (UMIA) and The Doctors Company. In 2002 the St. Paul Company left Montana and discontinued its malpractice insurance business nationwide.

Continued access to quality medical care is the goal of all healthcare providers. Our practice treats all patients in need of urological care regardless of their ability to pay. Access to medical care in the near future will be negatively impacted if malpractice insurance premiums continue to increase in our state. In the year 2004 my malpractice rates (provided through the Doctors Company) increased 30% because of "an overall change in the cost of providing insurance in your state" (MT). I have had no prior malpractice activity to warrant such a premium increase.

How could it cost The Doctors Company more to conduct business in Montana than say California? California is a larger state with more doctors, more attorneys and a more litigious population. Possibly it is due to the lack of a complete package of tort reforms comparable to the Medical Injury Compensation Reform Act (MICRA) that was adopted

in California almost three decades ago in 1975? Let me explain what recently transpired in my practice that makes me pose this hypothesis.

Our practice recently recruited a new urologist from Northern California that was insured by The Doctors Company. He is an excellent urologist and has never been involved in a malpractice suit. I thought transferring his malpractice policy from Northern California to Montana would be a snap. I was mistaken. I eventually learned that for a period of time in 2004 the Doctors Company had new malpractice policies on hold in the state of MT.

We held our breath, and waited 6 long weeks before the Doctors Company issued a malpractice policy for my new partner. But his yearly base premium went from \$12,000/yr. to \$21,000/yr. solely because he moved his practice from California to Montana. My new partner will have the same practice patterns and the same 1 million per claim/ 3 million aggregate policy limits.

This is a concerning development, and will not make it easier for our group to recruit new partners in the future. On going tort reform is necessary for the common good.

Sincerely,

A handwritten signature in black ink that reads "David R. Chavez, M.D." with a stylized flourish at the end of the name.

David R. Chavez, M.D.



THE DOCTORS COMPANY

01/30/2004

David R Chavez MD
2900 12th Ave N Ste 503E
Billings, MT 59101

Re: Rate Increase Notification

Dear Dr. Chavez,

For nearly 30 years, our disciplined underwriting and pricing practices have allowed The Doctors Company to prevail in a medical malpractice insurance environment that has forced some carriers out of business and others to abandon the market. We provide our members with liability coverage you can depend on whenever it is needed.

Our policy premiums are adjusted to realistically reflect the risk environment in which we underwrite. As a result of an overall change in the cost of providing insurance in your state, we must increase the base rate for your specialty by 30. percent (\$5,004.00). This rate increase has been submitted to your state Department of Insurance as required.

This 30. percent (\$5,004.00) rate increase, which will be reflected on your next annual premium statement, pertains only to the base rate change for your specialty since your last policy renewal; it does not reflect changes in your personal exposure or in applicable credits or debits, if any.

In the event of a claim, The Doctors Company assures you an aggressive and highly competent defense with the combined skills and experience of our local defense counsel and claims management experts. Your professional medical peers actively review claims, risk management, underwriting, and pricing decisions. Eight physicians on our 13-member Board of Governors ensure your best interests as a physician are pursued.

We value our relationship with our insured physicians, and we appreciate your continued membership. Today, The Doctors Company remains your best choice for professional liability coverage. Equally important, The Doctors Company remains your most secure choice for the future.

You may be certain that we remain committed to protecting patient access to care through effective national medical-legal reform—a proven solution to malpractice litigation abuse. If you have any questions, please call The Doctors Company Customer Service Unit at (800) 421-2368, and select 7 for policyholder services at the voice prompt.

Sincerely,

Andre J. Stewart
Senior Vice President, Underwriting

Yellowstone Urology, P.L.L.C.
Adult and Pediatric Urology

December 10, 2004

Bradley W. Anderson, M.D., F.A.C.S.
David R. Chavez, M.D., F.A.C.S.
Robert E. Stockdale, M.D.

REPORT INCIDENT

On December 7, 2004, I called The Doctors Office to apply for "Transfer of Insurance" for Dr. Christopher K. Schreiber. I was informed by Dr. Schreiber's agent, Michael Baus, he was not sure if he could insure Dr. Schreiber in the State of Montana. He did not give a reason for this statement, but told me he would have to call me back.

Dr. Schreiber has had insurance with The Doctors Office since 8/1/01 with no incident or claims filed against him.

On December 8th, I called Mr. Baus back and he informed me they did not cover Montana.

After I spoke with Mr. Baus, I was informed by Dr. Stockdale that the group was actually covered by TDC. I assumed there had been a misunderstanding or miscommunication with Mr. Baus, so I called him back and left a voice message on his phone. I explained all of our current providers were actually covered under TDC and I wanted to start the processing the transfer of insurance as soon as possible, I also asked that he e-mail me in response so I could provide documentation of our conversation.

The attached documentation provides a chronological occurrence of our correspondence.

The end result is Dr. Schreiber will be covered by TDC here in Montana due to his membership to the American Board of Urologist.

Signed this date

December 10, 2004



Kim S. Fife
Office Manager

Subj: RE: Christopher Schreiber, MD (TDC Policy #0050607)
Date: 12/9/2004 1:13:59 PM Eastern Standard Time
From: "Mike Baus" <mbaus@doctorsagency.com>
To: <KIMFIFE@aol.com>
Reply-To: <mbaus@doctorsagency.com>
File: T & R.pdf, Renewal Application for Phy & Surg.pdf, SPQ for Physicians & Surgeons.pdf
Sent from the Internet (Details)

Kim:

In order for TDC to consider insuring Dr. Schreiber's practice in Montana they will need to receive the following:

1. Completed Renewal Application (attached). Please respond for the foreseeable Montana practice.
2. Completed Supplemental Procedures Questionnaire (attached). Please respond for the foreseeable Montana practice.
3. Completed Transfer & Reissue of Coverage Form (attached), this needs to be signed by a Pacific Urology representative.

Dr. Schreiber can return this information to us at 6 Hamilton Landing, Suite 170, Novato, CA 94949. Please note the underwriting processing takes approximately 10 business days from the time we receive the completed materials.

Thank you.

Mike

> -----Original Message-----

> From: KIMFIFE@aol.com [mailto:KIMFIFE@aol.com]
> Sent: Thursday, December 09, 2004 8:04 AM
> To: mbaus@doctorsagency.com
> Cc: ckschreiber@yahoo.com
> Subject: Re: Christopher Schreiber, MD (TDC Policy #0050607)

>

>

> Mike,

>

> Dr. Schreiber belongs to the American Board of Urologist. The
> state of issue was California #13175.

>

> Hopefully, this will take care of the requirements. Please let
> me know what else I can do to move things along.

>

> Thanks,

> Kim

-----Original Message-----

From: Mike Baus [mailto:mbaus@doctorsagency.com]
Sent: Wednesday, December 08, 2004 10:50 AM
To: kimfife@aol.com
Subject: Christopher Schreiber, MD (TDC Policy #0050607)

Dear Kim:

I received your voice message as I was writing you this email.

While TDC does insure physicians in Montana, it has a "hold" on new business in the state. An existing TDC doctor transferring to a hold state is still considered new business. However, it is our understanding that TDC will consider coverage for new business when the applicant is a member of a TDC national program (ASIM, ACP, etc.). Can you confirm whether he is a member of any national program, these would include The American College of Physicians, The American College of Surgeons or the American Society of Internal Medicine.

Thank you.

Michael Baus
The Doctors Insurance Agency
6 Hamilton Landing, Suite 170
Novato, CA 94949
415-506-3030, x. 108 (Tel.)
415-506-3031 (Fax)
mbaus@doctorsagency.com