As we have previously reported, 2005 was an outstanding year for your Company from a financial standpoint. We ended the year with the first and only underwriting gain in the history of the Company, even after leaving renewal rates at 2004 levels and refunding more than 5 million premium dollars in December.

The primary reason for this welcomed turnaround was a substantial reduction in our loss and loss adjustment expenses, which also led to lower reinsurance costs.

I cannot tell you exactly why this has occurred, and I do not believe that anyone else can, either. I am convinced, however, that two very important changes in the state legal system played major roles in this improvement. Tort reform measures passed in recent years would be one. The other is a change in the philosophical makeup of the judicial branch of government. No longer are the majority of local and appellate judges selected by trial lawyers. Ever since business, industry, and medicine began to take an active part in judicial elections, the pendulum has begun to swing back toward a fair and balanced legal system, to the point that now most of the so-called judicial hellholes have been neutralized.

Physicians, like everyone else, make mistakes, and that is why MACM and other medical liability insurance companies exist – to be sure that patients injured as a result of those mistakes are fairly and adequately compensated. But we no longer feel compelled to pay for injuries, or alleged injuries, that we do not believe were caused by our insured physicians or to pay much more than we believe those injuries are worth, simply out of fear of a runaway verdict. We are much more willing to trust the system than we were a few short years ago.

If we allow ourselves to become fat, happy and content like hogs in slop, however, we may once again find ourselves on the spit. I am convinced that the trial lawyers are already working and raising money to try to tilt the scales of justice heavily in their favor again. They will be pulling out all stops to elect plaintiff-friendly judges, and we must not let that happen. It will start with the State Appellate Court elections this Fall and will continue to build until the critical State Supreme Court elections in 2008. If the trial lawyers are successful in establishing a liberal, plaintiff-oriented system again, we can expect to see all of the improvements that have been made begin to reverse almost immediately, even to the extent of undoing the positive effects of tort reform. The threat of a liberal Supreme Court declaring the recent legislative changes in the tort system to be unconstitutional is real. Just look at what happened in Wisconsin!

The Wisconsin legislature passed effective tort reform measures in 1995, and the Wisconsin Supreme Court consistently upheld those measures. The cap on non-economic damages was challenged numerous times by the trial lawyers, most recently in 2000, but the Court, by a narrow majority, rejected those efforts every time. That is until 2005, when one of the conservative Justices left to take a position on the Federal bench. She was replaced by a plaintiff-friendly attorney appointed by the Democratic governor, and within weeks the cap on non-economic damages was ruled to be unconstitutional by a four-to-three vote. All of that happened as a result of changing one justice on the Supreme Court.

In 2008, four positions for the Mississippi Supreme Court will be contested. I strongly encourage you to familiarize yourself with the individuals seeking these offices, particularly those in your area, and support, financially and otherwise, the candidates unlikely to be influenced by the Mississippi Trial Lawyers Association. Please see the article by MACM General Counsel Rob Jones on page three of this newsletter for further proof of the need for your participation in the election process.

We shall keep you informed as we get closer to elections.

Sincerely,

Michael D. Houpt
President & CEO
I am not qualified to give a civics lesson, but in my current position at Medical Assurance, I am able to observe the judicial system up close and personally. I am also able to contemplate the advice of those with a great deal of experience in the judicial system.

It has become clear to me that 12 citizens chosen randomly will oftentimes reach the correct decision. This brings me to my point . . . . the participation of the citizenry is the most important ingredient in the judicial process.

Sure. I think if a governor (with whom I agreed or had influence over) would make good appointments to a medical court system then everything would be great and there would be no problems. The elite doctors and lawyers would certainly make the correct decisions every time. Wouldn’t they?

Oh, we would make sure non-elites would be on the board as well; we will let the state medical association make the appointments. Surely, the trial lawyers would not object to this, would they?

I would like to point out that the long-term interests of our patients, the citizenry, is ultimately the interest of Medicine. Compassion for the patient should always be our number one goal. Sometimes compassion for patients requires discipline of doctors.

Our judicial system is one of our defenses against tyranny and disorder. It should not be left totally to those citizens who consider the court system as entertainment. It should not be left to those who consider service on the jury as an economic opportunity. The judicial system should not be left to those who can be influenced by unscrupulous participants.

Jeffcoat Named to MACM Board of Directors

Camille J. Jeffcoat, M.D. has been named to the MACM Board of Directors. A graduate of the University of Mississippi Medical Center, Dr. Jeffcoat is an anesthesiologist with Anesthesia Consultants, P.A. in Flowood.

Prior to coming to the Board, Dr. Jeffcoat served on the MACM Claims Committee #1 since 1999. She was appointed Chairman of that Committee in 2005.

Changes Announced for Claims Committee #1

Stephen W. Tartt, M.D. (General Surgery) is now the Chairman of Claims Committee #1. Dr. Tartt has served on this Committee since 2000. As of May 2006, Stephen R. Snypes, M.D. (Anesthesiology) has accepted the appointment to fill the vacant slot on Claims Committee #1.

Staff Updates

Cory Jones recently joined MACM as Information Technology Specialist. His responsibilities include design and maintenance of the MACM website as well as working with MACM staff to meet their needs in assisting insureds.

In order to ensure a fair system to all — from the down-trodden to the elite — the participation of a cross-section of our society must be included. Doctors, nurses, administrative assistants, lab technicians, and all of those in the health care field must be included and should participate in the judicial process. I encourage you and your employees to respond when called upon to jury duty. In addition, I ask you to encourage your employees to participate in the process and to do so enthusiastically. The legal system wants you and needs you.

One word of caution: Jury research has shown that a physician is judged far more harshly by a jury of his peers than by a randomly chosen jury. This is actually reassuring because compassion for the patient should be the overriding concern of all physicians — whether defendant or jury member.

Triplett Retires after 30 Years with MACM Board

MACM Chairman of the Board William A. Whitehead, M.D. presents R. Faser Triplett, M.D. a Resolution of Commendation at the March 2006 Board of Directors meeting. During this meeting, Dr. Triplett retired as a member of the MACM Board of Directors.

Dr. Triplett was one of the founding members of MACM and was instrumental in the creation of the Company. He, along with then MSMA Executive Director Charlie Matthews, traveled Mississippi in the mid 1970s trying to sell Mississippi physicians on the idea of a physician-owned medical liability insurance company for the state. Dr. Triplett has served as MACM’s President and Chairman of the Board since the Company’s early beginnings in 1976.

In addition to his role as President and Chairman of the Board, Dr. Triplett served as Chairman of the Investment Committee and has participated in many meetings of the Risk Management, Claims, and Underwriting Committees.
Don’t wait! Space is limited!

Mississippi State Medical Association

2006 Golf Tournament

During the 138th Annual Session

Date: Thursday, June 1, 2006
Time: Lunch at 12 Noon
Shotgun start at 1:00 p.m.
Place: Clear Creek Golf Club
Approximately 7 miles East of Vicksburg (Take the Bovina exit and go North)
Format: 4-man scramble
Prizes: Pro shop gift certificates:
$300 - 1st place team
$180 - 2nd place team
$120 - 3rd place team

Hole-In-One Prize:

2006 Cadillac STS

Sponsors:
Medical Assurance Company of Mississippi
Montgomery, McGraw, Collins & Rand, PLLC
HORNE LLP
Mississippi Physicians Care Network
Grantham Poole, CPAs
Clements Cadillac of Jackson

Costs: $40.00/player
Includes green fees, cart and lunch

My check for $40.00, made payable to Medical Assurance Company, is enclosed.
Please mail to: Medical Assurance Company of Mississippi
404 West Parkway Place
Ridgeland, MS 39157

Court Rulings on Tort Reforms
by Robert M. Jones, Esquire
Legal Counsel

Although we were encouraged when tort reforms were passed in 2002, we knew that the new laws would have to be interpreted by our courts and that plaintiffs would challenge them. We are glad to report that the reforms have generally been applied favorably by trial judges.

Application of $500,000 Cap on Noneconomic Damages
There has been a recent trial court ruling in a wrongful death case. The three wrongful death beneficiaries took the position that the $500,000 cap applied to each beneficiary, for a total of $1.5 million in noneconomic damages. The trial judge ruled that there is only one $500,000 cap on noneconomic damages in a wrongful death case.

We are also aware of another case in which the plaintiffs (husband and wife) take the position that the $500,000 cap separately applies to each of them (i.e., $500,000 in noneconomic damages for the wife’s personal injury claim and $500,000 in noneconomic damages for the husband’s loss of consortium claim.) There has been no trial court ruling yet in this case.

Effective Date of $500,000 Cap on Noneconomic Damages
Most of the tort reforms were first effective January 1, 2003; however, the original tort reform legislation stated that the $500,000 cap on noneconomic damages was effective for lawsuits filed on or after passage of the legislation (i.e., October 8, 2002). Plaintiffs filed hundreds of lawsuits in November and December 2002 in an effort to avoid the tort reforms. The Plaintiff’s Bar takes the position that the cap on noneconomic damages should apply to cases filed after January 1, 2003.

We have had the several Circuit Court rulings on this issue, with three judges finding that the cap applies to cases filed after October 8, 2002, and three judges finding that the cap applies to cases filed after January 1, 2003. There have been no appellate court decision addressing this issue; however, MACM is pursuing an interlocutory appeal in one of the cases decided against us.

Pre-Suit Notice and Expert Certification
Mississippi law now requires that plaintiff give a physician 60 days written notice prior to filing a medical malpractice action. Mississippi law also requires an attorney’s certificate of expert consultation. Several trial courts have dismissed med-mal actions due to the failure of the plaintiff to give the required pre-suit notice and/or provide the certificate of expert consultation. Of greater significance is the fact that a few trial judges have ruled that the filing of a lawsuit where plaintiff has failed to give the required pre-suit notice or provide the certificate of expert consultation does not toll the running of the statute of limitation. Several of these cases are now on appeal to the Mississippi Supreme Court. We expect the Court to interpret these statutes and explain how they are to be applied in medical malpractice cases. We will keep you informed of further developments in this regard.

Court Rulings continued on page 4
Constitutional Challenges
As expected, MACM has several cases wherein plaintiffs are making constitutional challenges to the cap on noneconomic damages and other recent med-mal tort reforms. We now have a trial court ruling regarding two aspects of our tort reforms. Hinds County Circuit Judge Swan Yerger has ruled that the 60-day pre-suit notice and the elimination of joint liability are constitutional. No trial or appellate court has yet ruled on the constitutionality of the $500,000 cap on noneconomic damages; however, we are confident that our current Supreme Court will ultimately approve the same.

Resolution Presented to Dr. Fyke
After serving 20 years as MACM’s Medical Director, Dr. Earl Fyke was recently presented a Resolution of Commendation for his years of service to the Company. (L to R): Michael D. Maples, Medical Director; Mike Houpt, President and CEO; Dr. Fyke; and Chuck Dunn, COO and Vice President of Claims.