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GRAND BAHAMA'S FIRST NEWSPAPER

Wednesday, June 8, 2011

Business

## **\$80b spent by American medical tourists an opportunity for OFCs**

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MIAMI BEACH, Florida – The \$80 billion that Americans spend annually on medical tourism represents an opportunity for offshore financial centers (OFCs) such as The Bahamas, according to an expert in the field.

The market size estimate came from statistics generated by financial services/advisory firm Deloitte, F. Ron Jenkins of the Meridian 361 International Law Group said Wednesday during a presentation at the 9th Annual Off-shore Alert Conference in Miami Beach, Florida. He painted a picture of an embattled offshore financial industry, soaring medical costs in countries like the U.S., and a place of opportunity between the two.

"Many of these offshore centers are going through what I would call an existential crisis," Jenkins said "I do not think that all of the jurisdictions which are presently participating in the industry will survive and that's especially the case if they don't learn to diversify their business models."

For offshore jurisdictions with good tourism infrastructure already in place, medical tourism will allow for the transfer of technology, skills and know-how to create 'real' economic development, according to Jenkins.

"This has economic substance and there are wealthy, motivated economic participants who will incorporate and launch businesses in these jurisdictions and achieve legitimate tax planning advantages," said Jenkins, who also specializes in U.S. tax planning.

Jenkins, who said that he has advised two clients on how to establish their medical tourism businesses, summarized the key aspects of his advice to jurisdictions getting into the field.

First, Jenkins said jurisdictions need to codify their tort reform efforts to be more appealing to medical practitioners.

"They need to cap, restrict or make off-limits punitive damages," said Jenkins, who also suggested including provisions for no-punitive or

pain and suffering damages,

or capping damages to \$250,000.00, adding that even in the U.S., some states have already introduced such caps.

It is a measure that comes with social implications – after all, patients want to know that they have recourse in the case of a botched procedure – and that applies to local patients as well as those traveling for medical tourism. English common law precedent already typically orders smaller damages in such law suits than those seen in the US. To Jenkins' point, however, limits established in law would at least allow prospective investors to measure risk as they consider a jurisdiction to set up their operations in.

Jenkins also said jurisdictions may need to relax their immigration rules to allow in the number and quality of professionals that successful medical tourism businesses need, relax land ownership rules, and generally codify a package of commercial incentives for such businesses.

The cost of medical care in the United States is a factor contributing to the growing medical tourism boom, according to Jenkins, who said that 46 percent of U.S. bankruptcies were the result of medical debt. The situation may not get better any time soon, as even recent U.S. health care reform initiatives have not had broad support at the legislative level.

There is much debate about the reason for the high cost of U.S. health care, but Jenkins said that those costs have many in the health care system motivated to go offshore – a motivation bolstered by an 'abusive' medical tort system in the U.S. Roughly half of the cash that flows through the medical tort system never gets to the victims, and doctors unable to pay their medical malpractice insurance are quitting the practice of medicine altogether, Jenkins said.

Currently, 45 percent of U.S. medical tourists go as far as Asia for health care, 26 percent to Latin America, but no significant number to the Caribbean, Jenkins said. This is despite its proximity to the U.S., in many cases with economies that are tourism-ready, and despite English common law systems which have considerably more modest awards in malpractice lawsuits.

But cost-based strategies for building a medical tourism industry were not Jenkins' prescribed approach. Sometimes cheap costs mean cheap results – not ultimately advantageous to a jurisdiction's health care reputation. In fact, according to statistics Jenkins presented, the most important element medical tourists identify is advanced technology – which he said equates to the ability to have outpatient surgery.

At the heart of medical tourism is elective, outpatient procedures, such as face lifts, breast implants, liposuction and other such procedures, though not exclusively limited to cosmetic surgery. Heart bypass surgery is also being performed in the medical tourism field, according to Jenkins, who listed staggering cost differences for such procedures in the U.S. compared to other jurisdictions.

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