

the last Congress, in the 108th Congress, I attempted to bring medical liability reform to the Senate on three separate occasions. Each time, a minority of Senators blocked consideration and prevented an up-or-down vote on those pieces of legislation. Indeed, although we will have to see how the votes fall here in about 4 or 5 hours, they may do so again today. But I am going to remain determined to press for action on principle because it is the right thing to do. It boils down to the fact that health care dollars should be spent on patients and not on lawyers who are out abusing the system—on patients and not lawyers. It is a clear choice.

Last week, I talked a little bit about my own son Harrison who traveled with me to town meetings around the country a couple of years ago. We went to Florida, we went to Pennsylvania, and we went to Ohio and talked about a range of issues. Being a physician and a Senator, doctors would come up to me again and again and tell their stories about having to stop practicing their specialty, a neurosurgeon or an obstetrician who has to stop delivering babies, or actually moving out of Pennsylvania down to other States in the South or out of Ohio or out of Florida because they really had no choice. At the end of that trip, my son said: Dad, I know you love medicine and that is your life. My granddad was a family physician and loved it, and both my uncles are physicians. But why in the world, Dad, would you encourage me to go into a profession where everybody gets sued—not just once but again and again and again—even if they have done nothing wrong?

That is what hurts and also really scares me because it means we are going to lose a whole generation of good people, committed people who care about treating patients, who simply aren't going to go into the profession because they don't want to expose themselves or, more importantly, their own families to these frivolous lawsuits. It is happening.

I hope everybody listening to this debate over the next few hours and hopefully several days will ask their physicians, whoever they are—pick up the phone and call them or e-mail or if you are going to the doctor's office ask them: Does this medical liability stuff really mean that you are unable to treat patients in the way you otherwise would? It really is affecting cost and access and quality? Just ask them, and I guarantee the answer will be yes.

Access to care. Across the country right now, one out of two counties does not have an OB-GYN. That means mothers or expectant mothers are having to drive extra miles, as fewer and fewer people deliver babies, in order to have their babies delivered. Three-quarters of neurosurgeons will no longer operate on children, in large part because of the number of lawsuits. Increasingly, neurosurgeons are not taking trauma calls at the local hos-

pital wherever you live in the world today because they know by taking that trauma call, their malpractice premiums, their liability premiums skyrocket because of the likelihood, even if they give good care, of being sued.

I have seen it and heard about it, talking again and again to my own medical colleagues and in traveling across Tennessee. In Tennessee, 81 out of the 95 Tennessee counties don't have a neurosurgeon. Half don't have an orthopedic surgeon, an emergency physician, or an OB-GYN. Average malpractice premiums for Tennessee doctors have increased 90 percent—90 percent—in the last 6 years.

As a result of all of this, my colleagues in Tennessee tell me, or at least nearly three-quarters of them tell me—and in a recent survey—that their medical communities already have a shortage of the high-risk specialties, the trauma specialists, the obstetricians, the neurosurgeons, and those same counties are having a hard time recruiting new physicians. Nobody is going to move into a county where those premiums are sky high and the risk of them being sued is so high.

We have to reform the system. We can do it with commonsense reforms. The reforms have been laid out in the legislation.

The nationwide picture is very similar. The AMA, the American Medical Association, says we have reached crisis proportions in 21 States, including Florida, West Virginia, Ohio, Pennsylvania, New York, and Tennessee. Families in these States are simply not getting the quality of care they need because of these out-of-control liability premiums.

Right now, if you talk to obstetricians, about one out of seven stopped delivering babies, and they point to the reason of the skyrocketing medical liability costs. We talk about the doctors and we talk about their premiums, but let's remember that as a result of those costs and premiums, you lose the access, you lose the availability. The excessive costs, the waste—it doesn't go down to the doctor-patient relationship; it doesn't mean you get better care. Ultimately, it is the patients who suffer. It is the American people who suffer—not the doctors, not just their premiums. Ultimately, it is the patient's care that suffers.

High-risk specialists. Again, I say this as a cardiac surgeon talking about my colleagues, but the neurosurgeons I mentioned are the ones who are getting hit the hardest. Emergency room staff are being depleted. That is a big concern. I will cite it again and again on the floor: If something happens to you driving home today, is there going to be a neurosurgeon there to take care of that head injury? Increasingly, it is less likely that you will have that sort of expertise there in the emergency room.

We know how to address this crisis. This is the good news. We know there

are things we can do that work. Commonsense reform, based on principle, is not all that hard to do.

I was in Texas last month, about 3 or 4 weeks ago, talking to the doctors there, and they have seen the results of a reform movement that is alive and well and has had an impact. Since 2003, the rate of malpractice filings has declined by 80 percent in most major Texas counties. This year alone, the rate cuts by five major Texas insurers will save physicians nearly \$49 million in premium payments. They say they save physicians \$49 million and, remember, all of those premiums just get passed on to the American people and get translated into higher premiums that you pay for your monthly health care security. Between 3,000 and 4,000 doctors have moved into the State, into Texas, where just the opposite is happening in Pennsylvania and Ohio and Florida, where physicians are moving out of the State.

The Texas story is a true success story. Because of this inequity from State to State, we need a national approach.

As I mentioned, we will be voting in a few hours on the medical liability reform bills. These bills are a part of a larger vision of health care which is patient centered—patient centered—which is provider friendly, which centers on 21st century information and choice and an element of control. But this is a major piece in reaching that vision. We need our doctors and hospitals and offices to be places which they are intended to be—places of healing and not minefields for greedy, predatory lawyers who are simply exploiting a system that needs to be reformed.

Mr. President, I encourage my colleagues to vote today for cloture so that we can discuss both of these medical liability bills. My colleagues know well that the medical liability system does need reform, and as a physician and as a Senator, I know we can deliver these meaningful reforms, and I intend to do so. I hope we are given that opportunity. I encourage all of our colleagues to vote for cloture so we can address these bills.

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#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. SESSIONS). The Democratic leader is recognized.

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#### IMMIGRATION

Mr. REID. Mr. President, I would simply mention to the distinguished leader before he leaves that a week ago, I came to the floor and talked about immigration and indicated that we would be willing to go forward—10 amendments on each side—and with the direction where I think we should go on conference. I hope the leader will understand that time is running out. We need to be able to do this.

We are terribly concerned, even more concerned based on the statements

from the House last week. Chairman SENSENBRENNER gave a speech last week talking about why he had, in his bill, his legislation, at the request of the White House—I am sure the White House has backed off on this; I certainly hope so—but making people who are here who are undocumented, felons. He gave some illustrations that were not very good. He talked about, Japan doesn't have many immigrants that come illegally. That is right, that is because it is an island. They would have to swim there or come in on an airplane or boat. They don't have the mass migration problems we have.

I hope the leader, with the many things he has to do, would understand that we have, after this week, only 2 weeks left in this legislative session. The leader stated we are going to try to finish this before Memorial Day. To do that, we are going to have to get on that bill. If we have all these amendments, it is going to take a lot of time.

Mr. FRIST. Mr. President, briefly, because I know the Democratic leader has another statement to make, I am absolutely committed to completing and giving adequate time to complete what is a complex bill. As the Democratic leader implied, there are a lot of issues we need to talk about in this bill. I appreciate the spirit in which he and I are approaching the bill, in terms of allowing debate and amendment and also addressing issues about conference, to make sure—I know what his intent is—that the will of the Senate is expressed strongly in that conference.

I do encourage all of our colleagues to recognize that step one is debating the bill here on the floor of the Senate, getting it off the floor with a majority vote, and I would argue for a good comprehensive bill stressing the border and border security. What I would like to do, as I discussed scheduling with the Democratic leader, is to be on the immigration bill next week and the following week. That should give adequate time.

There was one last thing, at least on our side of the aisle. In terms of numbers of amendments, we are doing our very best to focus each and every day on the amendments which would be substantive amendments, to try not to have unnecessary amendments or amendments just for political reasons but substantive amendments coming to the floor. Hopefully, coming to the floor, people will continue work. People don't see that on the floor, but literally every day we are meeting looking at those amendments. So once we get on the bill, we can have a fair process, not a lot of unnecessary time spent figuring out what the amendments would be. I am confident that we can, working together, be on a bill that will be a comprehensive bill, that will be a bill reflecting the will of the Senate, by early next week.

The PRESIDING OFFICER. The Democratic leader.

#### MEDICAL MALPRACTICE

Mr. REID. Mr. President, people will have other thoughts on medical malpractice legislation as they come to the floor, as they cast their vote. But for me, I want to make this a day to remember a wonderful woman by the name of Billie Robinson. I have handled medical malpractice cases. I want to talk about this one. I have talked about her before. I want to talk about her again. I could talk about other cases, but nothing has been so fixed in my mind, as I prepared for today, as Billie Robinson.

I really didn't know Billie Robinson when she had all of her faculties; I only knew her after she had this surgery. Billie Robinson came from my hometown of Searchlight. She was like some other people in Searchlight, she had basically no education. She was a hard worker. She worked very hard physically. She developed headaches that were difficult for her to describe, but she did her best and went to a series of physicians. Every physician she went to told her she drank too much and she should lay off the booze and she would be better.

She ultimately went to her fifth or sixth doctor, and the doctor decided maybe he should look and see what is inside her head and ordered some x rays and other diagnostic tests and found she had a tremendously large tumor in her head causing these blinding headaches. Her activities, her actions were not a result of alcoholism; they were the result of her head having a tumor causing her these horrible headaches. And yes, she did drink. She drank everything she could get her hands on to try to relieve that pain. A simple test early on would have determined what was wrong with Billie Robinson.

As I said, when I saw her, she had already had the surgery. She didn't speak well. She would speak with very slurred speech, but you could tell this woman was a good woman. She had a good heart. She had no alternative, in an effort to live her remaining days in some dignity, but to try to seek some type of redress for the negligence of those doctors who had seen her, and she did get some satisfaction. It was not necessary that we go to a jury because those doctors who had attempted to treat her realized they had not done their job properly. So she lived out her life in a condition that was not appropriate.

Had she had that surgery years before when the tumor was small, she would have been normal. It was not a malignant tumor. By the time they were able to operate, there had been so much damage because of the growth of the tumor that she had significant brain damage. She was able to buy herself a new mobile home and lived a quiet, peaceful life in Searchlight.

Today, I remember Billie Robinson. Had this legislation been in effect that the majority is trying to pass today, if it had been in effect then, Billie Robin-

son would not have been able to buy herself a new mobile home. She worked for minimum wage almost all of her life. She would not have been able to have recovered compensation for the pain and suffering, to any degree, that she went through. She basically would not have had much.

Today, I rise in protest. I rise to object to these Republican bills, these two bills that are put here as a result of the insurance industry. These measures before the Senate do not represent a serious attempt to improve health care or the civil justice system in our country. Moving to these bills is a tired political exercise, and the Senate should reject this political exercise out of hand. To think, with American consumers paying more than \$3 a gallon for gas—the record is in San Diego, \$3.40 today; all over Nevada, it is more than \$3; the average across the country is \$2.95—college tuition moving out of the reach of the middle class; to think, with the number of the Iraq war dead now pushing 2,500; to think, with immigration now being a security crisis unresolved; to think, with our country's deficit soon approaching \$9 trillion; to think, with 46 million Americans lacking health care coverage, that we are moving to bills that are unnecessary and will go nowhere? What a waste of the Senate's time.

It is wrong that we are doing this. We could more profitably use this time on any of the issues about which I just spoke. We could more properly use the scarce time remaining to address any of these urgent challenges facing America's families. I haven't even mentioned energy. We could do that. And we could address the real health care crisis, not this "make do" health care crisis.

Both of these bills the Senate will consider today contain the same one-size-fits-all cap on damages. These bills have been rejected time and time again, and rightfully so. Both contain the same unjustified protections for hospitals, rest homes, HMOs, and, of course, insurance companies. In fact, these proposals are virtually identical to legislation we turned aside three times the last Congress. These bills are the same old song, and the votes will be the same old dance: Democrats protecting the American consumer from these huge companies.

The top of this company pyramid, of course, is the insurance company, then hospital companies, extended-care facilities, rest homes. Even though these measures would dramatically rewrite the tort laws of all 50 States and even though they would denigrate the legal rights of countless Americans, they have undergone no serious legislative review in this Congress.

Don't be fooled by the bill numbers—S. 22 and S. 23—they are simply placeholders for legislative text that was only formally introduced last Wednesday. In fact, the text of these bills was not even available until a couple of days ago.