

Baca on March 19, 1940, and grew up in Albuquerque's South Broadway neighborhood. Ray graduated Albuquerque High School in 1958, and continued his education at the University of New Mexico. He graduated from the University in 1962 with a B.S. in chemical engineering and was a member of the Tau Beta Pi National Engineering Honor Society. After graduating, Ray married Victoria Morales in San Antonio, Texas on July 16, 1966. Together they raised their two sons, Rafael and Arthur.

Once joining the Air Force, Ray's ambition, brilliance, and passion poised him for success. During his 20-year career in the Air Force, he worked as a launch officer for the Atlas Missile Project in Roswell and in Turkey. He received a Masters of Science degree in 1968 in nuclear engineering from the Air Force Institute of Technology (AFIT) at Wright Patterson Air Force Base, Ohio. He also worked as a staff scientist at McClellan Air Force Base in California and later at the Air Force Missile Command in Washington, D.C.

His yearning for knowledge led him to return to the University of New Mexico. In 1987 he received a M.A. in History and Southwestern Studies and was a doctoral candidate in history. His dream was to continue to research and write about his native state.

Ray passed away on June 6, 2002 surrounded by his loving family. He was preceded in death by his father, Alberto Baca and sister, Viola Baca, and is survived by his wife of 35 years Victoria Baca; sons Rafael and Arthur; mother Josefita Baca; and sisters Dolores Padilla, Priscilla and Anna Mae Baca. His family, innumerable friends and community will miss him greatly.

He will be remembered as a loving and generous husband, father, son, brother, and friend. He valued his family above all things, and supported and encouraged them in all stages of their lives. He instilled in his children a strong sense of family, love, and respect, and he encouraged them to excel in their education. He was an exceptional, compassionate and motivating individual.

And so Mr. Speaker, I submit this loving memorial to be included in the archives of the history of this great nation.

THE MEDICAL MALPRACTICE INSURANCE AND LITIGATION REFORM ACT OF 2003

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. CONYERS. Mr. Speaker, I am pleased to introduce the Medical Malpractice Insurance and Litigation Reform Act of 2003. This legislation responds to the real problems in the medical malpractice insurance market—namely, higher prices driven by lack of competition and investment losses by insurers leading to a boom bust cycle. To respond to these problems, Title I of the bill insures that the antitrust laws apply to medical malpractice insurers, price comparisons can be easily obtained, and procedural checks are in place to insure that premium increases are warranted and can be challenged by health care providers.

Above and beyond these requirements, the bill responds to concerns that medical mal-

practice is not available in parts of the country. As a result, Title II would create a Federal medical malpractice insurance association, housed within the Department of Health and Human Services, to provide medical malpractice insurance where it is not available at reasonable terms.

In addition, the bill responds to the complaint that medical malpractice insurance premiums are being driven higher as a result of frivolous complaints. Title III of the bill provides for a series of measures designed to insure that the lawsuit itself is not frivolous and that the pleadings filed in connection with the suit are accurate and meritorious. Title III also provides for alternative dispute resolution designed to encourage resolution of medical malpractice actions outside of court. The following is a more detailed description of the legislation.

SECTION-BY-SECTION ANALYSIS MEDICAL MALPRACTICE INSURANCE AND LITIGATION REFORM ACT

TITLE I—MEDICAL MALPRACTICE INSURANCE REFORM

This Title constitutes an effort to respond to some of the flaws apparent in the medical malpractice insurance marketplace and the regulation of that market. Among other things, the title insures that the antitrust laws apply to medical malpractice insurers, price comparisons can be easily obtained, and procedural checks are in place to insure that premium increases are warranted.

Section 101. Prohibition on Anticompetitive Activities by Medical Malpractice Insurers. Repeals McCarran-Ferguson to ensure that insurers don't engage in price fixing. The Act, enacted in 1945, exempts from the Federal antitrust laws all anticompetitive insurance industry practices except boycotts. Over the years, uneven oversight of the insurance industry by the States, coupled with no possibility of Federal antitrust enforcement, has created an environment that fosters a wide range of anticompetitive practices.

Section 102. Medical Malpractice Insurance Price Comparison. Creates an Internet site at which health care providers could obtain the price charged for the type of coverage the provider seeks from any malpractice insurer licensed in the doctor's state. This section specifies the availability of online forms and that all information will remain confidential.

Section 103. Procedural Requirements for Medical Malpractice Insurers' Proposed Rate Increases. Gives doctors standing in any state administrative proceeding to challenge proposed rate increases and requires insurance companies to provide justification for any rate increase prior to implementing such increase. Only a handful of states (Alabama, Arizona, Illinois, New York, Oklahoma, and possibly a few others) require that rates be filed and approved by the state insurance department before they can be used.

TITLE II—FEDERAL MEDICAL MALPRACTICE INSURANCE ASSOCIATION

There have been isolated reports that physicians are unable to obtain medical malpractice insurance at any rate and this title is designed to deal with that problem by providing a federal backstop. The title also provides for disclosure of information by private insurers so that more information can be obtained on the reasons for any problems in the malpractice insurance marketplace.

Section 201. Establishment; Purpose. Establishes an Association within the Department of Health and Human Services to provide medical malpractice insurance where it is not available at reasonable terms.

Section 202. Board of Directors. Creates a board of directors for the Association. The board has authority to run the Association and to act like a governing body of a private insurance carrier. This section sets out specifics as to the number of appointments, eligibility, and vacancies.

Section 203. Administration. An administrator is appointed to act as the Association's chief executive officer, in charge of day-to-day operations and management of the Association. The Association shall be fully operational no later than 180 days after the date of enactment of the Act.

Section 204. Rates. Gives the board authority to establish rates to be charged by the Association. The board will use an actuary to recommend rates, and rates shall be set at amounts sufficient, when invested, to carry all claims to maturity, meet reasonable expenses of conducting the business of the Association and maintain reasonable surplus. The insurance program shall be neither more nor less than self-supporting. The Association is authorized to purchase reinsurance.

Section 205. Investment Policy. Provides that the board of directors shall formulate and adopt an investment policy and supervise investment activities of the Association. Gives the Association the ability to retain independent investment counsel and requires the board to periodically review and appraise the investment strategy.

Section 206. Medical Malpractice Risk Management Program. Requires the administrator to develop a risk management program for all policyholders and to solicit input from the National Association of Insurance Commissioners in developing the program. Insurance may be refused or terminated if any insured disregards the plan and the administrator may consider compliance with the plan in determining premiums of the insured.

Section 207. Seed Money to be Funded by Treasury Department Loan. Provides for the funding of the Association by the Secretary of Treasury through one or more 5 year term loans in an amount not to exceed \$100,000,000 for start-up funding.

Section 208. Disclosure of Data by Medical Malpractice Insurers. This section requires each insurance provider to file a copy of its annual statement with the Chairperson of the Association. The insurer shall also provide information regarding (1) closed claims; (2) verdicts, payment, and severity of injury in connection with verdicts; (3) rate changes; (4) premiums and losses by medical speciality; (5) premiums and losses by experience of the insured; (6) performance of the investments of the insurer.

Section 209. Annual Report by Chairperson. Requires the Chairperson to file an annual report with the President and Congress that includes: (1) a statement of the Association's accounts, funds, and securities; (2) copies of reports required by the National Association of Insurance Carriers; (3) any requests for additional loans; (4) an assessment of the medical malpractice insurance marketplace; (5) an assessment as to why health care providers have been unable to obtain insurance at reasonable prices; and (6) a report summarizing the information disclosed pursuant to Section 208 and attaching the disclosed information.

Section 210. Financial Matters. Requires the administrator to submit to the board an estimated budget of the expenses of administering the Association. If assets exceed liabilities, necessary reserves and reasonable surplus, the Association shall declare a cash dividend or allow a credit to any health care provider that has complied with the risk management program.

Section 211. Definitions.

TITLE III—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

The complaint is frequently heard that medical malpractice insurance premiums are being driven higher as a result of frivolous complaints. This title responds to that charge with a series of measures designed to insure that the lawsuit itself is not frivolous and the pleadings filed in connection with the suit are accurate and meritorious. The title also provides for alternative dispute resolution designed to encourage resolution of medical malpractice actions outside of court.

Section 301. Health Care Specialist Affidavit. This section requires an affidavit by a qualified specialist before any medical malpractice lawsuit may be filed. "Qualified specialist" is defined as a health care professional with knowledge of the relevant facts of the case, expertise in the specific area of practice at issue in the case, and board certified in a speciality relating to the area of practice.

Section 302. Sanctions for Frivolous Actions and Pleadings. Sets out sanctions for filing improper pleadings in medical malpractice actions violations, such as those which are designed to harass, are frivolous, or are factually inaccurate. For first time violators, the court shall require the attorney to pay costs and attorneys fees and may also strike pleadings, dismiss the lawsuit, or administer other appropriate sanctions. For second time violators, the court shall also require the attorney to pay a monetary fine. For third time violators, the court shall also refer the attorney to the appropriate State bar association for disciplinary proceedings.

Section 303. Mandatory Mediation. This section establishes an alternative dispute resolution system for medical malpractice cases. Participation in mediation shall be in lieu of any other ADR method required by law or by contractual arrangements by the parties. A similar approach is recommended by the Committee for Economic Development, which suggests that defendants make and victims accept "early offers." The effect of the "early offer" program, according to the CED, is that defendants will reduce the likelihood of incurring costs of litigation and having to pay large and uncertain punitive and noneconomic damages, and victims would obtain fair compensation without delay, expense and trauma of litigation.

Section 304. Applicability. Specifies that the title applies to any medical malpractice liability action brought in state or federal court, except for claims arising from vaccine-related injuries.

Section 305. Definitions.

TRIBUTE TO CODY SCOTT BATTY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to honor a young hero, six-year-old Cody Scott Batty of Montrose, Colorado. Cody displayed quick thinking and uncommon courage when he saved his father, Scott, from a life threatening situation. I would like to commend Cody's actions and courage before this body of Congress and this nation.

On December 22, 2003, Cody and his parents were on their way to California to see family. As anyone who has made this trip knows, it is a long and arduous drive, so the family decided to take a little break from the trip in Mesquite, Nevada. Cody and his father

were outside a bowling alley in Mesquite when his father collapsed as a result of a blood clot that had formed on his skull. Despite the situation, Cody remained calm. He called out for help, but no one came to their aid. Thinking quickly, Cody ran into the bowling alley, borrowed a phone and called 911. He then returned to his father's side and remained there until the paramedics arrived.

Mr. Speaker, I am honored to rise today and recognize the heroic efforts of Cody Batty before this body of Congress and this nation. Cody has said that he would like to become a police officer or paramedic someday with the bravery that this young man has shown, he is well on his way. Cody's quick actions saved his father's life, and his courage should be an inspiration to us all. It is a great honor to represent such a fine young American in this Congress.

COMMENDING THE ACHIEVEMENTS OF THE WIND SYMPHONY AND JAZZ KNIGHTS AT SACRED HEART SENIOR HIGH SCHOOL

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. MORAN of Kansas. Mr. Speaker, congratulations to the fifty-four students from Sacred Heart Senior High School in Salina, Kansas for their upcoming participation in "The Red Road Travel/Study Tour." This experience will include performances at a series of Native American reservation schools in South Dakota from March 16–19, 2003. I commend each of these students for their hard work and success: James Andrewson, David Arpin, Sarah Arpin, Matthew Bachofer, Shannon Bechard, Kyle Berens, Stephanie Bieker, Hillary Blue, Kelly Breckunitch, Matt Broberg, Danielle Budreau, Jennifer Budreau, Jason Bulliegh, Katey Clark, Jason Curran, Kyle Davis, Alan Deneault, Courtney Ducharme, Lauren Ducharme, Christina Fekas, Shandra Francis, Vanessa Greene, Carissa Helvey, Emily Henke, Jessica Herbic, Alex Hernandez, Adria Jerkovich, Anne Kelly, Jessica Kelly, Andy Kinard, Matt Kienda, Jeff Koetting, Abby Luetters, James McKee, Mary Kate McKee, J.J. Neubauer, Ashley O'Brien, Jessica Polich, Michael Ratcliff, Susan Riordan, Lindsey Sandquist, Raquel Santiago, Emily Schmidt, Alisha Schoel, Tine Schoel, Kristen St. John, Marisol Sternke, Janell Straub, Jennifer Suelter, Raul Vasquez, Sarah Vermillion, Tyler Vishnfske, Megan Wells, Lauren Zey.

"The Red Road Travel/Study Tour" is the latest event in a series which provides performance and educational opportunities for students. Paramount to this tour is the opportunity for these young people to experience a unique and different culture, while expressing good will through their musical talents.

I would also like to recognize their director, Milt Allen, for helping prepare these young musicians. Mr. Allen's commitment and dedication to nurture and encourage our youth shines through the accomplishments of his students. The First Congressional district is proud to be represented by Sacred Heart Senior High School in this meaningful program. I commend Mr. Allen for his excellent job promoting education and the arts among the youth of Kansas.

It is an honor to recognize such a meritorious group.

TRIBUTE TO DANIEL WILLIAM PIERCE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. GRAVES. Mr. Speaker, I Proudly pause to recognize Daniel William Pierce, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 67, and in earning the most prestigious award of Eagle Scout.

Daniel has been very active with his troop. Over the five years, he has been involved in scouting, he has held numerous leadership positions, serving as patrol leader, assistant senior patrol leader, senior patrol leader, troop quartermaster, troop historian and troop guide. Daniel also has been honored for his numerous scouting achievements with such awards as the Tribe of Mic-O-Say Award. Additionally, Daniel has earned 39 merit badges.

For his Eagle Scout project, Daniel organized and designed a circle driveway through a park and also put wood posts around the drive and poured 3 concrete pads for picnic tables.

Mr. Speaker, I proudly ask you to join me in commending Daniel William Pierce for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

SUPPORT FOR THE VIOLENCE AGAINST WOMEN

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 2003

Mr. HOLT. Mr. Speaker, I rise today in support of full funding of the Violence Against Women Act. This law has fostered countless initiatives that have brought millions of dollars to shelters, increased resources for law enforcement, expanded the National Domestic Violence Hotline, and bolstered the prosecution of child abuse, sexual assault, and domestic violence cases.

These programs and services are invaluable. U.S. Department of Justice statistics indicate that domestic violence has decreased by 49% since VAWA went into effect. They also reaffirm that full funding for VAWA is well worth the investment. It is estimated that the \$1.6 billion spent on VAWA programs during the first six years after its enactment saved government coffers \$14.8 billion in medical, legal, workplace and other social costs, not to mention saving many lives.

Unfortunately, state budget crises and decreases in federal funding are threatening these vital programs and services. President Bush's budget request for FY 2004 would cut funding for VAWA programs and services by \$141.6 million in FY 2004 from the previously authorized level of \$692.5 million.

Our nation must renew our commitment to ending all forms of domestic violence. I urge