

would be ineffective for a person with this HIV strain.

Although drug-resistant HIV strains are common in patients who have been treated with antiretroviral drugs, multiple-drug-resistant HIV is extremely rare in patients who are newly diagnosed and previously untreated. Moreover, while HIV infection usually takes about 10 years to progress to AIDS, this patient apparently progressed to AIDS in a matter of months. Combination of a highly drug resistant HIV infection and rapid disease progression has the potential to become a very serious public health problem with global health implications.

The ultimate significance of the new strain is still unknown. Only time will tell whether this was an isolated case or part of an outbreak of similar cases. It is imperative, however, that we take action to identify and halt the spread of aggressive, multiresistant HIV/AIDS strains.

We must continue to build upon and fund existing prevention programs and to strengthen our infectious disease monitoring systems. The CDC, in collaboration with community, state, national, governmental and nongovernmental partners, employs a number of programs designed to prevent HIV infection and reduce the incidence of HIV-related illness and death. By providing financial and technical support for disease surveillance; risk-reduction counseling; street and community outreach; school-based education on AIDS; prevention case management; and prevention and treatment of other sexually transmitted diseases that can increase risks for HIV transmission, such programs have played a key role in reducing HIV transmission.

Stopping the spread of this strain is also critical in order to preserve the effectiveness of existing HIV/AIDS therapies. Not only do such therapies prolong and improve the quality of life of those affected by HIV/AIDS, but they also play a vital role in preventing the spread of the disease. A recent study found that HIV therapies reduce infectiousness by 60 percent. Consequently, that is why I recently reintroduced S. 311, the Early Treatment for HIV Act, ETHA. Supported by a bipartisan group of 31 Senators, ETHA redresses a fundamental flaw under the current Medicaid system that provides access to care only after individuals have developed full blown AIDS.

ETHA brings Medicaid eligibility rules in line with Federal Government guidelines on the standard of care for treating HIV. ETHA helps address the fact that increasingly, in many parts of the country, there are growing waiting lists for access to life-saving medications and limited access to comprehensive health care. Access to HIV therapies reduces the amount of HIV virus present in a person's bloodstream, viral load, a key factor in curbing infectiousness and reducing the ability to transmit HIV.

Early access to HIV therapies as provided under ETHA would not only

delay disease progression and increase life expectancy, but it would also reduce the need for more expensive treatment and costly hospital stays. According to a study conducted by PricewaterhouseCoopers, ETHA would reduce gross Medicaid costs by 70 percent, saving the Federal Government approximately \$1.5 billion over 10 years. With the administration looking for ways to reduce Medicaid costs, passing ETHA would be a good start. It's also the right thing to do.

#### SAFE GUN STORAGE SAVES LIVES

Mr. LEVIN. Mr. President, the debate on how to most effectively combat gun violence frequently centers on the ability of criminals to access dangerous firearms. Today, I would like to call my colleagues' attention to another important issue in our fight against gun violence: the ability of our teenagers and children to access firearms. Safe storage and child access prevention laws are critical steps as we seek to reduce the occurrence of accidental shootings and suicides involving guns. Such tragedies have claimed the lives of thousands of young people and destroyed families even though many of these occurrences could have been prevented by common sense legislation.

According to a Journal of the American Medical Association study released in 2001, suicide is the third-leading cause of death among youth aged 10 to 19. Between 1976 and 2001, the period of the study, nearly 40,000 youth aged 14 to 20 committed suicide using a gun. The study also found that there was a significant reduction in youth suicide rates in States that had child access prevention laws. Unlike suicide attempts using other methods, suicide attempts with guns are nearly always fatal. These children get no second chance.

The Brady Campaign to Prevent Gun Violence reported in 2004 that teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die each year. Further, about 1,500 children age 14 and under are treated in hospital emergency rooms for unintentional firearm injuries. About 38 percent of them have injuries severe enough to require hospitalization. Blocking unsupervised access to loaded guns is the key to preventing these occurrences.

A study published last week in the Journal of the American Medical Association found that the risk of unintentional shooting or suicide by minors using a gun can be significantly reduced by adopting responsible gun safety measures. According to the study, when ammunition in the home is locked up, the risk of such injuries is reduced by 61 percent. Simply storing ammunition separately from the gun reduces such occurrences by more than 50 percent.

During the 108th Congress, I joined with 69 of my colleagues in voting for Senator BOXER's trigger lock amend-

ment. Senator BOXER's amendment would have required that all handguns sold by a dealer come with a child safety device, such as a lock, a lock box, or technology built into the gun itself that would increase the security of the weapon while in storage. The underlying gun industry immunity bill to which this amendment was attached was later defeated in the Senate, but the need and support for this legislation is clear. In light of the bipartisan support for this trigger lock amendment during the last Congress, I am hopeful that the 109th Congress will take up and pass common sense trigger lock legislation.

While the problems of youth suicide and accidental shooting cannot be legislated away, trigger locks and other sensible gun safety measures can help limit children's access to firearms. It is clear that reducing our kids' access to guns can save lives. The time has come to support the efforts of States who have enacted common sense child access prevention laws and make responsible storage of firearms standard around the Nation.

#### HEALTH ACT

Mr. ENSIGN. Mr. President, last week, I reintroduced the HEALTH Act to address the national crisis our doctors, hospitals and those needing healthcare face today.

Every day, patients in Nevada and across America are losing access to healthcare services. Several states are losing medical professionals at an alarming rate, leaving thousands of patients without a healthcare provider to serve their needs.

Because of increasing medical liability insurance premiums, it is now common for obstetricians to no longer deliver babies, and for other specialists to no longer provide emergency calls or perform certain high-risk procedures.

Women's health in Nevada and elsewhere in the country is in serious jeopardy as new doctors turn away from specialties and as practicing doctors close their doors.

I have been told that one in seven fellows of the American Academy of Obstetricians and Gynecologists have stopped practicing obstetrics because of the high risk of liability claims.

When Ms. Jill Forte of Las Vegas, found out that she was pregnant with her second child, she called her doctor. The doctor told her that because of insurance costs, she could no longer deliver her baby. So Jill started calling around. She was told the same thing by five different doctors. She even considered going to California for care.

Fortunately, Ms. Forte was able to make a connection through a friend for a local doctor to take her case. She said:

I was in total shock. I didn't know what was going on until it happened. Looking for a doctor, worried about finding a doctor when you're pregnant is a stress that is an unnecessary stress. It's a stress caused by

frivolous and junk lawsuits. It doesn't make any sense to have a society that sues so often that expectant mothers are worried about finding a doctor.

Unfortunately, her story is becoming too commonplace.

Additionally, hundreds of emergency departments have closed in recent years. Emergency departments have shut down in Arizona, Florida, Mississippi, Pennsylvania, and Nevada, among others. During this same time, the number of visits to the Nation's emergency departments climbed more than 20 percent. While more Americans are seeking emergency medical care, emergency departments are losing critical staff and essential resources.

In my home State of Nevada, our only Level I trauma care center closed for 10 days in 2002, leaving every patient within 10,000 square miles unserved by a trauma unit. In fact, Ms. Mary Razor's father died in Las Vegas last year when he could not obtain access to emergency trauma care because of the closure.

Doctors are also limiting their scope of services. More than 35 percent of neurosurgeons have altered their emergency or trauma call coverage because of the medical liability crisis. As a result, many hospitals, including Level II trauma centers, no longer have neurosurgical coverage 24 hours a day, 7 days a week. Consequently, patients with head injuries or in need of neurosurgical services must be transferred to other facilities, delaying much-needed care.

An example of this problem was recently brought to my attention by Dr. Tony Alamo of Henderson, Nevada. During his tenure as chief of staff at Sunrise Hospital, Dr. Alamo was presented with a teenager suffering from a Myasthenia Gravis crisis in need of immediate medical treatment. This condition involves shortness of breath due to muscle weakness. Such shortness of breath can become severe enough to require hospitalization for breathing support, as well as treatment for the underlying infection. If the problem is not identified and treated correctly, it could lead to death.

Dr. Alamo told me that because of the medical liability situation, there was no emergency room neurologist on call to assist this young woman. Many neurologists are afraid to become involved in difficult cases like this because of the high risks of medical liability. Consequently, Dr. Alamo had the young woman transported to California by helicopter to receive the care she needed. Because of the reasonable laws in California, neurologists aren't afraid to take call.

The bottom line is that patients cannot get the healthcare they need when they need it most. By definition, this is a medical crisis. The crisis boils down to two factors: affordability and availability of medical liability insurance for providers.

With regard to affordability, the Medical Liability Monitor found that

in 2004, obstetricians in Dade County, FL, were paying as much as \$277,241 in annual medical liability insurance premiums. Similarly, in Illinois, some obstetricians were paying more than \$230,000 a year. In my home state of Nevada, some OB/GYNs were paying approximately \$133,904 for medical liability insurance, an increase of 15 percent from 2003.

Faced with increasing medical liability insurance premiums, some physicians are no longer accepting discounted rates for the services they provide. A legislative assistant in my office recently received a letter from her OB/GYN, which I would like to submit for the CONGRESSIONAL RECORD. The letter indicates that her physician's medical liability insurance premium for 2005 increased by over 50 percent to more than \$250,000. Instead of closing the practice or choosing to stop delivering babies, the physician has decided to no longer accept discounted insurance reimbursements.

I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. ENSIGN. We cannot afford to bury our heads in the sand and avoid this issue. Medical liability insurance premiums are affecting real people in need of timely and efficient healthcare services.

On the issue of availability, thousands of doctors nationwide have been left with no liability insurance as major insurers are either leaving the market or raising rates to astronomical levels. Why are insurers raising rates and leaving the market? Because there is no stability in the marketplace for providing medical liability insurance. Why is there no stability in the marketplace? Because our healthcare system is being overrun by frivolous lawsuits and outrageous jury awards.

This excessive litigation is leading to higher healthcare costs for every American and provides little piece of mind for our healthcare providers. Even medical students are affected by the current crisis. According to a recent American Medical Association survey, the current medical liability environment is a significant factor for students selecting a specialty.

And, because the litigation system does not accurately judge whether an error was committed in the course of medical care, physicians are adjusting their behavior to avoid being sued. Many physicians are using defensive medicine practices to avoid lawsuits. They are providing patients with tests and treatments that they would not otherwise perform to protect themselves against the risk of possible litigation.

Every unnecessary test and additional treatment poses a risk to the patient, and takes away funds that could be used to provide healthcare to those who need it most. A 2002 study by the

Department of Health and Human Services found that defensive medicine is costing the Federal Government an estimated \$28 billion to \$47 billion per year in unnecessary health care costs.

In addition to the Federal Government, who else is paying for these unnecessary costs? Every American with health insurance is paying for these unnecessary expenses in the form of higher out-of-pocket payments and premiums.

Too often, medical costs are so great that employers have to stop offering health insurance coverage altogether, therefore increasing the number of uninsured in America. And who is paying for the uninsured to obtain health care services? We all are. And the cycle goes on and on. This cycle has to be stopped and we can do that by passing national medical liability reform right now.

Comprehensive medical liability reform is essential on a national level because the existing medical crisis is not confined within State lines and because every American should have access to affordable high quality healthcare. Likewise, every responsible member of the healthcare community should not be afraid to provide high quality care because of the fear of litigation.

In order to achieve these critical reforms, I am reintroducing the HEALTH Act. This legislation includes several reform provisions, including a \$250,000 cap on noneconomic damages, joint liability and collateral source improvements, and limits on attorney fees according to a sliding award scale.

In addition, my legislation includes an expert witness provision to ensure that relevant medical experts serve as trial witnesses instead of so-called "professional witnesses" who are used to further abuse the system.

This legislation is modeled after California's successful Medical Injury Compensation Reform Act, also known as MICRA. MICRA has brought about real reform to California's liability system. The number of dubious and frivolous lawsuits going to trial has declined dramatically.

Injured patients receive a larger share of their awards and disciplinary actions against incompetent healthcare providers have increased. The bottom line is that California's medical liability system works. These types of outcomes should be shared by every state, and ultimately every patient in America.

It is important to recognize that neither MICRA, nor my legislation limits the amount of economic damages that an injured patient can recover. Like every other profession, mistakes are sometimes made by healthcare providers. Patients who suffer from these mistakes should have access to unlimited economic compensation and should be able to recover losses, such as loss of past and future earnings.

Injured patients should also have access to punitive damages where providers are found to be grossly negligent. But, there is no way to quantify

a patient's "pain and suffering," and most often, no dollar amount is ever enough. Therefore, placing a reasonable limit on these non-economic damages helps bring accountability back to our civil justice system by weeding out frivolous lawsuits. This would allow physicians to concentrate fully on providing superior health care services, and help curb the skyrocketing costs of healthcare for patients.

Every step Congress can take to help increase patient safety and maintain access to quality health care services should be taken, and we are on track to do that this year.

Medical liability reform is not a Republican or Democrat issue or even a doctor versus lawyer issue. It is a patient issue. With the medical crisis occurring in Florida, Illinois, Pennsylvania, Nevada, and many more states around the Nation, our opportunity to enact true reform is here. Comprehensive medical liability reform is the right prescription and the time for action is now.

Let's make sure that expectant mothers have access to ob-gyns and that trauma care victims have access to necessary services in their most critical hour of need. And, let's make sure we continue to provide patients in America with the opportunity to receive affordable, accessible, and high quality healthcare for years to come.

#### EXHIBIT 1

WOMEN OB/GYN PHYSICIANS,  
Washington, DC, December 1, 2004.

TO OUR PATIENTS: We have all been reading and talking about the crisis in our health care system. As your doctors, our most important commitment and mission is to provide you with the highest quality medical care. We are writing to tell you how the current situation is affecting our ability to practice medicine at the level you deserve and expect.

Doctors in our area are being squeezed between decreased reimbursement from insurance carriers and steeply rising malpractice premiums. We were just notified that our malpractice premium for next year was increased by over 50 percent to more than \$275,000.

Faced with this increase we had to consider some difficult choices. We could close our practice. We could stop delivering babies—something we both love and at which we excel. We could markedly increase the number of patients we see each day and reduce the time we spend with each patient. This would mean insufficient time for discussion, education and thoughtful consideration of your individual needs. We rejected all of these options. Instead we chose to stop accepting extremely discounted rates for the services that we provide.

Effective March 1, 2005 we will no longer participate with CareFirst BlueCross BlueShield. Therefore, we will not accept any discounted insurance reimbursements. Of course, We hope to continue to see our Blue Cross Blue Shield patients, but payment is expected at the time of service. We will then prepare a claim form that you can submit to your insurance carrier to streamline your reimbursement. As a courtesy, we will continue to submit claims for deliveries and surgeries to the insurance carriers on your behalf.

We are committed to provide state-of-the-art women's health services in a caring, effi-

cient, and professional manner. We look forward to our continued relationship. If there is any way we can help you with this transition, please let us know.

Sincerely,

NANCY SANDERS, MD.  
JANET SCHAFFEL, MD.

#### PROMISE AND PERILS OF DEMOCRACY

Mr. DODD. Mr. President, I rise today to say a few words about a very important speech that was presented, on January 25, to the Organization of American States, OAS, by former President Jimmy Carter.

Broadly speaking, former President Carter's speech was about the promise and perils of democracy in our hemisphere. In my view, no topic could be more relevant.

Our hemisphere has come a long way over the past 30 years—in no small part due to the efforts of Jimmy Carter. From the beginning, he realized the importance of the OAS in our hemisphere, and he demonstrated this understanding by addressing every OAS General Assembly meeting held in Washington during his presidency.

He spearheaded the promotion of human rights, and his tireless work contributed to the establishment of the Inter-American Convention on Human Rights. That important document has encouraged greater civilian participation and helped facilitate the transition in many countries from rule by military dictator to that of democratically elected government.

Simply put, Jimmy Carter's efforts sent a clear message throughout the hemisphere that the U.S. not only valued democracy but was committed to ensuring that people of all backgrounds had a stake in emerging democracies in their countries. Indeed, the Inter-American Democratic Charter, which enjoyed broad support, was signed on the fateful day of September 11, 2001, and stands in stark contrast to the illiberal forces at work in areas around the world.

The message of that document—that OAS member nations would stand together to protect democracy—and the wide support it enjoyed prove how much progress can be made when the U.S. invests time and effort in our hemisphere.

Together, we've made tremendous progress over these past 30 years. However, our work in the hemisphere is far from over. We must continue to end impunity, protect emerging democratic institutions, and strengthen the Inter-American Democratic Charter.

Former President Carter continues to work toward these noble ends, and others, for the good of the U.S. and for the good of people from Canada to Argentina and across the world. I congratulate him on his efforts, on the magnificent work of the Carter Center, and on the vision he laid out in his January 25 statement before the OAS. I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PROMISE AND PERIL OF DEMOCRACY

(By Jimmy Carter)

I am honored to address the permanent council of the Organization of American States. Thank you, Mr. Secretary General, Mr. President, and Ambassador Borrea for the kind invitation to inaugurate this lecture series of the Americas.

I have long been interested in this organization. Thirty years ago, as Governor of Georgia, I invited the OAS General Assembly to meet in Atlanta—the first meeting in the U.S. outside of Washington. Later, as President, I attended and addressed every General Assembly in Washington.

Back then, I realized that most of this hemisphere was ruled by military regimes or personal dictatorships. Senate hearings had just confirmed U.S. involvement in destabilizing the government of Salvador Allende in Chile, and a dirty war was being conducted in Argentina. I decided to stop embracing dictators and to make the protection of human rights a cornerstone of U.S. foreign policy, not only in this hemisphere, but with all nations.

When we signed the Panama Canal Treaties in this same August hall in 1977, many nonelected or military leaders were on the dais. Key Caribbean States were absent, not yet part of the inter-american system. Then in 1979, Ecuador started a pattern of returning governments to civilian rule. The Inter-American Convention on Human Rights soon came into force, and our hemisphere developed one of the strongest human rights standards in the world.

These commitments have brought tremendous progress to Latin America and the Caribbean. Citizens have become involved in every aspect of governance: More women are running for political office and being appointed to high positions; indigenous groups are forming social movements and political parties; civic organizations are demanding transparency and accountability from their governments; freedom of expression is flourishing in an independent and vibrant press; ombudsmen and human rights defenders are active; and many countries are approving and implementing legislation to guarantee that citizens have access to information.

The English-speaking Caribbean has sustained vibrant democracies. A democratic Chile is removing military prerogatives from the Pinochet-era constitution and the military has acknowledged its institutional responsibility for the torture and disappearances of the 1970s. Central America has ended its civil wars and democracy has survived. The Guatemalan government offered public apology for the murder of Myrna Mack, and a Salvadoran responsible for the assassination of Archbishop Romero was tried and convicted last year, although in absentia.

Venezuelans have avoided civil violence while enduring a deep political rift in the last three years. Mexico developed an electoral institution that has become the envy of the world. Argentine democracy weathered the deepest financial crisis since the 1920s depression and its economy is on the rebound.

Four years ago, Canada and Peru took the lead in developing a new, more explicit commitment to democracy for the hemisphere. On the tragic day of September 11, 2001, the Inter-American Democratic Charter was signed.

I am proud to have witnessed these demonstrations of the courage, persistence and creativity of the people of this hemisphere.

But I am also worried. I am concerned that the lofty ideas espoused in the Democratic