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Senate

The Senate met at 1:00 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, You are not only just and holy, but Your mercies endure forever. Because of Your goodness, we receive Your forgiveness and love. Forgive our past mistakes and give us new hearts that we might serve You with passion.

Today, bless our Senators physically, mentally, and spiritually. Strengthen them so that they will control their tongues, actions, minds, and hearts. Preserve them in soundness of mind that all their decisions will be made for Your glory.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will return to debate on several health care proposals. We had previously slated this week to consider two medical liability, medical malpractice reform

ills, as well as the small business health plan bill reported by the HELP Committee. Because there was an objection to proceeding to each of these three bills, I was forced to file cloture last week on each of these bills on the motion to proceed. Thus, the first vote will be at 5:15 today on one of the medical liability bills and the second medical liability bill, if we do not get cloture on the first, to follow.

At 5:15, the vote will be on the Medical Care Access Protection Act of 2006, S. 22. If cloture is not invoked on that comprehensive bill, the Senate will then immediately vote to invoke cloture on the motion to proceed to S. 23, the Healthy Mothers and Healthy Babies Access To Care Act. That second bill is similar to the first, S. 22, but limits itself to litigation and focuses just on obstetrical and gynecological care.

If the Senate is not able to turn to either of these pieces of legislation, the next vote we will have will be tomorrow morning, Tuesday morning, on cloture on the motion to proceed to S. 1955, the Health Insurance Marketplace Modernization and Affordability Act. This is the bill reported by Chairman ENZI's committee called the small business health plans bill. The bill is intended to aid small business owners by giving them more power to negotiate for affordable insurance for their employees and their families.

We have set aside debate throughout the day today to allow Senators to speak on any of these three health care measures. I look forward to the debate on each of these issues—each very important—as we look at the overall affordability of health care, the access to health care, as well as the quality of health care for all Americans.

HEALTH CARE REFORM

Mr. FRIST. Mr. President, at this point I would like to briefly extend some comments I made at the end of

last week on the issue of the medical liability bills that are before this body.

On Friday, the Senate filed cloture on the medical liability reform bill—or actually two bills—and we will vote on at least one of those bills today, this afternoon. All of this centers around the fact that our broken medical liability system is hurting every American, every patient, every physician, and the health care system. But the important thing is that it hurts every American. It is an issue that, as a physician as well as a Senator, concerns me deeply. Indeed, it needs to concern and should concern every single American who is walking or will walk into a doctor's office. That is because every American is suffering from the high costs which are totally unnecessary and, in many ways, frivolous and out of control.

A litigation lottery system is what it really is that we suffer from today. Each year, health care costs are rising three to four times faster than the average American's paycheck, and that is in part—in part—driven by this litigation lottery system, a system that is driving up costs, and when it drives up costs, it drives up the premiums that not just doctors pay, because those premiums are passed on to the patients and potential patients, but it drives up costs, diminishes access to health care today, and thus diminishes quality for every American. Access to quality issues are equally important to the costs, but they are all interrelated.

Innocent doctors and patients are being punished because of the greed of a few opportunistic trial lawyers who are exploiting the system the way it is currently configured. Thus, the legislation that we propose and that we hope we will be able to debate on the floor reforms that system—it fixes the system—with a sense of fairness and commonsense reform.

This is an issue which I have been compelled to bring back to the floor again and again, really on principle, because it is the right thing to do. In

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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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.

RECOGNITION OF THE MINORITY LEADER

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

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