

MEDICAL LITIGATION REFORM

Mr. FRIST. Mr. President, I know we are going to go straight to the bill, but first I want to make a few comments on another very important issue, and now during leader time is the most appropriate time for me to comment. It is an issue that is very close to my heart and an issue that has tremendous impact on people in every State.

I will speak to one State, that is Massachusetts, on the issue of medical liability.

It was just this week that the American Medical Association added another State—Massachusetts—to its growing list of States that can be classified as being in medical crisis because of out-of-control medical litigation system.

For several months, as we brought a series of bills to the floor to try to bring this issue to debate and to focus the attention of this body on it, we have been using the number of 19 States. Now it is 20 States in this great country of ours that are in medical crisis because of this single issue.

According to the AMA, access to quality health care is increasingly endangered. What this means is decreased access to doctors. If you need a doctor, if you are in an automobile accident or if you are a mom or future mom and you need an obstetrician, access to care is increasingly endangered due to a broken medical litigation system. It is a problem in all States and in at least 20 it is a crisis. It is spreading across the country and that is why I take this opportunity to at least mention it and shine a light on it once again. It is a problem, it is a growing problem, and we have a responsibility to address it.

Three weeks ago, I had a wonderful opportunity to present what is called the Shattuck lecture before the Massachusetts Medical Society. I had done my training in Massachusetts and I have tremendous respect for that organization. They report that the litigation crisis has become so severe in Massachusetts that numerous high-risk specialists, such as obstetricians, neurosurgeons or trauma surgeons, have reduced their scope of practice. This applies to 29 percent of general surgeons,—a general surgeon is the one who might come to the emergency room to sew up your child if they have a laceration—36 percent of obstetricians, 41 percent of orthopedic surgeons, and greater than 50 percent of all neurosurgeons. If you are in an accident and you are going to a hospital, you want a neurosurgeon there to evaluate and appropriately treat.

Those are the percentages of those who have said they are reducing their scope of practice. In other words, if you are a neurosurgeon, you might do elective cases but you might not put your name on the list to show up in the middle of the night to treat somebody. Why? Because your insurance would go from \$100,000 to \$300,000, just so you could have the opportunity to come in late at night to treat somebody. That is about as simple as I can say it. The problem is quality of care is being affected.

The facts in Massachusetts reflect a growing trend. I gestured going up. It should be going down, because it is almost like a downward spiral that is occurring over the last several weeks and months and years. We have heard it again and again on the floor with anecdotes reinforcing what the medical societies are telling us, what hospitals are telling us, and what physicians are telling us, and that is that doctors are leaving and narrowing the scope of their practice. They are leaving the opportunity to deliver babies, maybe just to do the medical aspects of gynecologic care, or no longer taking calls in trauma centers, or they are moving to less litigious States.

I was in Pennsylvania a few months ago. I believe 1,400 doctors in the last 2 years have left the Philadelphia area and they cite the high medical liability rates they are paying as the No. 1 reason they are forced to leave. Many doctors are retiring from practice altogether.

Neurosurgeons and obstetricians are being hurt the most. If you talk to people in the emergency room or if you have friends, nurses, or technicians there, just ask them because emergency rooms are having an increasingly difficult time getting the high-risk specialists, and those are the people you want if an injury occurs. If driving home tonight you are in an accident, you want somebody there or someone who can get there very quickly. That is what is at risk.

I keep mentioning the doctors. It is not just the doctors; it is the patients who are ultimately hurt. The doctors probably will be OK. They will move and incomes can sort of adjust. It is ultimately the patients who are being hurt when health care is being threatened.

The good news is we know how to address the crisis. It is not just a problem that is getting worse that cannot be fixed. We actually know how to address the crisis. Commonsense comprehensive medical litigation reform, which has taken place in some States, has been proven to be overwhelmingly successful. It strengthens our system by addressing the abuses in the system. We want a strong tort system. We want to make sure medical malpractice is aggressively addressed. What we don't want are frivolous, unnecessary lawsuits that drive up the cost of health insurance for the physician, but ultimately the cost of health care throughout the system, and destroy the quality of the great health care that we do have in this country.

Being a physician, obviously this is close to my heart because I see it and I happen to be around physicians a lot and I happen to be around patients a lot. I am not going to give up on this issue. We are going to keep bringing it back again and again until we make headway on this increasing problem.

I don't know how many more States it will take. Massachusetts was added this week. I don't know how many more States we are going to have to add to this medical crisis before we act. How many women are going to have to put up with their obstetricians leaving halfway through the pregnancy, either moving or dropping obstetrics, and having to find another obstetrician, or in rural areas not being able to find an obstetrician at all?

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So I do call on my colleagues to stand with America's patients, the American people, and resist the powerful special interests—we know they are out there today—that want no change whatsoever.

I am determined to press forward. We will try once again at some point in the future to address this on the floor of the Senate. This is not a partisan issue. It goes way beyond that. People say we have these partisan votes, but it is not a partisan issue. This should not be and

cannot be a partisan issue. So let's make Massachusetts the last State added to this list. Let's reduce that list. The only way we can do that is by acting on the floor of the Senate. Let's act now to stop the crisis from spreading and let's work together to put America's patients first.

I yield the floor.