

today? We know compensation to patients injured by medical errors is neither prompt nor fair. We also know verdicts with huge awards that do not match the severity of injuries or the conduct of the defendants destabilize the insurance markets. This sends premiums skyrocketing, which forces many physicians to curtail, move, or drop their practices. This leaves patients without access to necessary medical care.

Finally, we know litigation does nothing to improve quality or safety. In fact, the constant threat of litigation drives the inefficient and costly practice of defensive medicine and also discourages the exchange of information about preventable health care errors that we could use to improve the quality and safety of patient care.

The current medical liability crisis and the shortcomings of our medical litigation system make it clear that this is the time for a major change. We need a medical justice system that promotes accountability and fairness instead of discouraging them.

Regardless of how we vote on this legislation before us, we all ought to start working toward replacing the current medical tort liability scheme with a more reliable and predictable system of medical justice. We need a system that restores rationality to the way in which we compensate the injured and learn from mistakes. We need a system that restores the trust that patients and providers used to have in each other. It is incumbent upon all of us to strive for such a system so that we may raise the overall standard of health care in this country.

The legislation we are considering today is an important step in the short term toward making the medical justice system work better for everyone, not just a fortunate handful of personal injury lawyers. I urge my colleagues to join me and vote for this bill.

I ask unanimous consent that at 2:15, Senator KYL be recognized to speak for up to 15 minutes to be followed by Senator FEINSTEIN for up to 25 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

---

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH.)

---

#### PATIENTS FIRST ACT OF 2003— Motion to Proceed—Resumed

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. REID. Mr. President, if the Senator will yield just for a brief second, it is my understanding the Senator from Arizona has authority to speak up to 15 minutes, followed by a 25-minute

speech by the Senator from California. Is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that following the statement of the Senator from California, Senator CORNYN be recognized for 30 minutes, followed by Senator HOLLINGS for 30 minutes, and following Senator HOLLINGS, I ask that Senator VOINOVICH be recognized for up to 30 minutes, and then he would be followed by a Democrat.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Mr. President, I am pleased to address one of the most important issues I think we are going to be talking about all year. I hope our colleagues will permit us to conclude our debate with a vote so we can actually adopt some legislation to deal with this crisis of lawsuit abuse in the United States. Some call it medical malpractice reform. Whatever you call it, we have to deal with it.

Unfortunately, what we have heard is that some of our colleagues are going to prevent us from having a vote on the bill that is before us, S. 11. It is a bill that addresses one of the most fundamental problems we have, and that is access to available quality medical care by a lot of people in our society today. We need to reform this flawed medical malpractice system which is prohibiting people from getting the quality medical care they need and deserve.

We debated just before the Fourth of July recess Medicare reform to provide prescription drug benefits to all of our senior citizens. We took a lot of time talking about why our senior citizens needed access to care and how we were going to improve that access. But all of that will go for naught, it will do no good, if there are no hospitals and there are no pharmacists, if there are no physicians and other health care providers—or an insufficient number of those providers—to help those people in need, whether they be senior citizens or others, because of the high cost of malpractice premiums and therefore the inability of these providers to continue to serve the people in their communities.

Last year, the American Medical Association released a study on this lawsuit abuse problem. It concluded that 12 States were having a full-blown crisis and that 30 States were seeing serious problems in terms of the ability of physicians and hospitals to stay in practice to take care of their patients.

Today, just a year later, that study has been updated and the AMA has now concluded that 19 States are having a full-blown crisis in dealing with the medical malpractice insurance rates just for physicians. Let me give some examples of how this is affecting different communities around the country so you can see it is truly a nationwide problem.

In my State of Arizona, health care providers have experienced dramatic increases in their insurance rates. Between 2001 and 2002, two hospitals in Phoenix saw a threefold increase in their malpractice premiums, paying more than \$1.7 million. Meanwhile, in Winslow, AZ, the hospital premiums have more than doubled, to \$1.8 million.

Some of you know the town of Winslow, AR, from a famous song by the Eagles. It is a town with great history and rich in tradition in Arizona but it is not very big. It doesn't have the patient base to support a hospital that has to pay almost \$2 million a year in medical malpractice premiums. It is not just in my State of Arizona. Methodist Hospital in south Philadelphia recently closed its maternity ward and prenatal program because of its medical liability insurance rates. Greenwood Hospital in Mississippi was unable to keep its level II trauma center rating because the neurosurgeons in the area had left citing the high cost of liability insurance.

I spoke with a woman whose husband had been very seriously injured in an automobile accident in Mississippi. She told the story of how—because of the lack of physicians and because of the high cost of premiums—her husband has suffered so terribly as a result of that accident and the inability to get quick medical attention.

Back to my home State of Arizona, the Copper Queen Community Hospital in Bisbee, AZ, was recently forced to close its maternity ward because the family practitioners in that community were looking at a 500-percent premium increase. Expectant mothers now must travel more than 60 miles to the closest hospital, which is either in Sierra Vista or in Tucson. According to the recent news accounts, four women have since had to deliver babies en route.

To cite the news accounts, Time magazine has a June 9 cover story about the doctor being out and why so many patients are losing doctors to the rising cost of malpractice.

This is now truly a national event.

In the Time magazine piece dealing with this question of physicians having to leave the practice, there is a particularly interesting story about a woman in Arizona whose name is Vanessa Valdez. The title of the story is "Taking the Highway to Have a Baby." The story points out that Vanessa has to drive about 50 miles to see her OB/GYN and to have a baby. She lives in the town of Douglas, which is on the Arizona-Mexico border. But there is no obstetrician within an hour's drive to deliver her child. There were six family practitioners in that community but they couldn't afford the soaring malpractice premiums. As a result, the hospital was forced to close its delivery room, and suddenly rural Cochise County has but one delivery room for the 118,000 residents. That is in Sierra Vista, 50 miles from Valdez's home of Douglas.