

In just 5 years, the premiums for general surgery in Arizona increased from \$37,804 to \$56,862—an increase of 50 percent. For obstetricians in Arizona, premiums in 2001 were \$49,436 and are now averaging \$72,734. These premiums are rising at a staggering rate in part because juries in malpractice cases have given high-dollar verdicts to plaintiffs. Some of the verdicts are merited; many, we know, are not. In the end, these legal excesses damage the medical liability system, push up premiums, and lead to the early exodus of physicians. The system is broken and it is patients who suffer.

Hard-working men and women who need emergency medical treatment face longer waiting times when there are too few physicians to staff hospitals. Instead of a few days, it takes weeks for children to be seen for complex conditions because of the lack of pediatric specialists. Our seniors are forced to drive longer distances because they are told that physicians are no longer seeing any new Medicare patients. The situation for both physicians and patients has grown bleak, and care is compromised.

We should address this by enacting meaningful medical liability reform. S. 22 provides full recovery of the cost of necessary medical expenses and lost wages in a medical negligence case. When a wrong has occurred, it is important that the patient be able to gain a legal settlement or verdict that meets his or her future needs. This has always been a hallmark of medical liability legislation I have supported because it is in the best interest of the patient. New to S. 22 is the Texas model of caps on noneconomic damages, limiting them to \$750,000 for noneconomic damages from three parties. I hear constantly from physicians who share with me the escalating costs of medical liability insurance and the ways they have had to alter their practice to pay these bills.

We have had an exodus of specialists from emergency room on-call rosters, and as you might have expected, hospitals are having trouble recruiting new physicians to the area. Compared to the national average of 283 physicians per 100,000 people, Arizona has only 207 physicians per 100,000 people.

I recently got an e-mail from an emergency physician, Todd Taylor of Phoenix, who is leaving the clinical practice to go to Tennessee. He is giving up medicine at the age of 49, in part, he said, because he sees a bad situation getting worse. The American College of Emergency Physicians recently issued a “national report card” and graded the medical liability environment in Arizona a D-minus.

I also heard about a woman in Arizona who returned to her obstetrician to deliver her second child, only to find out that physician had stopped delivering babies because of the high liability premiums. Arizona cannot afford to have physicians leave the State or curtail their practices.

There are areas of my State like Apache County that don't have even a single obstetrician. That means women in labor have to drive to neighboring counties to deliver their children. Apache had only 34 physicians in the whole county in 2004 and has seen even more physicians leave the area since then. One physician there, Thomas Bennett, said that his liability premiums, coupled with decreasing reimbursement, forced him out of his practice after 25 years. Dr. Bennett was an OB/GYN and always practiced in rural areas. What a loss to that community and to our State. S. 23, the second bill I mentioned, would provide liability protection for those who deliver babies and might keep physicians in practice or encourage obstetricians to practice in underserved areas like Apache County, AZ.

This is not how the system was ever intended to work. If we want women and babies to enjoy the medical care they expect and deserve, we need to find ways to encourage physicians to practice throughout my State and throughout the country. We cannot afford to have doctors relocating to different States to find more favorable laws and for communities to go without vital services.

The health care community has asked for the protections it needs to continue to provide services.

My Senate colleagues should do the right thing for patients, physicians, and hospitals, and reconsider their opposition to medical liability reform now. We will keep coming back until they are willing to address this situation—not just for the medical community but for all of the patients it serves.

Mr. CHAMBLISS. Mr. President, I rise today to speak on the issue of medical liability reform. Earlier this week, we attempted to bring the issue of medical liability reform to the Senate floor for a debate. Two bills were offered, S. 22, the Medical Care Access Protection Act, and S. 23, the Healthy Mothers and Healthy Babies Access to Care Act, both medical liability reform bills. We had two votes that would have simply allowed us to proceed to a debate on these two bills. Both of these procedural motions failed, and unfortunately we were unable to discuss this very important issue in the United States Senate.

The American Medical Association has declared a medical malpractice crisis in 21 States, including my home State of Georgia. Hospitals, physicians, and patients in Georgia and across the Nation are being negatively impacted by rising costs in medical care and medical liability insurance premiums. Many health care providers have left their practices, retired, or moved to another State. As a result, we have seen a reduction in access to health care services and an adverse impact on the health and well-being of the citizens of Georgia. A new medical liability law in Georgia hopefully will help

to improve the quality of health care services and assist in lowering the cost of health care liability insurance in my State. I applaud the lawmakers in the State of Georgia who took the time to address this issue on the State level and craft a law that will be beneficial to our physicians and patients.

I was disappointed that the Senate was not able to bring this discussion to the floor. Many of my colleagues and I would have enjoyed the opportunity to participate in a healthy debate. While I do not agree with all aspects of the two proposed pieces of legislation, it is vital that we move forward with a discussion if we ever expect to find a solution. Many of the issues that come before the Senate are not easy ones. In order to find compromises, this body must participate in debates.

Meaningful medical liability reform, at the Federal level, should help rid our court system of frivolous lawsuits, while addressing those who are seriously injured because of negligence. This reform would have to allow injured victims compensation for economic damages—medical expenses, rehabilitation costs, and loss of wages and future earnings—as well as reasonable awards for pain and suffering. We need a system that allows patients the right to pursue any cause where injury is the result of negligence; while at the same time, we need a system that provides reasonable protection to hospitals and physicians.

Our doctors throughout the country do amazing and heroic things everyday. I commend all of them for the hard work and long hours they put in to help ensure the health and wellness of the citizens in our great Nation. I am disappointed that the Senate could not move forward with a discussion on medical liability reform.

#### HONORING OUR ARMED FORCES

STAFF SERGEANT GREGORY WAGNER

Mr. JOHNSON. Mr. President, I rise today to pay tribute to SSG Greg Wagner and his heroic service to our country. As a member of the South Dakota National Guard, Staff Sergeant Wagner was deployed to Iraq with the Battery C, 1st Battalion, 147th Field Artillery based out of Yankton. On May 8, 2006, he died when his convoy was attacked in a Baghdad neighborhood.

Greg graduated in 1989 from Hanson High School in Alexandria. Soon after his graduation, he enlisted in the South Dakota National Guard. Al Blankenship, the Commander of the American Legion in Alexandria, remembers him as a true military man. Dedicated to the South Dakota National Guard, he worked full time as a heavy equipment mechanic at the National Guard maintenance complex in Mitchell until his unit was deployed in October 2005. Greg was a team leader for his unit, which was tasked with training and evaluating the Iraqi police force in one of the city's police districts.

Greg's high school football coach, Jim Haskamp, remembers him as a very loyal person, which was evident in all aspects of his life. Greg's favorite past time was football. Haskamp recalls that, "You could chew him out for something, and he'd come back and thank you for trying to make him better."

Sergeant Wagner gave his all for his soldiers and his country. Our Nation owes him a debt of gratitude, and the best way to honor his life is to emulate his commitment to our country. Mr. President, I join with all South Dakotans in expressing my deepest sympathy to the family of Staff Sergeant Greg Wagner. He will be missed, but his service to our Nation will never be forgotten.

FIRST SERGEANT CARLOS N. SAENZ

Mr. ENSIGN. Mr. President, next week, the family, friends, and comrades of 1SG Carlos Saenz will gather to say a final goodbye as he is laid to rest at Arlington National Cemetery. I pay tribute to his life and legacy.

Carlos Saenz will be buried at Arlington in the company of some of this Nation's greatest fighters, leaders, and explorers—men and women who changed the course of our country. It is completely fitting that Carlos Saenz be laid to rest there because Carlos represents all that is great about America.

Carlos was born in Mexico. He became a naturalized citizen and considered himself extremely lucky and proud to be an American, as we all should. And for more than 25 years, he gave back to this country with every fiber of his being.

Carlos entered active duty in 1978 and was a member of the Nevada National Guard from 1990 to 1992 serving with the 72nd Military Police Company out of Henderson, NV, in Desert Storm and Desert Shield. In June of 1994, he was assigned to the Guard's 1st Squadron, 221st Armor Battalion, Las Vegas, until January 2000. In January 2000, he became an instructor at the 421st Regional Training Institute in Stead, NV. Then, in May 2002, he joined the Guard's 1864th Transportation Company, in Henderson, until he was honorably discharged in January 2004. He then was assigned to the Individual Ready Reserve. He earned the rank of first sergeant in 2001.

Carlos was in Iraq as a trained civil affairs noncommissioned officer assigned to the 490th Civil Affairs Battalion, Abilene, TX. He had an extensive military education and had received countless awards for his service. Carlos had also worked for the Nevada Test Site's security firm for more than two decades where they are remembering him as "a patriot, a great American, and a good man."

Nowhere is his loss being felt more than at his home in Las Vegas, where he is being remembered and mourned by his wife, Nanette; his son, Juan; his parents; and brothers and sisters.

I had the opportunity to speak with Nanette Saenz yesterday. I called to

extend my condolences and appreciation on behalf of this country. It shouldn't surprise me, but I am always taken aback by the strength and pride of the families of our fallen heroes. It makes sense that our brave servicemen and women have equally brave support systems at home. Nanette was no exception. As the family made clear in a statement, they "know the legacy he leaves behind while serving in a profession where 'all give some, but some give all.'" Carlos loved being a soldier and loved what he was doing.

We are fortunate that someone like Carlos came to this country. He died as an American—defending his country, fighting for freedom, and working to keep his family and all our families safe and secure. May God keep him close and watch over his family. And may God continue to bless America with people like Carlos and Nanette Saenz.

#### POLICE CHIEFS SUPPORT COMMON SENSE NATIONAL GUN SAFETY REGULATIONS

Mr. LEVIN. Mr. President, a national study of police chiefs' support for a variety of possible gun safety regulations was recently completed by researchers at Wayne State University, the University of Toledo, and Kent State University. The study, titled "Police Chiefs' Perceptions of the Regulation of Firearms," was published in the April issue of the American Journal of Preventive Medicine. I applaud the researchers for addressing this important issue and for their contribution to the debate about common sense gun safety legislation.

As the study points out, "Firearm injuries are the second leading cause of injury death in the United States, and since 1972 have killed on average more than 30,000 people each year." Our police chiefs see the consequences of gun violence on a daily basis and are in a unique position to evaluate possible solutions to the gun violence epidemic in our country. For their study, researchers surveyed 600 randomly selected police chiefs in cities with populations of more than 25,000 people. This survey was intended to measure the police chiefs' support for a number of possible gun safety regulations. While the responses of the police chiefs may not be surprising to advocates of commonsense gun safety legislation, they are striking and certainly worth noting.

There were a number of potential gun safety regulations that received the support of an overwhelming majority of the police chiefs who returned surveys. Specifically, 93 percent of police chiefs supported a requirement that background checks be completed prior to the purchase of all handguns and 82 percent believed background checks should also be required for the purchase of rifles and shotguns. This means that overwhelmingly police chiefs believe background checks should be required for the purchase of all firearms, regardless of whether they

are purchased from a public or private dealer.

As my colleagues know, current law requires that when an individual buys a firearm from a licensed dealer, a background check must be completed to insure that the purchaser is not prohibited by law from purchasing or possessing a gun. However, this is not the case for some gun purchases. For example, when an individual buys a firearm from a private citizen who is not a licensed gun dealer, there is no Federal requirement that the seller ensure the purchaser is not in a prohibited category. This creates a loophole in the law, making it easy for criminals, terrorists, and other prohibited buyers to evade background checks and buy guns. This loophole creates a gateway to the illegal market because prohibited buyers know they will not be subject to background checks when purchasing a firearm from a private citizen.

One of the factors that automatically disqualifies a person from purchasing a firearm is a prior felony conviction. However, most misdemeanor convictions do not disqualify a person under Federal law from buying a firearm. In response to the survey, a majority of the police chiefs supported a prohibition on the sale of firearms to those who have been convicted of misdemeanor crimes including the public display of a firearm in a threatening manner, domestic violence, and carrying a concealed weapon without a permit.

In addition, the police chiefs supported action on a number of other commonsense gun safety regulations on handguns. More than 81 percent of the police chiefs said that the Federal Government should require handguns to be assigned tamper-resistant serial numbers that could assist law enforcement officials in the prosecution of illegal gun traffickers. Nearly 70 percent of the police chiefs believe that all handguns should be registered, and 82 percent believe that the Federal Government should require all new handguns to be sold with trigger locks.

Our Nation's police chiefs are particularly knowledgeable and well placed to assess the importance of commonsense gun safety laws in protecting the safety of our communities and in stopping the flow of firearms to the illegal market. Through their responses to the survey, the police chiefs are sending a clear message that they believe that stricter national standards on the purchase and possession of firearms should be enacted. Congress should listen to this important message and take action on these issues.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new