

From: "Torgerson, Karin B."
To: "Hernandez, Israel", "Willeford, Emily", "Kavanaugh, Brett M."
Subject: 01-26 BP for AR LittleRock Medical Liability Event
Sent: Fri, 23 Jan 2004 20:08:45 -0500
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Jon and my comments to this one. I am concerned with the "frivolous" lawsuit thing. Rare for a court to find a case "frivolous." Generally, they just dismiss it. I don't think we should be saying that cases were thrown out as being frivolous unless we know there was a court finding as to that fact.

THE WHITE HOUSE

WASHINGTON

ROUNDTABLE AND REMARKS ON MEDICAL LIABILITY REFORM

Monday, January 26, 2004
10:40 a.m. – 12:15 p.m.
Baptist Health Medical Center
Little Rock, Arkansas
Karl Rove / Margaret Spellings

I. PURPOSE

To show your continued commitment to enacting national minimum standards for medical liability reform to address the healthcare crisis that has resulted, in part, from excessive litigation, and to highlight the need for class action reform.

II. BACKGROUND

You will visit Baptist Health Medical Center, where you will participate in a roundtable discussion with hospital administrators, doctors, a nurse, and patients, and deliver remarks on medical liability reform.

Located in Little Rock, the Baptist Health Medical Center is a 750-bed facility, providing comprehensive healthcare services, including children's services, women's health, inpatient and outpatient surgery, and heart health. Baptist is owned by Baptist Health System, the largest not-for-profit healthcare organization in Arkansas.

Background on Medical Liability Reform

Excessive medical malpractice litigation continues to threaten access to health care in communities throughout the country and raise overall healthcare costs. In states that have not enacted meaningful caps on non-economic damages and real limitations on punitive damages, physicians are facing large premium increases, and some are unable to obtain medical liability insurance. The crisis is particularly acute in Arkansas, where many people in rural areas do not have access to obstetric care and other important healthcare services.

Last year, Arkansas enacted limited medical liability reforms that included a cap on punitive damages of the greater of \$250,000 or triple the amount of compensatory damages up to \$1 million. Caps on non-economic damages are prohibited by the State Constitution. The Arkansas legislation included other limited reforms, but many provisions contained loopholes. For example, under the reforms, doctors are still held jointly and severally liable if a court determines that each defendant's share will not be reasonably collectible. Medical liability premiums continue to rise and the State's problems continue to worsen. Only two out of the five remaining medical liability insurers operating in the State are accepting new doctors, and one of them has rates that are not competitive.

You have proposed Federal legislation to ensure national standards for medical liability reforms, including a \$250,000 cap on non-economic damages. A fair, predictable, and timely medical liability process speeds up the time it takes patients to get compensation, reduces healthcare costs, and improves access and quality of health care. Legislation introduced by Congressman Jim Greenwood (R, PA-08) passed the House in 2003, but failed in the Senate. In your State of the Union address, you urged the Congress to pass medical liability reform this session.

III. PARTICIPANTS

Roundtable Participants

Russell “Russ” Harrington, Jr., CEO, Baptist Health System (will introduce you for remarks)
Dr. Sara McBee, family practitioner
Dr. John L. Wilson, orthopedic surgeon
Sullivan “Sully” Ligon [LEG-in], patient of Dr. John Wilson
Mary Ligon [LEG-in], patient of Dr. Wilson; and wife of Sully Ligon
Franklin “Frank” Wise, Administrator, Fulton County Hospital
D’Borai [de-BORE-uh] Lynn Cook, emergency room nurse, Baptist Health Medical Center

VIPs in Audience

Governor Mike Huckabee (R)
Janet Huckabee, wife of Governor Huckabee (T)
Lieutenant Governor Win Rockefeller (R)
Jim Dailey, Mayor of Little Rock (D)
Note: Mayor Dailey is actively involved in Wesley Clark’s presidential campaign.
Patrick Hays, Mayor of North Little Rock (D)
State Senator Gilbert Baker, Senate Minority Leader (R)
State Representative Marvin Parks, House Minority Leader; and candidate for the 2nd Congressional District (R)
State Representative Stephen Bright (R-Maumelle)
State Representative Jeremy Hutchinson (R-Little Rock); and son of former U.S. Senator Tim Hutchinson (R)
State Representative Sid Rosenbaum (R-Little Rock)
Michael Keck, Little Rock Board of Directors (R)
Doug Weeks, Senior Vice President and Administrator, Baptist Health Medical Center
Greg Crain, Vice President for Patient Services, Baptist Health Medical Center
Mark Lowman, Vice President for Strategic Development, Baptist Health Medical Center

Mary Lynn Roberson [ROB-er-son], USA Freedom Corps Greeter

500 invited guests, including physicians, patients, and hospital personnel from Baptist Health Medical Center, St. Vincent Doctor’s Hospital, University Hospital of Arkansas, and the Arkansas Children’s Hospital; and local elected officials and community members interested in medical liability reform

White House Staff

Joe Hagin, Deputy Chief of Staff for Operations

Karl Rove, Senior Advisor

Alan Gilbert, Special Assistant to the President for Domestic Policy

Paul Dyck, Association Director, Office of Political Affairs

IV. PRESS PLAN

Roundtable: Closed

Remarks: Open

V. SEQUENCE OF EVENTS

- You arrive Baptist Health Medical Center and are greeted by Baptist Health Medical Center executives Russ Harrington, Doug Weeks, Mark Lowman, and Greg Crain.
- You and Russ Harrington proceed to Dining Room 8 for Roundtable.
- You begin participation in the Roundtable.
- You conclude Roundtable and proceed to Gilbreath Conference Room for offstage announce.
- Russ Harrington is announced on to stage.
- You are announced on to stage.
Note: Roundtable participants will be seated in the front of the audience for your remarks.
- Russ Harrington delivers welcoming remarks and introduces you.
- You deliver remarks.
- You conclude remarks, work rope line, and depart.

VI. REMARKS

Remarks provided by Speechwriting

VII. ATTACHMENTS

Background Information for Roundtable Participants

Arkansas Political Briefing

BACKGROUND INFORMATION ON ROUNDTABLE PARTICIPANTS

Russell “Russ” Harrington, Jr., President and CEO, Baptist Health System

- Russ Harrington has been President and CEO of Baptist Health since 1984, and he has been a part of the Arkansas medical community his entire career.
- Russ leads overall business development for the entire Baptist Health system and is responsible for the system’s operation and financial performance.
- Russ has seen the dramatic increases in the cost of health care as a direct result of the medical liability crisis in Arkansas, and he has watched as doctors retire early in his State or reduce their practices because of the rising malpractice premiums.
- He is worried about access to health care, particularly in rural areas of his State. He says it has become difficult to recruit and retain doctors in these rural areas. Hospitals in these areas are also struggling. Two rural hospitals that are part of the Baptist Health family have struggled and would have closed had they not been a part of the system.
- The system had to renegotiate its medical malpractice rates in 2002. The system had budgeted for \$1.5 million, but the rates increased to over \$4.2 million. These premiums continue to rise.

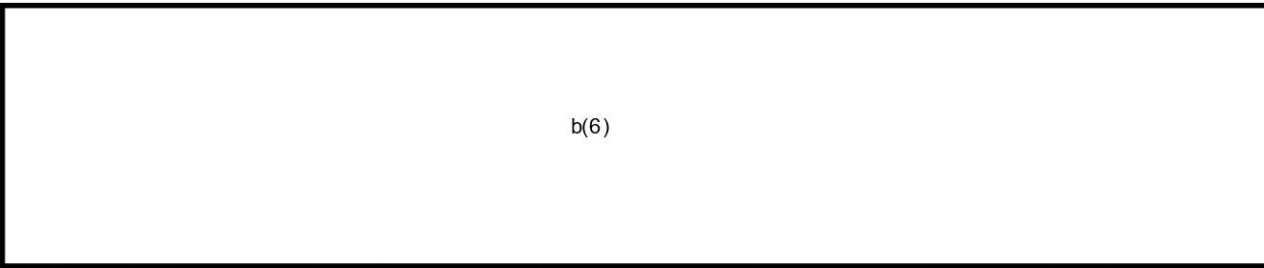
Dr. Sara McBee, family practitioner (Fayetteville, Arkansas)

- Dr. McBee has lived and practiced in Fayetteville, Arkansas, for the last 16 years. As a family physician practicing in a rural community, she provides health care to entire families, including all ages and both sexes.
- The unique patient-doctor relationship she has developed and nurtured as family practitioner with these families has been destroyed because of Arkansas’s medical liability crisis.
- An integral part of her practice has been the delivery of babies, and until last year she delivered between 80 to 100 babies per year. In July 2002, her premiums more than doubled. Her other two partners’ premiums also skyrocketed, and the entire practice made the tough decision to no longer deliver babies.
- Because she hated to abandon the pregnant women to whom she was already providing prenatal care, she struggled to pay her premiums through July 2003 so she could keep her promise to her patients. She and her partners have stopped delivering babies, and they are forced to turn away her patients and their families who want her to deliver their babies.
- She has indicated that people in Northwest Arkansas have been deprived of access to family physicians because of the greed of trial lawyers and the exploding costs of malpractice suits.

Dr. John Wilson, orthopedist (Little Rock, Arkansas)

- Dr. Wilson specializes in orthopedic surgery and is the President of the Arkansas Medical Society.
- Dr. Wilson has a thriving private practice in Little Rock, Arkansas, and he has done short-term medical missionary work in the Republic of Guyana in South America.
- In the early 1980's, he also began giving back to his community by providing care to families in the Arkansas Delta, a very impoverished region of the State. Each week, he would pilot his small private plane to rural Helena, Arkansas. This area did not then, and still does not, have a resident orthopedic physician.
- For residents in and around Helena, the closest physicians specializing in orthopedic medicine are in Memphis, Tennessee. Dr. Wilson's visits made orthopedic care available for this community.
- For 21 years, he provided outpatient services in the Helena community. He served mostly low-income families, and he has said that some of his care was provided free of charge.
- Dr. Wilson had not been sued until a couple of years ago, when several of his Helena patients filed lawsuits against him alleging injuries. All of these cases were dropped as frivolous even before they got to depositions. However, the cases had to be reported to his insurance company. His insurer dramatically increased his medical liability premiums, forcing Dr. Wilson to choose between being placed in a high-risk insurance category or giving up his practice in the Arkansas Delta.
- Several of his patients continue to travel the long distances between Helena and Little Rock when they need orthopedic care.

Sullivan "Sully" and Mary Ligon, patients (Helena, Arkansas)

- Sully (age 70) and Mary (age 69) have lived in Helena, Arkansas, for most of their lives.
- They are both longtime orthopedic patients of Dr. John Wilson (also a Roundtable Participant), and had come to rely on his services in Helena. After lawsuits were filed against him in Helena, and Dr. Wilson was forced insurer to give up his visits to this rural Delta community, they now travel almost two and a half hours to Little Rock when they have injuries that require his attention.
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- Sully and Mary are both retired and are living on a fixed income, and they would prefer not to have the added expense of traveling to Little Rock to see a physician they trust and need.

Frank Wise, Administrator, Fulton County Hospital (Salem, Arkansas)

- Frank Wise has been the Administrator at Fulton County Hospital for ten years. The hospital is a small, rural facility with 49 beds serving approximately 6,000 residents in North Arkansas. The next closest hospital is approximately 50 miles west and over an hour away.
- In May 2002, the hospital was forced to identify a new medical liability insurer because its existing carrier withdrew from the State. The new insurer refused to provide coverage for obstetrics, even though the hospital had only been sued once in the last 11 years, and that suit was immediately dismissed.
- Even after the hospital stopped delivering babies, its medical malpractice premiums doubled in 2002, and increased 28 percent in 2003.
- The community has suffered, and pregnant women are now forced to drive long distances to deliver their babies. Many do not make it to these other facilities. Frank has indicated that since the hospital's obstetrics ward was closed, there have been deliveries in ambulances on their way to hospitals, a delivery in their parking lot, and one in their Emergency Room.

D'borai [de-BORE-uh] Lynn Cook, emergency room nurse (Little Rock, Arkansas)

- D'borai has been an emergency room nurse at Baptist Health Medical Center for 27 years and a practicing nurse for over 35 years.
- As a case manager in the emergency room, D'borai is primarily responsible for caring for emergency room patients after they have been stabilized. If follow up tests or evaluations are required after stabilization, she arranges this additional medical care for the patient.
- In her position as case manager, D'borai has seen first hand the results of the medical liability crisis. She says that doctors and nurses are so vulnerable to trial lawyers and the threat of medical malpractice litigation that they practice defensive medicine by ordering expensive tests and evaluations that would not otherwise be ordered and are not medically necessary.
- D'borai believes that more patients are now covered "head to toe," especially emergency room patients, because the doctors and nurses are always looking over their shoulders. Costs are out of control and quality is suffering.