

Senate Vote Clarifies Course of Action

By: Katie Orrico, JD

Voting mostly along party lines, on July 9 the U.S. Senate refused to take up S. 11, the Patients First Act. Modeled after California's legislation, the Medical Injury Compensation Reform Act or MICRA, the bill would, among other things, cap noneconomic damages at \$250,000 and establish expert witness standards in medical liability lawsuits.

The vote was 49 to 48, 11 votes shy of the 60 needed. All Republicans but two voted "yea," 45 Democrats and one Independent voted "nay," and three Democrats did not vote. The U.S. House of Representatives passed its reform bill on March 13, and the Bush administration fully supports the House-passed version of the bill, H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003. Therefore neurosurgery's advocacy efforts now must focus on changing the votes of 11 senators. Senate leaders have vowed to bring medical liability legislation up for additional votes throughout the remainder of the 108th Congress, so neurosurgeons need to keep the pressure on those senators who blocked consideration of this critical legislation. The complete tally of the Senate vote is listed below.

The fact that the first attempt at passage in the Senate failed is not necessarily bad news. First, the 49 "yea" votes for the bill is the highest number of senators ever to vote in favor of such comprehensive reform legislation. Second, the vote provided a clear picture of current standings that will allow precise targeting of public education and advocacy efforts.

Further, the Republican leadership in the Senate has recently indicated its intention to pursue an incremental vote strategy. At press time, the expectation is that the Senate will vote on a medical liability reform bill that applies only to obstetric services sometime in October. The second bill, to be considered first thing next year, would apply MICRA-like protections to providers of emergency services, including neurosurgeons. The third and fourth bills likely will apply tort reforms to rural physicians and volunteer physicians. Finally, assuming the failure of all of these efforts, sometime before the 2004 elections the Senate will vote one last time on a comprehensive reform bill. It is possible, however, that Democrats will find it extremely difficult to vote against moms and babies, and should the first incremental bill pass the Senate, it could serve as the legislation that would be reconciled with the House-passed HEALTH Act.

Neurosurgeons are encouraged to contact their senators and stress the need to pass medical reform legislation. Sample letters that can be edited and sent via e-mail are available at <http://capwiz.com/noc/issues/alert/?alertid=2801021>.

AL Richard Shelby (R) Nay
Jeff Sessions (R) Yea
AK Ted Stevens (R) Yea
Lisa Murkowski (R) Yea
AZ John McCain (R) Yea
Jon Kyl (R) Yea
AR Blanche Lincoln (D) Nay
Mark Pryor (D) Nay
CA Dianne Feinstein (D) Nay
Barbara Boxer (D) Nay
CO Ben Nighthorse Campbell, (R) Yea
Wayne Allard (R) Yea
CT Christopher Dodd (D) Nay
Joseph Lieberman (D) Nay
DE Joseph Biden (D) Nay
Thomas Carper (D) Nay
FL Bob Graham (D) Not Voting
Bill Nelson (D) Nay
GA Zell Miller (D) Not Voting
Saxby Chambliss (R) Yea
HI Daniel Inouye (D) Nay
Daniel Akaka (D) Nay
ID Larry Craig (R) Yea
Michael Crapo (R) Yea
IL Richard Durbin (D) Nay
Peter Fitzgerald (R) Yea
IN Richard Lugar (R) Yea
Evan Bayh (D) Nay
IA Charles Grassley (R) Yea
Tom Harkin (D) Nay
KS Sam Brownback (R) Yea
Pat Roberts (R) Yea
KY Mitch McConnell (R) Yea
Jim Bunning (R) Yea
LA John Breaux (D) Nay
Mary Landrieu (D) Nay
ME Olympia Snowe (R) Yea
Susan Collins (R) Yea
MD Paul Sarbanes (D) Nay
Barbara Mikulski (D) Nay
MA Edward Kennedy (D) Nay
John Kerry (D) Not Voting

MI Carl Levin (D) Nay
Debbie Stabenow (D) Nay
MN Mark Dayton (D) Nay
Norm Coleman (R) Yea
MS Thad Cochran (R) Yea
Trent Lott (R) Yea
MO Christopher Bond (R) Yea
Jim Talent (R) Yea
MT Max Baucus (D) Nay
Conrad Burns (R) Yea
NE Chuck Hagel (R) Yea
Ben Nelson (D) Nay
NV Harry Reid (D) Nay
John Ensign (R) Yea
NH Judd Gregg (R) Yea
Jon Sununu (R) Yea
NJ Frank Lautenberg (D) Nay
Jon Corzine (D) Nay
NM Pete Domenici (R) Yea
Jeff Bingaman (D) Nay
NY Charles Schumer (D) Nay
Hillary Rodham Clinton (D) Nay
NC John Edwards (D) Nay
Elizabeth Dole (R) Yea
ND Kent Conrad (D) Nay
Byron Dorgan (D) Nay
OH Mike DeWine (R) Yea
George Voinovich (R) Yea
OK Don Nickles (R) Yea
James Inhofe (R) Yea
OR Ron Wyden (R) Nay
Gordon Smith (R) Yea
PA Arlen Specter (R) Yea
Rick Santorum (R) Yea
RI Jack Reed (D) Nay
Lincoln Chafee (R) Yea
SC Ernest Hollings (D) Nay
Lindsey Graham (R) Nay
SD Thomas Daschle (D) Nay
Tim Johnson (D) Nay
TN Bill Frist (R) Yea
Lamar Alexander (R) Yea
TX Kay Bailey Hutchinson (R) Yea
John Cornyn (R) Yea
UT Orrin Hatch (R) Yea
Robert Bennett (R) Yea

VT Patrick Leahy (D) Nay
James Jeffords (I) Nay
VA John Warner (R) Yea
George Allen (R) Yea
WA Patty Murray (D) Nay
Maria Cantwell (D) Nay
WV Robert Byrd (D) Nay
John D. Rockefeller (D) Nay
WI Herbert Kohl (D) Nay
Russ Feingold (D) Nay
WY Craig Thomas (R) Yea
Michael Enzi (R) Yea

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