

## What Did Not Happen

**Question 1: The House, but not the Senate, passed legislation to cap non-economic damages for pain and suffering and punitive damages in medical malpractice lawsuits. Why didn't the Senate pass the bill?**

Answer: The Senate has been a graveyard for any tort reform efforts, including medical malpractice. When Senate Majority Leader Bill Frist, R-Tenn., tried to bring up the Senate bill without it first go through committee consideration, Democrats objected. No Democrats voted to end the filibuster and two Republicans were opposed. Many Senate Democrats believe the limits on judgments and attorney's fees in the bill are too low.

**Question 2: While the House passed legislation that would have allowed consumers, pharmacists and others to import FDA-approved drugs from FDA-approved facilities in 25 industrialized countries, the Senate did not consider the bill. Why not?**

Answer: Just hours after the House passed that bill, 53 senators signed a letter opposing the measure, fearing that it would lead to a flood of ineffective, expired and otherwise unsafe medicines entering the United States. Those concerns essentially blocked the bill in the Senate. Drug reimportation proponents had hoped that Medicare conferees would include the provision in the Medicare drug bill, but they did not, instead falling back on current law that would permit the practice from Canada if the Secretary of Health and Human Services said it was safe. HHS Secretary Tommy Thompson has said he cannot certify that reimported drugs are safe. The Medicare bill also calls for a study of drug pricing practices in other countries.

**Question 3: Early in the year, President Bush had proposed an overhaul of Medicaid, the joint federal-state health insurance program for the poor. But the legislation went nowhere in Congress. Why?**

Answer: Bush had proposed giving states flexibility to scale back or revise benefits of people they were not required to cover under federal law, such as parents of low-income children or some nursing home patients. In exchange, states would have to accept capped federal spending for those populations and give up open-ended matching funds they now receive. Governors were reluctant to give up open-ended funding and Democrats said that Bush's proposal was essentially a block grant. That combined reluctance, plus the incredible amount of time and energy that lawmakers had to give to the Medicare drug benefit, helped derail Medicaid reform.