

PRINCIPLES FOR A BIPARTISAN PATIENTS'
BILL OF RIGHTS

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PRINCIPLES FOR A BIPARTISAN PATIENTS' BILL OF RIGHTS TO
PROVIDE ALL AMERICANS WITH PROTECTIONS IN MANAGED
CARE



FEBRUARY 7, 2001.—Referred jointly to the Committees on Energy and
Commerce, Ways and Means, and Education and the Workforce and
ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

THE WHITE HOUSE,
Washington, February 7, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I was grateful for the opportunity to meet with you last month at the White House to discuss our shared goal of passing a strong Patient's Bill of Rights. Over the last two weeks my staff and I have met with Members of Congress from both parties, and I believe that we have an opportunity to work together to enact legislation this year to address this important issue. I am writing to ask for your support, and for the support of all Members of Congress, for a bipartisan Patients' Bill of Rights to provide all Americans with protections in managed care.

As Governor of Texas, I worked with Democrats and Republicans to enact some of the strongest patient protection laws in this country. My goal now in seeking Federal legislation is simple: I want to ensure that all patients receive needed medical care and that doctors are allowed to make medical decisions.

To achieve these goals, patients should have the right to an independent medical review of a health plan's decision to deny care. This review should be conducted by medical experts outside the health plan and must be binding on the health plan. I also believe that, following an independent medical review of a health plan's decision to deny care, patients who have been wrongly denied medical care should be allowed to hold their health plans liable in Federal court.

I cannot support a plan, however, that encourages unnecessary or frivolous litigation. Expensive litigation, and the resulting rise in health care costs, would only make it more difficult for Americans to afford health care coverage in the first place. I believe it is possible to provide patients a meaningful remedy when they have been wrongly denied care, without causing other Americans to lose coverage. A responsible remedy for patients should protect employers from the high costs of being subject to multiple causes of action in multiple venues and should provide a reasonable cap on damages.

As you requested, I have enclosed the principles by which I will gauge any piece of Federal legislation. I do not believe that any bill currently before the Congress meets all of these principles. However, I applaud the efforts of Members on both sides of the aisle who have stepped forward to address this issue. I believe we can work together to reach bipartisan agreement this year on a strong Patient's Bill of Rights that protects all Americans, does not override the patient protections already adopted by states, and avoids costly litigation.

I look forward to working with you and all Members of Congress to enact these principles into law so soon as possible. I also look forward to working with you to provide access to health care for the millions of Americans without health insurance.

Sincerely,

GEORGE BUSH.

PRINCIPLES FOR A BIPARTISAN PATIENTS' BILL OF RIGHTS

PATIENT PROTECTIONS SHOULD APPLY TO ALL AMERICANS

A federal Patients' Bill of Rights should ensure that every person enrolled in a health plan enjoys strong patient protections. Because many states have passed patient protection laws that are appropriate for their states, deference should be given to these state laws and to the traditional authority of states to regulate health insurance.

PATIENT PROTECTIONS SHOULD BE COMPREHENSIVE

A federal Patients' Bill of Rights should provide patient protections such as: access to emergency room and specialty care; direct access to obstetricians, gynecologists and pediatricians; access to needed prescription drugs and approved clinical trials; access to health plan information; a prohibition of "gag clauses"; consumer choice; and continuity of care protections.

PATIENTS SHOULD HAVE A RAPID MEDICAL REVIEW PROCESS FOR DENIALS OF CARE

Patients should have the right to appeal a health plan's decision to deny care through both internal review and independent, binding external review.

THE REVIEW PROCESS SHOULD ENSURE THAT DOCTORS ARE ALLOWED TO MAKE MEDICAL DECISIONS AND PATIENTS RECEIVE CARE IN A TIMELY MANNER

Slow and costly litigation should be a last resort. Patients should exhaust their appeals process first—allowing independent medical experts to make medical decisions and ensuring patients receive necessary medical care without the expense or delay of going to court.

FEDERAL REMEDIES SHOULD BE EXPANDED TO HOLD HEALTH PLANS ACCOUNTABLE

After an independent review decision is rendered, patients should be allowed to hold their health plans liable in federal court if they have been wrongly denied needed medical care.

PATIENT PROTECTION LEGISLATION SHOULD ENCOURAGE, NOT DISCOURAGE, EMPLOYERS TO OFFER HEALTH CARE

Employers, many of whom are struggling to offer health coverage to their employees, should be shielded from unnecessary and frivolous lawsuits and should not be subject to multiple lawsuits in state court. Increased litigation will only result in higher health care costs, potentially forcing employers to drop employee health

coverage altogether. Only employers who retain responsibility for and make final medical decisions should be subject to suit.

Americans want meaningful remedies, not a windfall for trial lawyers resulting in expensive health care premiums and unaffordable health coverage. To protect patients' rights without encouraging excessive litigation, damages should be subject to reasonable caps.