

years ago, FMLA declared the principle that workers should never be forced to choose between the jobs they need and the families they love. In the years since its passage, more than 50 million Americans have taken advantage of its provisions to care for a sick love one, or recover from illness themselves, or welcome a new baby into the family.

Mr. President, if ordinary Americans deserve those rights, how much more do they apply to those who risk their lives in the service of our country? Soldiers who have been wounded in our service deserve everything America can give to speed their recoveries—but most of all, they deserve the care of their closest loved ones. Given the severity of their injuries, and our debt of gratitude, our servicemembers need more. That is exactly what is offered in the Support for Injured Servicemembers Act.

Senator Bob Dole and former Secretary of Health and Human Services Donna Shalala have been instrumental in this effort as well, through their thoughtfulness and work on the President's Commission on Care for America's Returning Wounded Warriors. It's not surprising that the Commission found that family members play a critical role in the recovery of our wounded servicemembers. The commitment shown by the families and friends of our troops is truly inspiring. According to the Commission's report, 33 percent of active duty servicemembers report that a family member or close friend relocated for extended periods of time to help their recoveries. It also points out that 21 percent of active duty servicemembers say that their friends or family members gave up jobs to find the time.

I am pleased that Senator CLINTON is the lead co-sponsor of my amendment. FMLA was the very first bill that President Clinton signed into law, and I am grateful that his wife, Senator CLINTON, continues to support the principles that I have been fighting for over 20 years. I am pleased that Senators DOLE, GRAHAM, KENNEDY, CHAMBLISS, REED, MIKULSKI, MURRAY, SALAZAR, LIEBERMAN, MENENDEZ, BROWN, NELSON of Nebraska, and CARDIN are co-sponsoring this amendment. I thank Senator BAUCUS and Senator GRASSLEY for accepting this important amendment and appreciate the support of all of my colleagues in this effort.

Mr. President, I am troubled by the comments from the Bush administration about this bill. It is a bill to help children and an overwhelming majority of members on both sides of the aisle have voted to support that goal. The CHIP Program is a model of success and this bill provides sustainable and predictable health care coverage for low income children regardless of their health status. One day soon, the President will make a decision on whether to sign CHIP reauthorization into law. At that moment, all Americans will know whether the President stands for children or would rather stand in the

way of children's access to critically needed health care.

#### BRITISH PETROLEUM REFINERY

Mr. DURBIN. Mr. President, today I rise to speak about the proposed expansion of a British Petroleum refinery in Whiting, IN. BP Amoco has requested, and received, a permit to increase the pollution it dumps into Lake Michigan.

Under this new permit, BP's expanded facility will release 54 percent more ammonia and 35 percent more suspended solids which contain heavy metals, including mercury, into Lake Michigan. Expanding refinery capacity is an important goal and a project with many benefits, but we shouldn't do this at the expense of one of our most precious natural resources.

Congress passed the Clean Water Act to restore and maintain the integrity of our Nation's waters. The express goal of the law is to reduce the amount of pollutants entering the Nation's waterways. The Clean Water Act went so far as to set a very specific target of reaching zero pollutants going into the waters by 1985. Zero discharges. We certainly have not met that target.

But we have been trying to move toward it. Now, BP wants to increase its pollution into Lake Michigan. BP has spent millions and millions of dollars to "green" its image. This company has effectively changed its name from "British Petroleum" to "Beyond Petroleum."

Yet with this "green" image, BP turns around and asks for a permit to dramatically increase the amount of pollutants it dumps into Lake Michigan. BP has worked very hard to make the American public think that the company is an environmental steward, that it is a responsible and sustainable company. And it does have some very good initiatives, but BP stands to lose this image by insisting on dumping more pollution into Lake Michigan.

A Chicago Sun Times article this week referred to BP as "Big Polluters." I don't think that is what the company wants.

The CEO of BP met with me last week. I asked him to take another look at the technology that is currently available to decrease the amount of ammonia and total suspended solids that will be introduced into Lake Michigan. I encouraged BP to find a better solution.

I am calling on BP to live up to the standard it has set for itself as a corporate steward of the environment and to stop any additional pollution from being discharged into Lake Michigan.

The Great Lakes are a tremendous and valuable resource. The lakes are a largely closed ecosystem that has a very long water retention time. It takes 106 years for water to be completely flushed through Lake Michigan. Pollutants that are introduced into the lake are likely to stay there for a long time.

The Great Lakes contain more than 20 percent of the Earth's surface fresh

water and are a necessary drinking water source for nearly 40 million Americans. Increasing pollution going into the Lakes should worry us all. Twenty-five percent of the U.S. and Canadian populations are within the watershed of the Great Lakes.

Congress appreciates the value of this resource. More than 30 Federal laws have been enacted that specifically focused on restoring the Great Lakes basin.

Government at all levels is working to prevent industrial pollution, sewage discharges, invasive species and water diversion. These efforts are to ensure that future generations will enjoy the beauty of our magnificent Great Lakes.

Dumping more pollution into one of our most important sources of fresh water is a bad idea. The people in my State recognize that. They are willing to forgo the modest increase in refinery expansion to protect Lake Michigan.

At a time when fresh water sources are threatened here and around the globe, we should demand more especially from corporate leaders who flash public relations campaigns about moving "beyond petroleum." BP is not a struggling small business. In the past three years, BP Corporation has earned net profits of over \$60 billion. If anyone has the resources to find alternatives, it is BP Amoco.

We respectfully ask BP to live up to the image it has worked so hard to create and use some of the resources they have to prevent additional pollution from entering our drinking water. Please protect our natural resource, don't degrade it.

#### MENTAL HEALTH PARITY ACT

Mr. CASEY. Mr. President, I rise today to clarify my support for S. 558, the Mental Health Parity Act of 2007. This bipartisan legislation introduced by Senators DOMENICI and KENNEDY, seeks to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services. I join my colleague, the senior Senator from Pennsylvania, Mr. SPECTER, in establishing for the record today the reasons for our joint support for this bill. I also thank Chairman KENNEDY and Senator DOMENICI for joining us in this discussion.

Mr. SPECTER. I thank my colleague Senator CASEY. Mr. President, as a co-sponsor of S. 558, I am pleased that the Senate is taking up this important legislation. I thank Health, Education, Labor, and Pensions, HELP, Committee Chairman KENNEDY, Senator DOMENICI, who along with HELP Committee Ranking Member ENZI and others, have worked to establish mental health parity for millions of American citizens.

Mr. KENNEDY. I thank my colleagues from Pennsylvania and appreciate their dedication to and support for the cause of mental health parity. I

welcome this opportunity to discuss this critical legislation.

Mr. DOMENICI. I concur with Senator KENNEDY and look forward to Senate action on S. 558.

Mr. CASEY. Mr. President, the Mental Health Parity Act of 2007 amends the Employee Retirement Income Security Act, ERISA, and the Public Health Service Act to require a group health plan that provides both medical and surgical benefits and mental health benefits to ensure that: (1) the financial requirements applicable to such mental health benefits are no more restrictive than those of substantially all medical and surgical benefits covered by the plan, including deductibles and copayments; and (2) the treatment limitations applicable to such mental health benefits are no more restrictive than those applied to substantially all medical and surgical benefits covered by the plan, including limits on the frequency of treatments or similar limits on the scope or duration of treatment.

Mr. SPECTER. In 1989, in the Commonwealth of Pennsylvania, the State legislature passed a bill, Pennsylvania Act 106, which requires all commercial group health insurance plans and health maintenance organizations to provide a full continuum of addiction treatment including detoxification, residential rehabilitation, and outpatient/partial hospitalization. The only lawful prerequisite to this treatment and to coverage is certification to need and referral from a licensed physician or psychologist. Such certifications and referrals in all instances control the nature and duration of treatment. I support existing Pennsylvania law and, before agreeing to support S. 558, assured myself that S. 558 will not serve to supplant greater Pennsylvania protections for those seeking treatment for substance abuse.

Mr. CASEY. I join my esteemed colleague in having assured myself that S. 558 will not serve to preempt in any way the services and benefits provided to the citizens of Pennsylvania by Pennsylvania Act 106. I know that our offices have collaborated extensively in this analysis and have consulted with HELP Committee staff and Senator DOMENICI's staff, and that our views are borne out by extensive legal and scholarly analysis of the preemptive provisions of S. 558.

Mr. KENNEDY. I can assure the Senators from Pennsylvania that we have labored to ensure that S. 558 will serve only to benefit States and the coverage that citizens receive.

Mr. CASEY. I thank Chairman KENNEDY and Senator DOMENICI, and I note in particular that Professor Mila Kofman, Associate Research Professor, Health Policy Institute, Georgetown University, wrote to Senator SPECTER and myself on August 2, 2007, extolling the benefits of S. 558. I ask unanimous consent to print in the RECORD Professor Kofman's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEORGETOWN UNIVERSITY  
HEALTH POLICY INSTITUTE,  
August 3, 2007.

Hon. ROBERT P. CASEY, Jr.,  
U.S. Senate, Russell Senate Office Building,  
Washington DC.

Hon. ARLEN SPECTER,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR CASEY AND SENATOR SPECTER: This is a response to a request for an analysis of the preemption provisions in the Mental Health Parity Act of 2007 (S. 558 as amended 8/3/07 Managers' Amendment).

The changes made to the preemption section in S. 558 mean that the current HIPAA federal floor standard would apply to the new Mental Health Parity law (just like it applies to the current law passed in 1996).

This would mean that more protective (of consumers) state insurance laws would apply to insurers that sell coverage to employers. This bill would also mean new federal protections for people in self-insured ERISA plans.

This would be a tremendous victory for patients who need coverage for mental health services. This approach continues the public policy established in 1996 in HIPAA—an approach that allows states to be more protective of consumers while setting a federal minimum set of protections for workers and their families.

While not every word or phrase is perfect (meaning not 100% litigation proof), using the current HIPAA preemption standard would certainly make it difficult to win a case that seeks to challenge more protective state insurance law.

If enacted, this bill would provide much needed minimum protections for people in self-insured ERISA plans who currently are not protected by states because of ERISA preemption. It also raises the bar for insured products.

If you have additional questions, please contact me at 202-784-4580.

Very truly yours,

MILA KOFMAN, J.D.,  
Associate Research Professor.

Mr. CASEY. In the letter, Professor Kofman writes:

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Mr. SPECTER For the purpose of further clarifying congressional intent of S. 558 and its application to state law and specifically Pennsylvania Act 106, will the senior Senator from Massachusetts and the senior Senator from New Mexico yield for questions from Senator CASEY and myself?

Mr. KENNEDY I will be happy to do so.

Mr. DOMENICI As will I.

Mr. SPECTER I thank Chairman KENNEDY and Senator DOMENICI. Why doesn't the Mental Health Parity Act have its own preemption provision?

Mr. KENNEDY It is our intention to establish a Federal floor and not a Federal standard or Federal caps. Thus, we decided to use the already-existing language and standard found within part 7 of ERISA, which is where the current mental health parity law already resides, and where S. 558 will be codified. This law contains the narrowest possible preemption language, and is meant to preempt only those state laws that are less beneficial to consumers and insured, from the standpoint of the consumer and insured, than this new Federal law.

Mr. CASEY The Health Insurance and Portability Accountability Act, HIPAA, preemption standard that will apply prevents State laws that "prevent the application of requirements of this part," which refers to part 7 of ERISA. Do the medical management provisions of section 712A(b) constitute "requirements of this part" that might preempt State laws under this standard?

Mr. DOMENICI No. Section 712A(b) says that managed care plans "shall not be prohibited from" carrying out certain activities. It does not require them to do so, and this is not a "requirement of this part." This section recognizes that plans have flexibility. It is not our intention to preempt any State laws that regulate, limit, or even prohibit entirely the medical management of benefits. That is one of the reasons we are using a preemption standard—the existing HIPAA standard that so clearly does not preempt such a law.

Mr. SPECTER Would a State law that establishes a physician or psychologist's certification, as the only lawful prerequisite to managed care coverage of a particular treatment, be preempted?

Mr. KENNEDY Such a law is not preempted, and it is not our intention to preempt any such law.

Mr. CASEY What about a State law requiring insurers or managed care companies to cover an entire continuum of care?

Mr. DOMENICI Mr. President, it is my understanding that such a law would not be preempted. S. 558 is a Federal floor, and nothing in such a State law Senator CASEY describes would prevent the application of any requirements of part 7 of ERISA.

Mr. SPECTER Would State laws that place coverage decisions squarely in the hands of treating clinicians be preempted?

Mr. KENNEDY Absolutely not.

Mr. CASEY Focusing specifically on Pennsylvania, as you may be aware, the citizens of Pennsylvania just received a significant court victory from the Commonwealth Court, upholding a Pennsylvania law that was previously mentioned here, Pennsylvania Act 106.

That State law and the recent decision in *The Insurance Federation of Pennsylvania, Inc. v. Commonwealth of Pennsylvania Insurance Department*, removes managed care barriers to addiction treatment. What effect will S. 558 have on that State law, or on State efforts to enforce that law or to find remedies for violations of that law?

Mr. KENNEDY This bill would have no effect upon that law.

Mr. CASEY Would any State laws be preempted?

Mr. DOMENICI Yes, State law requirements that would prevent the application of a requirement of S. 558 by, for example, endorsing a less consumer-friendly level of coverage or benefits. For example, a State law that prohibited an insurance company from selling policies providing for full parity in coverage for mental health services and medical/surgical services would be preempted.

Mr. CASEY Would the current legislation, S. 558, have any effect on any provisions of Pennsylvania Act 106, or on any State efforts to enforce provisions of that law or to find remedies for violations of any provisions of that law?

Mr. KENNEDY It would have no effect. Pennsylvania's Act 106 is an example of the kind of consumer protection law that is not preempted by the federal floor created in S. 558.

Mr. SPECTER I appreciate this discussion with my colleague from Pennsylvania, Chairman KENNEDY and Senator DOMENICI. I thank Chairman KENNEDY, Ranking Member ENZI, Senator DOMENICI and others on the HELP Committee who have worked so hard to establish these critical benefits for citizens across our great country. And I thank them for this discussion to clarify our support for S. 558.

Mr. CASEY I also want to express my deepest thanks to HELP Committee Chairman KENNEDY, Senator DOMENICI, HELP Committee Ranking Member Enzi, and all members and staff who have worked so hard to make this long time dream a reality. I greatly appreciate this discussion and our establishment of intent regarding S. 558.

#### AMERICA COMPETES ACT

Mr. INOUE. Mr. President, America's strength has always been in the innovation, technical skill, and education of its workforce. The economic growth and well-being of the nation relies on the technical innovations achieved by our workforce. To realize growth and success, the United States must continue to support the two critical components vital to the innovation process: education and basic research. Today, Congress takes a significant step toward this commitment.

The National Academy of Sciences and the Council on Competitiveness have identified science and innovation as key drivers of economic growth. The United States has seen a sharp palpable decline in its scientific prowess. The

United States is losing the educational battle with Germany, China, and Japan. In the United States, only 32 percent of graduates hold a degree in science and engineering, while Germany boasts 36 percent of graduates with degrees in science and engineering. Outpacing both the United States and Germany is China, with 59 percent of graduates with degrees in math and science, and Japan with 66 percent.

The America COMPETES Act embodies bipartisan, bicameral multi-committee efforts in responding to the Nation's defining economic challenge of how to remain strong and competitive in the face of emerging challenges from India, China, and the rest of the world.

The America COMPETES Act addresses programs within several scientific agencies of which the Senate Committee on Commerce, Science, and Transportation has jurisdiction. Within the Department of Commerce, the National Institutes of Standards and Technology, NIST, promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology. The legislation before us would double the agency's funding over the next 10 years. We also create a new program, the Technology Innovation Program, which will support high-risk, high-reward research. This was one of the major recommendations of the National Academies report, "Rising Above the Gathering Storm."

Also within the Department of Commerce, the National Oceanic and Atmospheric Administration, NOAA, conducts significant basic atmospheric and oceanographic research, including climate change research. Some have argued that the ocean truly is the last frontier on Earth, and ocean research and technology may have broad impacts on improving health and understanding our environment. Toward this end, Congress included provisions on NOAA research and education, as well as, NOAA's continued participation in interagency innovation and competitiveness efforts.

The bill also includes the National Aeronautics and Space Administration, NASA, in the competitiveness agenda. Like the oceans, space serves to inspire young students and attract them to studies in science, technology, engineering, and mathematics.

The need for additional research through the National Science Foundation, NSF, also is addressed in this bill with authorization for appropriations through fiscal year 2010. This bill places NSF on track to double in 7 years. While this is not as aggressive an approach as the Senate sought, it is clear that Congress is united in our belief that the NSF is indeed the Nation's premier scientific research enterprise. We need to support this enterprise to the best of our abilities, so that it can enable our scientists to continue their discovery. Within the NSF, I am proud that the conferees supported the cre-

ation of a mentoring program designed to recruit and train science, technology, and engineering professionals to mentor women, and other underrepresented minorities, in these fields. We need to ensure that we do not neglect a segment of the U.S. population, but rather maximize all of this country's great human resources.

A strong national investment in science, education, and technology provides opportunities for Americans to succeed in a whole array of disciplines and professions. Technology and innovation influence many policy problems such as a changing telecommunications landscape, potential improvements to our transportation infrastructure, and the need for advanced technologies to increase our energy independence. The America COMPETES Act directs the Nation on the path to preserve and improve its workforce. This bill demonstrates that Americans are not taking their traditional technological and economic dominance for granted but are continually working to improve and lead.

Mr. CARDIN. Mr. President, I am pleased that last night the Senate passed the conference report that accompanies H.R. 2272, the America COMPETES Act of 2007. Innovation resulting from Americans' genius and gift for innovation has revolutionized the global economy and workplace as well as all our everyday lives.

Unfortunately, our education system has failed to keep pace; now, many of our Nation's schools are unable to provide their students with the scientific, technological, engineering, and mathematical knowledge and skills the 21st century economy demands. Without well-trained people and the scientific and technical innovations they produce, this Nation risks losing its place as the epicenter for innovative enterprise that has been one of our proudest traditions.

I applaud Senators BINGAMAN and ALEXANDER and the other leading sponsors of the bill for their action to ensure that this Nation remains a technological leader. I was proud to join them as a cosponsor of the bill and was proud to join them to vote for its final passage.

I am grateful to the academic and business leaders, including Nancy Grasmick, the Maryland State superintendent of schools, and Dr. C.D. Mote, Jr., president of the University of Maryland, who produced both the National Academies' "Rising Above the Gathering Storm" and the Council on Competitiveness' "Innovative America" reports and recommendations that serve as the foundation for this critical legislation.

This legislation is critical for it addresses the growing gap in this country between what is taught in elementary and secondary schools and the skills necessary to succeed in college, graduate school, and today's workforce. This gap threatens the implicit promise we have each made to our own children and those whom we represent: get