

managing the bill. I understand his frustration.

Mr. HELMS. I am not frustrated.

Mr. DORGAN. I simply sought the floor because there are things I want to say in the next couple of weeks, and every opportunity I get, I am going to do that. I want to talk about choices and priorities in this country. You and I want the same thing for the future of this country. Many in this Chamber share a different view, not about the destination but about how you get there. These are things I want all Americans to understand, the choices that are being made, and what it will mean to them.

Let me close as I began today. I began today talking about the ceremony—a quite wonderful ceremony in the Chambers on the 50-year anniversary of the end of the Second World War. It is remarkable when you think of what people gave for this country. Many gave their lives. There was a spirit of unity and a spirit of national purpose in this country at that time.

I had hoped, somehow, for us again in this country to rekindle that spirit of unity and national purpose, to build a better country, address this country's problems, fix what is wrong, and move on to a better and brighter future.

I think you want that, I want that. Part of achieving that is for us to have a healthy, aggressive debate about a whole range of choices in terms of how you get there, what you do to make this a better country. That is all my purpose is. With that I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from Arkansas [Mr. PRYOR] be recognized for 15 minutes, at which time I regain 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NURSING HOME STANDARDS

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. I also thank my friend from North Carolina for making it possible under these parliamentary procedures to allow me to speak for a few moments about what I consider to be, Mr. President, one of the more critical issues that is before the U.S. Senate in the next coming weeks with regard to 2 million nursing home patients who live in thousands of nursing homes across America.

I do not know, Mr. President, if people are aware of what is happening, what has happened in the Senate Finance Committee and the Ways and Means Committee, what will be hap-

pening on the Senate and House floors with regard to the Federal standards which were established in 1987 in a bipartisan effort that protects residents of nursing homes from abuse and neglect.

Mr. President, what is happening to these standards is they are about to be abolished. They are about to be annihilated. Mr. President, there are about to be no Federal standards—no Federal standards to protect 2 million elderly and infirm individuals who live in America's nursing homes.

I think that we ought to look, Mr. President, for just a moment at these 2 million people who are now residents of America's nursing homes to see if these protective standards should actually be eliminated as proposed by the Republican majorities in the Senate Finance Committee and the Ways and Means Committee.

Back in 1987, as part of the Omnibus Budget Reconciliation Act, the Congress put into place a set of standards known as Nursing Home Reform. Senator George Mitchell actually led in that effort, and I am pleased to say that I played a very small part in drafting these important standards.

In fact, it was a bipartisan effort. Republicans and Democrats came together, because nursing home standards should not be political. Now, even though these standards have led to improved care in our Nation's nursing homes—we are about to consider a so-called Medicaid reform bill, Mr. President, which would totally wipe these standards out.

Two weeks ago in the Senate Finance Committee meeting I offered an amendment to restore these protections during a Finance Committee markup and debate on Medicaid and Medicare.

My amendment was defeated on an 10-10 vote because, according to the leadership of the committee, it is "contrary" to the philosophy of the reforms being proposed, and we don't want to sacrifice flexibility.

Mr. President, just for a moment, I will draw a picture. I will draw a picture, a composite if I might, of the people who are living in the nursing homes in America. First, there are 2 million citizens, elderly and young and middle aged. People who reside in the nursing homes today are of all ages. Most of them are over 60.

In 25 years, we will no longer have 2 million people in the nursing homes, Mr. President, we will have 3.6 million people in nursing homes. That is going to come about two decades from now and it will be here before we know it.

We also find in these nursing homes, 80 percent of the residents depend on Medicaid to help them pay for their care; 77 percent of this nursing home population need help with their daily dressing; 63 percent need help with toileting; 91 percent need help with bathing; 66 percent have a mental disorder, and one-half of these residents have no living relative to serve as their advocate.

Let me repeat that, Mr. President: One-half of the residents of nursing homes, or approximately 1 million of these individuals, have no living relative as their advocate to come to their rescue and to take their case to the nursing home administrator or to the inspectors who inspect the nursing homes. One-half of this nursing home population of our country who reach the age of 65 are going to require nursing home care.

That means that one-half of all the people in this Chamber, one-half of all the people in the galleries in this great Capitol of ours, when they reach the age of 65, half of these folks, including me—I assume if I am around here that long—are going to require nursing home care.

Mr. President, that is basically a composite of who we are looking at and who we are trying to protect by restoring the Federal nursing home standards.

I find it very hard to believe that any meaningful reform that we might propose would be inconsistent with quality care in nursing homes. The very essence of reform is to get rid of what does not work, keep what does work and to make the whole program better.

Mr. President, we are committing an enormous mistake, an enormous mistake in even considering the elimination of our quality standards. The very reason that we have these standards to begin with, let us go back, the very reason the Federal Government stepped in is because the States would not. The Federal Government had to protect these people in these nursing homes because the State regulations were inadequate.

Mr. President, I know that we in Congress are very hard at work examining every program to find ways in which to increase flexibility to the States. I am for flexibility. I am a former Governor. I believe in flexibility. I believe we ought to eliminate what we call big government at every opportunity we can, that we need to return more power to the States, local decisionmakers, and I think my record indicates that I have supported that with my vote.

Mr. President, I want to say, though, I have a very difficult time believing that when people in America think of big government, they are thinking of the laws that provide for the most basic and minimum standard of care for the most frail and the most vulnerable among us.

I want to pose a question that I will be posing when we actually get to the debate on reconciliation, and I am going to ask this question to my good friends and colleagues on the other side of the aisle.

Now that we have finally, since 1987, finally come to the place in this country where we have just the bare minimum of standards to protect these 2 million individual residents of nursing homes, I would like to ask my colleagues, and I will pose this question at

the appropriate times: Which rights that belong to these individuals now would you like to eliminate? What about the right to choose your own doctor? I wonder if our Republican friends are going to want to eliminate that right, which is today a right given by the full force and effect of the statutes of the United States of America?

I am going to ask my colleagues on the other side of the aisle would they like to eliminate the right not to be tied to a bed or a chair, or restrained? Are they willing to eliminate that right? I am going to ask that question to my colleagues on the other side of the aisle, just as I asked that question to my colleagues in the Senate Finance Committee on the other side of the aisle 2 weeks ago. I did not get a response to that question.

I am going to ask a third question, Mr. President, when we get to reconciliation and we start debating these statutes and these standards they are attempting to repeal now. What about the right of privacy, to have private medical records protected? Do our colleagues on the other side of the aisle want to eliminate that right? I am going to ask that question. What about the right of privacy in communications and the right to open your own mail and to read your own mail without someone reading it before you get it? What about that right, that is today guaranteed under the 1987 regulations that we enacted, I must say, through a bipartisan effort? These are some of the rights, some of the most basic rights that our friends on the other side of the aisle are attempting to annihilate.

There is a great deal of irony here, Mr. President, and that irony is that no one outside of the Congress has come to us and said we want you to repeal the nursing home reform law. At first, when I heard our colleagues, the Republicans, were going to repeal these Federal guidelines, these Federal standards that we worked so hard to achieve through a bipartisan effort with President Bush helping us to put these standards into effect, I said: OK, here comes the nursing home lobby, the nursing home administrators, the nursing home owners. They have come to Washington and they have gone over here and they have gotten them to try to repeal and annihilate these particular regulations.

Mr. President, the odd thing is, I talked yesterday to one of the largest chain operators in America of nursing homes. He said,

We think the standards are good. We think the standards are working. We think the standards help us treat our residents better and we do not want to see those standards taken away. In fact, we think they are more efficient.

But, just last Saturday, in the New York Times, the executive vice president of the American Health Care Association, Mr. Paul Willging, said, "We never took a position that the 1987 law should be repealed." The New York

Times reporter was unable to find anyone at this nursing home owners convention representing the industry who would say they wanted the law repealed.

I would like to point out that not only were these standards enacted with broad bipartisan consensus, there is also scientific evidence that they are working. They are improving nursing home care. They are making life better for those among us who live in nursing homes.

For example, we have here what is not a very pretty chart, I might say. I hope I will have some others in the next week or so. In the area of physical restraints, since this particular law has been passed, since we finally have minimum standards for nursing homes, we have decreased the need for physical restraints from 38 percent of the nursing home population down, now, to 20 percent. That is an amazing statistic for us to look at, and to show and demonstrate beyond doubt that this particular set of goals is working.

We also see another startling fact. Since we enacted these nursing home standards, we see now that when a nursing home patient becomes a hospital patient, he or she only has to spend, today, 5.3 days in that hospital as compared to 7.2 days before. The reason is because you have fewer bed-sores, you have nursing home patients who are healthier, who are stronger, and whose quality of life has been better.

Also, let us look at another small chart here: The decrease in problematic care. There is a dramatic decrease in indicators of poor quality care—use of physical restraints, use of urinary catheters. It demonstrates without question we are seeing a very rapid decline in the need for these particular restraints to ever be used in nursing homes again.

Last Saturday, a Republican spokesman for the House Commerce Committee was quoted in the Washington Post as saying that the proposal to strip away the safety standards in nursing homes is "the ending of a 8-year experiment." This individual went on to say, and here again I am quoting, that the standards are "confining, expensive, and counterproductive." Last Friday, at a hearing on the Medicaid Program in the Senate caucus room, we were presented with the results of a scientific study by the independent, well-respected Research Triangle Institute. Rather than being confining, expensive, and counterproductive, as the Commerce staff member had claimed, this very, very distinguished study showed that the standards are in fact liberating, that they are cost effective, and result in improved outcomes. I say liberating because the standards have decreased the unnecessary use of physical and chemical restraints in nursing homes.

According to the Research Triangle Institute, since the nursing home reform standards were implemented in

1990, the use of restraints has dropped by 50 percent. So it does not sound to me like these standards have been confining for nursing home patients.

Mr. President, I would like to address an issue in the Medicaid debate which is of great concern to me—the issue of whether or not we should repeal the law which protects residents of nursing homes from abuse and neglect.

Back in 1987, as part of the Omnibus Budget Reconciliation Act, the Congress put into place a set of standards known as nursing home reform. Senator Mitchell led that effort, and I am pleased to say I helped draft these important standards. Now, even though the standards have led to improved care in our Nation's nursing homes, we are about to consider a so-called Medicaid reform bill which would wipe them out. I offered an amendment to restore these protections during the Finance Committee debate on Medicaid and Medicare. My amendment was defeated on a tie vote because, according to the leadership of the committee, it is—quote—"contrary"—to the philosophy of the reforms being proposed.

Well, I find it hard to believe that any meaningful reform we would propose would be inconsistent with quality care in nursing homes. The purpose of reform is to get rid of what does not work, keep what does work, and make the whole program better. I think we are making a big mistake in even considering eliminating our quality standards. I, for one, hope we do not enact this dangerous change. We should not turn our backs on our frail elderly nursing home patients.

Mr. President, I know that we in the Congress are hard at work examining every program to find ways in which to increase flexibility for the States. There is a general mood in the Nation that we want to do away with Big Government and return more power to State and local decision makers. However, Mr. President, I have a hard time believing that when people in America think of Big Government, that they are thinking of the laws which provide a minimum standard of care for the most frail and vulnerable among us.

Mr. President, it is well known that as a former Governor, I am a strong supporter of States' rights. I have devoted much of my career to doing away with Big Government in the negative sense. I support ending Federal mandates which make unreasonable demands on our citizens. However, I do not feel that the nursing home reform law makes unreasonable demands. It is simply not unreasonable to ask nursing homes not to tie up residents, or administer mind-altering drugs to them, simply to quiet them down for the convenience of staff. It is not unreasonable to ask nursing homes to allow residents and their families to participate in decisions about their care. Mr. President, it is above all not unreasonable to ask nursing homes to ensure

that care is provided to these vulnerable residents by an adequate staff that is well trained.

When we talk about ending Federal mandates, it is often because an industry or some other interest group has asked for the repeal of a particular law or regulation. The irony of this instance, Mr. President, is that no one outside of the Congress has asked that we repeal the nursing home reform law. Not only was this law accompanied by unprecedented consensus when it was first enacted, it still enjoys the support of the industry being regulated. Mr. President, if anyone were clamoring to repeal this law, we would expect it to be the nursing home industry. But just last Saturday, in the New York Times, the executive vice president of the American Health Care Association, Mr. Paul Willging, said—and I quote—“We never took a position that the 1987 law should be repealed.” The New York Times reporter was unable to find anyone representing the industry who would say they wanted the law repealed.

Mr. President, I would like to point out that not only were these standards enacted with broad bipartisan consensus, there is scientific evidence that they are working. These standards are improving care. They are making life better for those among us who live in nursing homes.

Last Saturday, a Republican spokesman for the House Commerce Committee was quoted in the Washington Post as saying that the proposal to strip away the safety standards is “ending an 8-year experiment.” He went on to say—and here again I am quoting—that the standards are “confining, expensive, and counterproductive.”

Mr. President, the data we have so far lays waste to those unfounded assertions. Last Friday, at a hearing on the Medicaid Program, we were presented with the results of a scientific study by the independent, well-respected Research Triangle Institute. Rather than being confining, expensive, and counterproductive, as the Commerce Committee staffer claimed, this research indicates that the standards are liberating, cost-effective, and result in improved outcomes.

I say liberating because the standards have decreased the unnecessary use of physical and chemical restraints in nursing homes. According to the Research Triangle Institute, since the nursing home reform standards were implemented in 1990, the use of restraints has dropped by 50 percent. And the Republicans claim that the standards are confining? It does not sound to me like they have been confining for nursing home patients.

And lest you think that unrestrained patients are more difficult to care for, let me get to the second point—the standards are cost-effective. This study indicated that less staff time is needed to care for patients who are unrestrained. In addition, because patients

are receiving better care and staying relatively healthier, they are being hospitalized less often. According to RTI, nursing home patients are suffering from fewer injuries and conditions caused by poor care—this translates to a 25-percent decrease in hospital days—resulting in a \$2 billion per year savings in Medicare and Medicaid combined. So how can it be said that these standards are expensive?

The RTI study also points to improved patient outcomes—and I know of no better measure of nursing home productivity. There has been a 50-percent reduction in dehydration, a 4-percent reduction in the number of patients developing nutrition problems, and we see 30,000 fewer patients suffering from bedsores. We are also seeing significant declines in the use of indwelling urinary catheters, a reduction in the use of physical restraints, and far fewer patients who are not involved in activities. This contributes greatly to quality of life. The RTI data also show that since nursing home reform was implemented, patients are suffering less decline in functional and cognitive status. So I ask my colleagues on the other side of the aisle, how can it be said that these standards are counterproductive?

Mr. President, I pointed out earlier that the nursing home industry has not asked for a repeal of these standards. The industry is concerned, however, about the depth of the cuts being considered with respect to the Medicaid Program. Although nursing homes support the quality standards, they are understandably concerned about their ability to maintain these standards in the face of deep cuts in funding. This is a serious issue which we must address, Mr. President. But when we address these concerns about funding, we should start with the assumption that standards must be maintained. We should start with the assumption that we will not repeal a law which no one has asked us to repeal. Instead, what I fear my colleagues on the other side of the aisle would rather do is throw standards out the window, cut the funding indiscriminately, and then hope for the best. Mr. President, I am not willing to take such a chance with our frail elderly. I hope my colleagues in the Senate will join their voices with mine in this call to protect our vulnerable nursing home residents.

Mr. President, I would like to close by saying, during this debate on reconciliation, in which there will be very little time, we are going to look at this particular issue and a lot of other issues that relate to it. We are going to look at the need to continue, for example, the reimbursement, the rebate for the States that have Medicaid prescription drug programs. This is something the drug industry is fighting, but it is something we have to maintain so the States can get the best possible price for the drugs that they provide for poorest of the poor population.

There are going to be many other areas that we are going to look at. But

we thought today would be a good day to start the debate on reconciliation, because we know the time will be short once that debate is actually, technically and literally begun.

Mr. President, I again thank my good friend from North Carolina who has been most cooperative.

I yield the floor.

#### CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. HELMS. Mr. President, I believe the distinguished Senator from Georgia is seeking recognition.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I come to the floor in support of the measure which is before the Senate, somewhat different than the previous speakers we have heard, to rise on behalf of the Cuban Liberty and Democratic Solidarity Act, otherwise called Libertad.

I hope the good chairman of the Foreign Relations Committee will let me embrace an issue of international consequence, as a prelude to my comments here.

A distinguished Member of this body, my good colleague from Georgia, Senator NUNN, as everybody knows now, has announced that he will depart the Senate after the conclusion of his term. Of course, this has an enormous impact in our home State of Georgia and the Nation as well. I told the Senator when we visited just before his announcement that he left a very rich legacy for himself, for his family, for our State, and for the Nation. We are all indebted to the service of the distinguished senior Senator from Georgia. It has been long, it has been arduous, statesmanlike, and it has been civil. And the Senator from Georgia has made a significant contribution to his era in the history of the U.S. Senate and our country.

I first met the Senator from Georgia when he was in the House of Representatives and just before I became a member of the Georgia Senate. And he was equally held in high regard in our home State as he was here on the national scene.

A lot of people have asked me what the effect would be of his departure. And I said, of course, there will be an interim effect, but I also pointed out that in our vast democracy filled with talent, capacity, one of the rich treasures of it which we have seen throughout our history is that we regroup and move on.

But another point I would like to make is the Senator in his closing statement in the House Chamber pointed out that he is not leaving public life, that he will continue to be an activist in public policy and a resource not only to us in the Senate but to the Nation as well.