Maryland's agricultural industry truly helps the State live up to its often used nickname, ''America in miniature.'' From vegetable production and horticulture in southern Maryland, to the dairy operations and horse farms of central Maryland, to the beef cattle, forestry products and tree fruit in western Maryland, to poultry growing on the eastern shore, Maryland agriculture is indeed diverse and provides a showcase for the nation's agricultural capabilities.

Mr. President, we in Maryland and our nation are very proud of our agricultural industry. There is still much work to be done to ensure a bright future for America's farmers, but as this week's theme suggests, through a strong commitment at all levels of government—together—we can help continue to build such a future.

TRIBUTE TO CAPITOL LIONS CLUB

● Mr. SMITH of Oregon. Mr. President, ever since the pioneer days, when entire communities would gather to help in the building of a barn, Oregon has had a rich tradition of neighbor helping neighbor. This heritage of neighbor helping neighbor is alive and well in countless Oregon cities and towns.

I rise today to pay tribute to an outstanding example of the difference that can be made through volunteerism. The Capitol Lions Club, along with other Lions Clubs in the Salem-Keizer area, are helping our young people learn about patriotism through a project where small flags are presented to first-grade students.

Capitol Club members buy lumber, cut it into small blocks, drill holes in the blocks, put Lions' decals on them, and place small 4- by 6-inch flags in them. Lions members then go in to classrooms, to present the flag to students, along with a presentation on the importance of a flag, and a brochure on flag history and etiquette.

This year, 2,575 first-graders and their teachers in Oregon public and private schools will benefit from this outstanding program. As one Salem first grade teacher said, ''The children are very excited to have their own little flags to take home. They have their special little places for them, I know that it is still real important to them.''

Mr. President, I'm proud to be one of those Americans who feel something stir in my heart everytime I see our flag flying in the wind. What better way to ensure a bright future for our country than by ensuring that the timeless value of patriotism is alive and well in our young people.

Mr. President, I am proud to salute the Capitol Lions Club of Salem, OR, for a job well done. I ask that an article from the Salem Statesman-Journal detailing this project be printed in the RECORD, in the hopes that other organizations around the country might undertake a similar project.

The article follows:

LIONS CLUB OFFERS LESSON ON FLAGS

(By Hank Arends)

The members of area Lions clubs have a community project that they believe is worth saluting.

For more years than anyone can remember, club members annually have presented a program on the U.S. flag to first-graders. They give the students their own flag on a wooden base with the Lion's insignia and a brochure on flag history and etiquette.

This year, 2,575 first-graders and their teachers in area public and private schools received the 4–by–6–inch flags, said Ralph Jackson, community coordinator. And the kids loved them.

''They were very excited to have their own little flags to take home,'' said Katie Keisey, a first-grade teacher at Lake Labish Elementary School.

''They have their special little places at home for them. I know that it is still real important to them.''

Those who do the distribution love it, too.

''It makes me feel so good that those little kids were so receptive,'' said Viola Laudon of the Keizer club.

''They give us such comments as, 'Oh, I love you. Thank you for the flag. I'm taking good care of my flag.''' Laudon said of a large card she received from students at the Keizer Christian School.

''This is an idea that started in Arizona, and somehow we heard about it and thought it might be OK,'' Jackson said.

The club members try to make their school visits in February, around the birthdays of presidents Washington and Lincoln.

The local clubs and a lot of others get their flag sets from the Capitol Lions Club. Joe Carson is chairman of the production and marketing of 26,000 to 27,000 flags a year in Oregon and as far away as Pennsylvania.

''It is kind of an Americanization project. We came up with the idea 15 to 17 years ago as a fund-raising project,'' Carson said.

The Capitol members sell the sets at 65 cents each to other clubs and make $6,000 to $7,000 annually for such Lion's projects as assistance to the hearing impaired and blind, Carson said.

Capitol Club members buy the lumber, cut it into small blocks, drill the holes, put Lion's decals on them and finish them. They also reproduce the brochure that goes with each set.

The participating clubs are Capitol, Keizer, Salem Downtown, Northeast, South Salem and West Salem. Frank VonBorstel was area chairman of the flag distribution for at least 10 years.

''We want to interest the young people and provide the chance for them to learn something about patriotism and the flag,'' VonBorstel said.

Lion Kelly Freels tells of Lions members who served in the Korean War and try to tell the first-graders what the flag means to them.

''They tell them how when they came back to base and saw the U.S. flag flying, they knew they were safe. It also gives us an opportunity to get out in the schools and see what is going on,'' Freels said.●

KOREAN WAR VETERANS MEMORIAL

Mr. TORRICELLI. Mr. President, From 1950 to 1953, the United States was in the midst of a bitter war on the Korean peninsula. As the inscription at the base of the Korean War Memorial says, our Nation's sons and daughters answered the call ''to defend a country they never knew and a people they never met.'' And they did so honorably. Today, though, the memory of those who made the ultimate sacrifice is honored once again.

Earlier today, the Korean War Veterans Memorial Honor Roll Kiosk was officially unveiled in a ceremony by representatives of the American Battle Monuments Commission, the National Parks Service, the Samsung Group, and IBM. The Honor Roll Kiosk houses a high technology interactive computer base which contains all the verifiable names from the Korean war theater of those killed in action, still listed as missing in action, and those captured as prisoners of war. Touch screens allow visitors, friends, and family to research the service record of their loved one, and obtain a certificate of honor in the name of that soldier. This was made possible in large part through the generous donation from the Samsung group of companies.

As part of the July 1995 Korean War Veterans Memorial dedication ceremonies, Samsung made a significant contribution to the memorial fund. It was with great honor and appreciation that Samsung recognized the sacrifice and commitment of the United States to the security of the Korean peninsula. It is a commitment America maintains today. We have worked together to establish close relations in defense of common principles and it is because of these shared beliefs that the United States and South Korea remain partners in peace today.

In addition to contributing to the memorial, Samsung also created an educational endowment with the American Legion. Their gift of $5 million to the American Legion will be used to fund collegiate scholarships for the descendants of America's veterans. I commend and congratulate Samsung on their generosity and willingness to recognize the origin in which their success today is rooted. I am proud to have their North American headquarters located in Ridgefield Park, NJ. Lastly, I recognize the honor and dignity with which America's service men and women fought on the harsh Korean field of combat. As the dedication ceremonies remind us, your service—and your sacrifice—was not forgotten.

PATIENT RIGHT TO KNOW

● Mr. WYDEN. Mr. President, this week my colleagues, Senators KYL, KENNEDY and HUTCHINSON, and I have introduced S. 449, the Patient Right to Know Act of 1997. This legislation outlaws so-called gags in contracts between managed care companies and their licensed practitioners which have limited what doctors can tell patients about their medical condition and all treatment appropriate to their care.

Plain and simple, such gags have been used to limit appropriate medical care. While this is a dollars-and-cents issue for health care organizations and insurers, for patients and their doctors

such restrictions on the usual free flow of communication—held sacred since ancient times—literally may be a matter of life or death.

I was pleased to join Mr. KENNEDY in offering legislation on the floor last session which would have ended such restrictions. I also wish to thank Mr. KYL for his support of our legislation last year, and for his diligent efforts in the intervening months to prepare this bill for re-introduction.

I also wish to acknowledge support for this legislation from organizations including the Consumer's Union and the American Medical Association.

We have this broad range of support because the need for this legislation is clear and documented. Three in four Americans now covered by private health insurance receive their care from managed care organizations. Increasingly, Medicaid enrollees and seniors in Medicare are covered by managed care plans through their respective Federal health insurance programs.

Residents of my home State of Oregon boast the highest penetration of managed care in the Nation. The State's Medicaid Program for the most part is organized through private managed care companies. And in Portland, managed care plans service almost 60 percent of the Medicare population.

In Oregon and elsewhere, the managed care presence has grown for reasons that are quite wholesome. Managed care helps enrollees stay healthy through illness prevention programs. They assure coordination of services for persons with multiple ailments. And through systematic, quality-conscious gate-keeping, they work to reduce unnecessary treatments which drive up health care costs.

At the same time, however, some managed care providers have tried to enhance their profit margins by limiting what doctors may tell patients regarding all appropriate treatments, thereby reducing services patients may actually receive. These gags in my view are outrageous. The President through administrative order during the last few months has made such gags illegal in managed care plans operating under Medicare and Medicaid. He has pledged his support for legislation eliminating these restrictions in private health plans as well.

Mr. President, while I am convinced that we need a single Federal standard on this matter to protect patients in managed care plans I am much encouraged by the voluntary efforts to end such gags recently announced by the managed care insurance industry. My long association with these companies has convinced me that coordinated care providers as a group often are on the cutting edge of developing both efficient and high-quality care for their enrollees. It is entirely appropriate for this provider group to try to police their members on the issue of gag provisions and the protection of doctor-patient communications.

I ask that the text of the bill be printed in today's RECORD.

The bill follows:

S. 449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Patient Right to Know Act''.

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions about their health care.

(2) Open medical communications between health care providers and their patients is a key to prevention and early diagnosis and treatment, as well as to informed consent and quality, cost-effective care.

(3) Open medical communications are in the best interests of patients.

(4) Open medical communications must meet applicable legal and ethical standards of care.

(5) It is critical that health care providers continue to exercise their best medical, ethical, and moral judgment in advising patients without interference from health plans.

(6) The offering and operation of health plans affect commerce among the States.

(c) PURPOSE.—It is the purpose of this Act to establish a Federal standard that protects medical communications between health care providers and patients.

SEC. 2. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between an entity operating a health plan (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with his or her patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(3) PROHIBITION ON PROVISIONS.—Effective on the date described in section 5, a contract or agreement described in paragraph (1) shall not include a provision that violates paragraph (1).

(b) RULES OF CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a health plan to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under a health plan or to otherwise require the plan to reimburse providers for benefits not covered under the plan.

(c) ENFORCEMENT.—

(1) STATE AUTHORITY.—Except as otherwise provided in this subsection, each State shall enforce the provisions of this Act with respect to health insurance issuers that issue, sell, renew, or offer health plans in the State.

(2) ENFORCEMENT BY SECRETARY.—

(A) IN GENERAL.—Effective on January 1, 1998, if the Secretary, after consultation with the chief executive officer of a State and the insurance commissioner or chief insurance regulatory official of the State, determines that the State has failed to substantially enforce the requirements of this Act with respect to health insurance issuers in the State, the Secretary shall enforce the requirements of this Act with respect to such State.

(B) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY.—

(i) IN GENERAL.—With respect to a State in which the Secretary is enforcing the requirements of this Act, an entity operating a health plan in that State that violates subsection (a) shall be subject to a civil money penalty of up to $25,000 for each such violation.

(ii) PROCEDURES.—For purposes of imposing a civil money penalty under clause (i), the provisions of subparagraphs (C) through (G) of section 2722(b)(2) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–22(b)(2)) shall apply except that the provisions of clause (i) of subparagraph (C) of such section shall not apply.

(3) SELF-INSURED PLANS.—Effective on January 1, 1998, the Secretary of Labor shall enforce the requirements of this section in the case of a health plan not subject to State regulation by reason of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)).

(4) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(d) NO PREEMPTION OF MORE PROTECTIVE LAWS.—A State may establish or enforce requirements with respect to the protection of medical communications, but only if such requirements are equal to or more protective of such communications than the requirements established under this section.

SEC. 3. DEFINITIONS.

In this Act:

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services who is operating within the scope of such license.

(2) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' has the meaning given such term in section 2791(b)(2) of the Public Health Service Act (as added by the Health Insurance Portability and Accountability Act of 1996).

(3) HEALTH PLAN.—The term ''health plan'' means a group health plan (as defined in section 2791(a) of the Public Health Service Act (as added by the Health Insurance Portability and Accountability Act of 1996)) and any individual health insurance (as defined in section 2791(b)(5)) operated by a health insurance issuer and includes any other health care coverage provided through a private or public entity. In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of enforcement under this section, to be a health insurance issuer operating such health plan.

(4) MEDICAL COMMUNICATION.—

(A) IN GENERAL.—The term ''medical communication'' means any communication made by a health care provider with a patient of the health care provider (or the

guardian or legal representative of such patient) with respect to—

(i) the patient's health status, medical care, or legal treatment options;

(ii) any utilization review requirements that may affect treatment options for the patient; or

(iii) any financial incentives that may affect the treatment of the patient.

(B) MISREPRESENTATION.—The term ''medical communication'' does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, except that section 2(a)(3) shall take effect 180 days after such date of enactment.

Mr. KENNEDY. Mr. President, I am pleased to join Senator WYDEN in introducing this gag rule legislation and I commend him for his leadership. Last year, a majority of the Senate voted for similar legislation but it was defeated on a procedural technicality.

Gag rules have no place in American medicine. Americans deserve straight talk from their physicians. Physicians deserve protection against insurance companies that abuse their economic power and compel doctors to pay more attention to the health of the company's bottom line than to the health of their patients.

I am pleased that this legislation has strong support from both the American Medical Association and Consumer's Union—because it is a cause that unites the interests of patients and doctors.

One of the most dramatic changes in the American health care system in recent years has been the growth of health maintenance organizations, preferred provider organizations, point of service plans, and other types of managed care. Today, 75 percent of all privately insured Americans are in managed care. Even conventional fee-for-service plans have increasingly adopted features of managed care, such as ongoing medical review and case management.

In many ways, this is a positive development. Managed care offers the opportunity to extend the best medical practice to all medical practice. It emphasizes helping people to stay healthy, rather than simply caring for them when they become sick. It helps provide more coordinated care and more effective care for people with multiple medical needs. It offers a needed antidote to incentives to provide unnecessary care—incentives that have contributed a great deal to the high cost of care in recent years.

At its best, managed care fulfills these goals and improves the quality of care. Numerous studies have found that managed care compares favorably to fee for-service medicine on a variety of quality measures, including use of preventive care, early diagnosis of some conditions, and patient satisfaction. Many HMOs have made vigorous efforts to improve the quality of care, gather and use systematic data to improve clinical decision-making, and assure an appropriate mix of primary and specialty care.

But the same financial incentives that enable HMOs and other managed care providers to practice more cost-effective medicine also can lead to under treatment or inappropriate restrictions on care, especially when expensive treatments or new treatments are involved.

Too often, insurance companies have placed their bottom line ahead of their patient's well-being and have pressured physicians in their plans to do the same. These abuses include failure to inform patients of particular treatment options; barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order appropriate diagnostic tests; and reluctance to pay for potentially life-saving treatment. It is hard to talk to a physician these days without hearing a story about insurance company behavior that raises questions about quality of care. In some cases, insurance company behavior has had tragic consequences.

In the long run, the most effective means of assuring quality care in HMOs is for the industry itself to make sure that quality is always a top priority. I am encouraged by the industry's development of ethical principles for its members, by the growing trend toward accreditation, and by the increasingly widespread use of standardized quality assessment measures. But I also believe that basic Federal regulations are necessary to assure that every plan meets at least minimum standards.

Medicare has already implemented such a prohibition. All Americans are entitled to this same protection.

A gag rule provision is also included in a more comprehensive managed care bill that I introduced earlier this session. That bill addresses a number of other issues as well. This prohibition of gag rules is such a simple need and cries out for immediate relief.

This legislation targets the most abusive type of gag rule—the type that forbids physicians from discussing all treatment options with patients and makes the best possible professional recommendation, even if the recommendation is for a non-covered service or could be construed to disparage the plan for not covering it.

This bill specifically forbids plans from prohibiting or restricting a provider from any medical communication with his or her patient.

This is a basic rule which everyone endorses in theory, even though it has been violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations require that ''Physicians cannot be restricted from sharing treatment options with their patients, whether or not the options are covered by the plan.''

We need to act on this legislation promptly. The Senate has the opportunity to protect patients across the country from these abusive gag rules. Action on this legislation is truly a test of the Senate's commitment to the rights of patients and physicians across the country.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar:

Calendar No. 42, the nomination of Keith Hall, to be Assistant Secretary of the Air Force.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at this point in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Keith R. Hall, of Maryland, to be an Assistant Secretary of the Air Force, vice Jeffrey K. Harris, resigned.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

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

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

ORDERS FOR WEDNESDAY, MARCH 19, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m. on Wednesday, March 19. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of Senate Joint Resolution 22, the independent counsel resolution. I further ask consent that the time from 10:30 a.m. until 11:30 a.m. be equally divided