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REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2465, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2000

Mr. DREIER, (during the Special Order of Mr. PALLONE) from the Committee on Rules, submitted a privileged report (Rept. No. 106-227) on the resolution (H. Res. 242) providing for consideration of the bill (H.R. 2465) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2466, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

Mr. DREIER, (during the Special Order of Mr. PALLONE) from the Committee on Rules, submitted a privileged report (Rept. No. 106-228) on the resolution (H. Res. 243) providing for consideration of the bill (H.R. 2466) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PATIENTS' BILL OF RIGHTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, this evening I have some of my colleagues, and I want to thank the previous speaker, my colleague from Kansas (Mr. MOORE), for talking about the Patients' Bill of Rights and the need for managed care reform.

The reason that we are here tonight to talk about the Patients' Bill of Rights and managed care reform primarily is because the Senate began debate today on the Patients' Bill of Rights, and I wanted to point out, Mr. Speaker, that while it is true that the debate has begun today in the other body, and we are certainly appreciative of that, it was only because Democrats over the last few weeks before the July 4 break insisted almost to the point of filibustering and saying that they would not continue the appropriations process in the Senate if there was not an opportunity to bring up the Patients' Bill of Rights and deal with the issue of HMO reform.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman will refrain from characterizing Senate actions.

The gentleman from New Jersey may continue.

Mr. PALLONE. Mr. Speaker, what I wanted to point out this evening, though, is that even though it is true that the HMO reform debate has begun, that we still have a problem in the sense that the Republican leadership is unwilling to support or, I think, ultimately even have considered particularly here in the House of Representatives the Patients' Bill of Rights, and I just wanted to start out this evening, if I could, by pointing out a few things that occurred and that were in the newspaper the last week or so on this issue, and then I want to yield to the two Congresswomen that are here tonight to join me.

One of the things that was in today's paper, in the New York Times, was an article by Robert Pear which is entitled, Managed Care Lobbyist Is Ready For The Debate; and essentially what this article says is that the HMO industry has commenced because of what is happening in the other body, that the HMO industry has commenced a huge lobbying effort not only by hiring lobbyists and paying them a lot of money to try to put an end to the Patients' Bill of Rights and not allow true HMO reform to pass, but also by spending millions of dollars on TV and in advertisements to try to kill any kind of HMO reform.

And just to give my colleagues an example of this, this is in today's New York Times. It says, it says specifically here, that the association and its business allies, and this is the HMO industry, have flooded the air waves and newspapers with advertisements opposing legislation to regulate HMOs through an umbrella group known as the Health Benefits Coalition.

They spent \$2 million on advertising last year and have already spent more than that this year with a new burst of advertising planned for this week while the other body debates this issue. The advertisements attack the main democratic bill by name, and of course it goes on to explain that HMOs are mostly profit making.

The other thing that particularly galled me was that when they talked about the lobbying effort here in the Congress, it says that what they are trying to essentially say is that it is not necessary to have new laws to regulate HMOs because the HMOs are being told now that they should voluntarily adopt a code of conduct that will provide for patients' protections.

I thought that was interesting given the fact that just in the last week since we had the July 4 break, we have seen articles in the same newspaper, in the New York Times, talking about the long delays by HMOs that were cited in a New York report. This came out in New York. It was put out by Mark Green, the city's public advocate, and it talks about how patients' rights are being ignored.

Again, if it is not necessary to pass HMO reform, why is it that we have a report showing that it is needed and in fact that patient protections are being ignored?

Also the previous Friday in the New York Times was an article that said that HMOs will raise Medicare premiums or trim benefits. So not only do we have the HMOs essentially saying that they are not going to provide the patient protections on a voluntary basis, but also they are talking about raising premiums, trimming benefits for their patients who are part of their plan.

□ 1930

So I would maintain, and we are going to talk about this for a long time tonight and other days, that in fact we do need legislation. We do need the Patient's Bill of Rights. I am pleased with the fact that the other body has at least started the debate on this issue.

Mr. Speaker, I have two Members who are here tonight and who are joining me.

I yield to the gentlewoman from California (Ms. LEE), who I know has been an advocate for the Patients' Bill of Rights and for HMO reform ever since she started here in the U.S. Congress.

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding, and also for conducting this special order tonight, and for his hard work on this.

Mr. Speaker, let me just say that I rise in strong support of the Democratic Patients' Bill of Rights, which will provide fundamental measures to fix the current health insurance system, as well as provide patients with access to basic needed care.

Patients should not have to face numerous obstructions when they seek basic health care services. The Democratic Patients' Bill of Rights will allow patients to have more access to the care that they need. With the passage of this bill, individuals will have more access and the ability to receive emergency medical services, essential medication, as well as necessary services from specialists and OB-GYN care.

It also has provisions for women's and children's health benefits. Prescription drugs will be made more readily available to patients. Many patients cannot obtain certain prescription drugs because many HMOs refuse to pay for them. Unfortunately, patients do not get adequate medication needed to successfully treat their condition in these instances.

The Democratic Patients' Bill of Rights allows patients to obtain the needed medications, even if their HMO does not have them on their approved list. We should not have to gamble with patients' health. The quality of life should be a priority in all debates surrounding health care issues.

This bill will allow for more access and freedom for our patients and doctors when making decisions concerning an individual's health. Appropriate

health care should be a medical decision, not a business decision.

This bill addresses the importance of allowing patients to appeal their health plan's decision, as well as holding HMOs accountable for their actions. This only makes sense. It is outrageous that currently consumers have no recourse against HMOs that deny adequate health care to them, and they are paying for it. This is wrong. People are growing more and more frustrated with an inadequate health care system that does not listen to the needs of people.

I support universal, accessible health care for all, but until we have the political will to say that health care is a basic right, and that our Federal Government must guarantee this right, regardless of income or employment status, this bill is a good first step.

We must pass legislation with these very modest provisions. We have waited long enough and have allowed too many people to suffer. I urge my colleagues to support putting people rather than profits first by supporting H.R. 358.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman, and I think that in many ways that really is the key. What we are talking about with the Patients' Bill of Rights are commonsense patient protections that, frankly, when we mention them to our constituents, they are surprised that they are not already the law, or they are not already required.

I will give the example with the gag rule that says that if a particular procedure is not covered by the HMO in the insurance policy, the doctor cannot mention it to us, cannot mention that procedure or treatment. When I tell that to my constituents, they are shocked to think that a doctor can be told by the insurance company that they cannot mention a procedure just because it is not covered, the so-called gag rule.

We are just looking for commonsense protections here, but the reality is that there is so much money being spent to counteract our efforts to try to legislate and come up with HMO reform. That is really what we are up against. So many of these HMOs are for profit, and basically the profit is the bottom line for them.

We have seen so many examples, and we had a couple before a hearing we had about 6 months ago where, because the HMO was seeking to be purchased by a larger group, they were actually changing the policy of what was covered for certain kinds of procedures in order to save costs, because they knew that a few months down the line they wanted to be purchased, and they wanted to show that their profits were good, and they needed to change the policy on what they would cover as a result of it.

So I think the gentlewoman is right on point when she points out that it is profits over patients in many cases.

Ms. LEE. Mr. Speaker, if the gentleman will continue to yield, I think

all of us here, regardless of party affiliation, can cite instances of patients who have either gotten sicker or who have died as a result of certain medical decisions that were not made on the basis of the health care benefit to them, but rather, based on the profit motive.

That is just wrong. We want to see that stopped. I am convinced that this bill will stop that. We have to make sure that all of our people in this country have the best type of medical care, and in fact that they and their doctors are the ones making these decisions, not the business agents or insurance companies.

Mr. PALLONE. I appreciate that, Mr. Speaker.

One of the two issues that I point out constantly that really show the distinction between what the Democrats have proposed in the Patients' Bill of Rights as opposed to the legislation that the Republicans have put forward, one is this whole issue of who is going to make the decision of what type of medical procedure we have, what type of operation, how long we stay in the hospital.

The problem right now is that the insurance companies make those decisions. What we are saying with the Patients' Bill of Rights, with the Democratic bill, is that that decision should be made by the doctor and patient.

The other thing, of course, is the enforcement. We say that there should be external independent review, separate and apart from the HMO, and if that fails we should be able to go to court and sue the HMO if they do not provide the proper care. Of course, the Republican bill does not get into that kind of enforcement.

So I think one of the things we need to do is draw those distinctions, if you will, between the Democrats' bill, the Patients' Bill of Rights, and some of the other things that are being proposed that really do not get to the problem in a comprehensive way.

Ms. LEE. We absolutely must show the distinction and difference, because I don't believe the American public knows that there is a difference. People just want to make sure that their medical decisions are made between themselves and their physicians. That is what they are asking us for.

Also, people want to make sure that when they are denied, they know why they are denied and they can appeal this process. For the life of me, I know all of us have constituents who have called us and said, I just received a call back or a form in the mail saying that this procedure which my physician has designated as the appropriate procedure has been denied. What do I do? We cannot respond at all.

I believe that under our bill, patients will be able to respond very effectively and will be able to receive the type of health care that they need. Under the Republican bill, they will not. The public needs to understand this.

So I appreciate the gentleman's having this special order tonight, because

this is the only way we can get the information out to the general public.

Mr. PALLONE. I appreciate what the gentlewoman said. It is just very true. One of the biggest problems that people have is that when they have been denied certain types of treatment, they are in bad shape, they are seeking an operation, they are not feeling well by definition, or otherwise they would not need the treatment.

It is at that very time when they have to go through all these hurdles that currently exist, most of which do not lead to anything anyway, because under the current law, the HMO can define what is medically necessary. Then they can have an internal process to review what they have defined as medically necessary. So we never really have somebody independent, outside, that can review the decision and take an appeal. I want to thank the gentlewoman again.

Mr. Speaker, the gentlewoman from the Virgin Islands is herself a physician, and I know she has been part of our Health Care Task Force for a few years now, and has spoken out frequently on the issue of the Patients' Bill of Rights. The gentlewoman deals from firsthand information.

Mr. Speaker, I yield to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN.)

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman and I want to join the gentlewoman from California (Ms. LEE) in thanking the gentleman for leading this special order, and all of the other special orders, hearings, and activities to highlight this very important issue to all Americans, an issue that is represented quite well in the Democratic Patients' Bill of Rights.

At one time it was thought that managed care was a panacea, not only to curb skyrocketing health care costs, but also to provide better health care for more people. As a physician from the outside, I had serious doubts about the outcome of a health care delivery system created to cut costs, rather than to heal and keep people well.

As time has gone on, my worst fears have actually been realized. For 2 years now, 2 years or more, we have been trying to pass an important piece of legislation, one that the American people care about and one that they desperately want and need. It is aptly called the Patients' Bill of Rights, and speaks to rights that we Democrats want to return to the people and to the doctors that they choose to put themselves under their care.

But it is about something even more important. It is about life and it is about the quality of one's life. It is about putting health care decisions back in the hands of those who are trained to make those decisions.

Today, after managed care has come to cover the great majority of persons who are insured by their employer, what has happened paradoxically is that the American people have less access to health care, rather than more.

We have an obligation to fix that, and that is just what we, the Democrats, are trying to do through the Patients' Bill of Rights.

This Congress must make this commitment to our constituents a reality, and then we must move on to provide health insurance for all the other Americans, many of them people of color, who have none at all.

I am a physician, a family physician. I was very fortunate to have been able to practice the old way, taking the time to speak with and getting to know my patients and their families, using what I had learned and what I continued to learn to provide preventative care and treatment for their illnesses when they needed it, to be free to fully inform them of all of their treatment options, to refer them for specialty consultation when needed, and remain the manager of their care, and yes, even being held accountable for the decisions that I made about their health care.

That is the way medicine should be practiced. It is not that way anymore, in many cases, and specifically in most managed care organizations. That is why I am here to join the gentleman this evening to support the Patients' Bill of Rights. I join my colleagues in calling on the leadership of this body to bring the bill to the floor.

The American people have lost their faith in our health care system, and as a physician, I know just how important it is to have confidence in the person and the facility where you receive your care.

They rightfully want to have their doctors make the decisions about their health care, not some paperpusher miles away. They want to be able to get to an emergency room when, in the judgment of the one who knows their body best, themselves, something seems to have gone seriously wrong. They want to go there with the peace of mind that they will be seen without undue delay, and that the visit will be paid for. They want to be able to discuss their care fully with their doctor, to know all of the implications and available therapies. They insist on participating in the decision on when a specialist is needed, and they want to be able to see one when one is.

Just as the doctor or the provider has always been accountable for the judgments they make, the managed care organization, when the decision is theirs, must also be held accountable. So just as Americans have lost faith in managed care, they are about to lose their trust in this body because the leadership has failed to address this issue that they, the people of America, rank as the most important to them and their families.

I applaud the other side for taking up S. 6 this week, but it is important that they and we pass a comprehensive bill. Piecemealing this issue will not fix it. Just as we physicians must treat the whole patient or the whole person, this Congress has to fix the entire system.

So before I close, I also want to remind my colleagues that providing access to necessary health care, which H.R. 3605, the Democratic Patients' Bill of Rights, does, is an important step. It still is a part of what we need to do.

This bill does also begin to address another issue important to providers of color and the people we serve. Managed care organizations operating in communities of people with color often do not include traditional community providers within their system. The providers who work there are not always culturally competent. In many localities, minority providers are closed out and with them, their patients, who are often sicker, and thus undesirable to the HMO because providing care for them will cut into the all-important profits.

Further, there are still too many Americans who do not have any insurance coverage at all. The system will not be right until all of us have access. This Nation can never be all that it holds out itself to be to the rest of the world until all of its citizens and residents have access to equitable, quality health care. The Democratic Patients' Bill of Rights is a great first step and a very important first step.

I may have left the practice of private medicine, but seeing that good health care is available to all is still very important to me. My colleagues on this side of the aisle and I am sure a few on the other side will join us as well and continue to work as long as we need to to see that this comprehensive bill of rights becomes a reality.

I thank the gentleman for giving me this time this evening.

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Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman for what she said and for being a leader on all of the issues of health care reform but particularly on the issue of the Patients' Bill of Rights and managed care reform.

The gentlewoman mentioned some of the piecemeal approaches that we are hearing from the Republican leadership, and I just wanted to remind my colleagues and maybe we could just spend a few minutes explaining why we are here tonight.

Essentially, the problem that we face as Democrats is that the Republican Majority in the House has been unwilling to bring up the Patients' Bill of Rights. And since we do not control the procedure either in committee or on the floor of the House, we are forced essentially just to speak out and explain why it is unfair that the Patients' Bill of Rights has not been brought up here in the House of Representatives.

Obviously, what we have tried to do from the beginning of this year is to have a hearing on the bill in committee, which has not been allowed, and then to mark it up and bring it to the floor. When none of that was possible for the last 6 months, we then

tried the discharge petition process, where we come down to the floor and sign a petition the way our constituents petition us and basically the way the rules provide that if a majority of us sign a petition, that the bill comes to the floor, the Patients' Bill of Rights would come to the floor without going to committee. That is, of course, difficult, too, because we have to get a majority, and I believe because of the delegate status of the gentlewoman from the Virgin Islands, she is not even allowed to sign the petition. Or maybe she can sign it, but it does not mean anything that she signs it, which I think is also unfortunate and should be changed.

But now that we have gotten a significant number of Members to sign the petition, I know we had over 180 before the July 4th break, we are starting to see the Republican leadership get a little restless and come up with other ideas about how to avoid a debate on this issue.

One of the things they did was to bring up a series of piecemeal bills that took little pieces of the patient protections that we have in the Patients' Bill of Rights and basically brought them up in committee and tried to get them out of committee. Fortunately, there were a few, I think two or three, Republicans who did not want to go along with that because, as the gentlewoman said, they wanted a comprehensive approach like the Patients' Bill of Rights, so that has gotten bogged down.

Mr. Speaker, I am not sure what the latest tactics are to deal with that piecemeal approach. We do have some Republicans that are joining us in the effort and feel that this really should be a bipartisan issue, but unfortunately it has not been because the Republican leadership continues to not allow the Patients' Bill of Rights to be brought up.

Mr. Speaker, I just wanted, if I could, to again say that the problem with these piecemeal bills is essentially what I talked about before with the gentlewoman from California (Ms. LEE) which is the two key points: The fact that doctors and patients should make decisions about what kind of treatment or care they get and not the insurance company is absent in those piecemeal bills. And, of course, there is no real enforcement. There is no real opportunity to go outside the HMO to make an appeal. There is no opportunity to sue in a court of law if someone is seriously damaged.

So I think it is important that we keep raising this issue and even though we do have the other body now bringing up the issue of HMO reform, it is not at all clear whether or not we are going to really see action on the Patients' Bill of Rights. So we will have to wait and see what develops in that regard.

Mrs. CHRISTENSEN. Mr. Speaker, I agree with the gentleman from New Jersey. He said earlier that it is a common sense bill and it is what the people

of America have said they want. They want their doctors who have been trained to sit with them and make the decisions about their health care. They want someone that they can have a personal relationship with. And that personal relationship between the patient and the physician is a very important one, and it is not there in managed care the way it is when the doctor can make the decisions.

And, of course, if the managed care organization is making the decisions, then they ought to be held accountable for making those decisions. But the Patients' Bill of Rights that we are talking about, which is comprehensive, is what the American people have said that they want.

Mr. PALLONE. Mr. Speaker, I will give an example.

Of course, the insurance companies always say that they do not make the decisions and it is really up to the physician. But, as the gentlewoman knows, that is not the case.

I remember when my son was born, he is about 4 years old now, and we were at Columbia Hospital for Women here in Washington; and at that time my wife delivered him through C-section. I was told that, generally, the standard in the industry before HMOs came along was to allow the woman to stay in the hospital approximately 4 days.

We had a standard BlueCross, and this actually was applying not just to HMOs but in general, but basically what had happened is that a lot of the HMOs have moved to allowing just 1 day for natural delivery and then 2 days for C-section. The physician that we had said that he really wanted my wife to stay in the hospital at least another day, for the third day, but he said that he could not authorize it because the insurance company would not allow it. I asked the question at the time, I said, "I do not understand. Aren't you the one that makes the decision?" And he said, "In theory I am, but if I allow too many people stay the extra day then they will penalize me or I may not be able to be part of the network or whatever."

And so, even though they may say that that it is up to the doctor, the reality is that the physicians are under these kind of financial or other licensure penalties, not licensure but to be able to stay in the network to not allow it. So, effectively, they control the process and they make the decisions and that is what we need to change.

Mrs. CHRISTENSEN. Right. And I believe one of the articles, that we had talked about someone who had gone into an emergency room and one of the things that our bill provides for is reasonable judgment allowing for emergency room care and having that care covered and also allows for things like pain, which make a lot of sense to be a reason why someone might decide to go to an emergency room.

There are many stories of persons who have gone into emergency rooms

with something like chest pain and, while waiting for an approval, those first few minutes are some of the most critical minutes, and the person had an arrhythmia and died. And so our bill is very important, and it is a matter of life, as I said, and quality of life for American citizens.

Mr. PALLONE. Well, basically, being from a legal background, I always think about the legal aspects of this. But the way I see it, essentially what the Patients' Bill of Rights does in the emergency room situation is to essentially put the burden on the HMO in that circumstance rather than on the patient. In other words, right now if the patient gets chest pains and feels they may be having a heart attack and they go to the emergency room, the HMO can find every excuse, assuming they did not have a heart attack and they survived, the HMO can say that they should have had prior authorization. We would have known that chest pain does not necessarily mean a heart attack.

What we say in our bill is say it is the "reasonable person" formula. If the average person would think, if they have chest pains, that they have to go to the emergency room, that is good enough. They do not have to prove after they had the heart attack to justify getting the emergency room care paid for, which of course makes sense.

The other thing, and the gentlewoman would know this better than I, the other aspect of our bill is that in order to, as we said since we want to leave it to the doctor and the patient to decide what is medically necessary, we use the standard practice in that particular specialty. So that the reference that the HMO has to make to, for example, a certain kind of cardiac care or pediatric care is to the standards for that pediatric college or cardiac college. I do not know the terms. The standard is that set by that specialty, medical specialty, rather than just by the insurance company; and that is a big difference as well.

Mr. Speaker, what I was trying to do tonight, and I appreciate the input from the two gentlewomen, the two Congresswoman who so far participated in this debate, was to draw a distinction between the Democrats' Patients' Bill of Rights and some of the proposals that the Republican leadership has put forward. I tried to point out that, on the one hand, the Republican leadership here in the House has consistently refused to bring up HMO reform, not only the Democrats' Patients' Bill of Rights but any kind of legislation, over the last 6 months in essentially a stalling, delay tactic because of the support that the leadership receives from the HMOs and from the insurance industry.

But now that the time has come when it is very difficult for the Republican leadership to continue to delay because we have a sufficient number of signatures on this discharge petition, that we are getting close to the point

where we could actually bring the bill up, they are now turning to a different device to bring up legislation that they pretend is some kind of HMO reform but really is not and does not pass the test to really provide comprehensive patient protections to the average American.

Mr. Speaker, I want to make reference in that regard to an op-ed article by Bob Herbert in The New York Times that appeared just prior to the break on Thursday, July 1. To the extent it talks about the action in the other body, I will not get into that because we are not supposed to talk about what happened in the Senate.

But the op-ed does make the point that the Republicans really do not want to bring up HMO reform, true HMO reform like the Democrats' Patients' Bill of Rights, and that they will do whatever they can to try to avoid the issue and prevent a bill from passing here in the House of Representatives, even though the American people have repeatedly spoken out and say that they want HMO reform and they want the type of comprehensive approach that the Democrats have put forward in the Patients' Bill of Rights.

I just wanted to make reference to certain sections of this op-ed which I think is very significant, and it refers to the GOP right wing, The Restless Radicals, and it talks about the fight. And it says that the fight over HMO reform was not over the merits of the legislation but over the Republican Majority's refusal to even allow debate on a series of Democratic proposals aimed at curbing abuses by insurance companies and HMOs.

I will just quote certain sections here.

"There is strong support among the public and among health care professionals for the Democratic proposals, known as the Patients' Bill of Rights. The Republicans have offered much weaker legislation and have not been anxious to permit a public airing of the differences.

"Virtually all leading patient and medical groups have supported the Democratic proposal" in the Senate, "Senator [TOM] DASCHLE's proposal," says Senator EDWARD KENNEDY. "These groups do not care whether Democrats or Republicans are on a piece of legislation. They just want a strong bill. And virtually every single leading—"

The SPEAKER pro tempore (Mr. GIBBONS). The gentleman will refrain from quoting Members of the other body.

The gentleman may continue.

Mr. PALLONE. Mr. Speaker, the references that I will continue with are from the article, not from the other body. This is, as I said, an opinion that was by Bob Herbert in his column in The New York Times on Thursday in which he said, "A few days ago I spoke by phone with Steve Grissom," a constituent or someone basically from North Carolina who has had health problems. And he said, "A few days ago I spoke by phone with Steve Grissom of

Cary, North Carolina. He is 50 years old and suffers from leukemia and AIDS, which he contracted through a blood transfusion. Mr. Grissom is locked in a harrowing dispute with his insurance providers over payment for medical equipment and a continuing supply of oxygen that could determine whether he lives or dies.

"Said Mr. Grissom: I've been a Republican all my life. I don't think I've ever missed a vote. Now is the first time in my life that I've considered changing my party affiliation because I see a real lack of compassion in the Republican Party. They're hearing from the HMOs and they're hearing from the lobbyists with their fat checkbooks, and they're not hearing from people like me who are in desperate need of this kind of consumer protection."

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Mr. Speaker, I think it really says it all. As we said before when we had the two Congresswomen on the floor, the bottom line is that all that the Democrats are proposing are common sense patient protections within the context of HMOs.

The only reason that we are getting opposition from the Republicans is essentially because of the fact that the insurance companies do not want this legislation brought to the floor, do not want a debate, and do not want a vote on it.

I would like to, if I could, just take a few minutes to point to the differences substantively between the Democratic bill and the Republican bill. There are really a few key points in the Democratic bill that I would just summarize right now and why the Democratic Patients' Bill of Rights would make a real difference for American families.

First, it holds managed care plans responsible for denial of care with real, reliable and enforceable appeals and remedies. This is the enforcement that we talked about before that involves an independent review of any denial of treatment outside of the confines of the HMO and includes also, ultimately, the right to sue the HMO for damages.

Second, it guarantees patients the right to see a specialist when they need to do so. It is so crucial today. So much medical care is provided through specialists. If one does not have access to a specialist within the network of one's HMO, one should be able to go outside the network to get a specialist who can cover the concern or deal with the medical concern that one has.

Third, it guarantees that vulnerable patients can stay with their own doctor even if their own doctor is no longer in their health care plan.

Fourth, it bans financial incentives to reward physicians for prescribing less care.

Fifth, it returns health care decisions to health care professionals and their patients, which again we discussed earlier this evening.

Now, if I could just elaborate on a few of these points. When we talk

about providing patients with access to care, which is so important, there are really a number of things in the Democratic bill that relate to access. Some of them we discussed a little bit earlier this evening.

One is access to emergency room care. The Democrats' Patients' Bill of Rights allows patients to go to any emergency room during a medical emergency without having to call a health plan first for permission. Emergency room physicians can stabilize patients and begin to plan for post-stabilization care without fear that health plans will later deny coverage.

Another access point, access to needed specialists. The Democrats' Patients' Bill of Rights ensures that patients who suffer from a chronic condition or disease that requires care by a specialist will have access to a qualified specialist. If the HMO network does not include specialists qualified to treat a condition such as a pediatric cardiologist to treat a child's heart defect, it would have to allow the patient to see a qualified doctor outside its own network at no extra cost.

The Patients' Bill of Rights also allows patients with serious ongoing conditions to choose a specialist to coordinate care or to see their doctor without having to ask their HMO for permission before every visit.

Another access, very important obviously for women, access to an OB/GYN. The Democrats' Patients' Bill of Rights allows a woman to have direct access to OB/GYN care without having to get a referral from her HMO. Women would also have the option to designate their OB/GYN as their primary care physician.

Also on the issue of access, my colleague from California mentioned earlier that Democratic Patients' Bill of Rights makes needed prescription drugs available to patients. Currently, many HMOs refuse to pay for prescription drugs that are not on their preapproved list of medications. As a result, patients may not get the most effective medication needed to treat their condition.

The Democrats' Patients' Bill of Rights ensures that patients with drug coverage would be able to obtain needed medications even if they are not on their HMOs approved list.

Now, the other issue that was mentioned by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), who is a physician who has practiced, is the idea of freeing doctors to practice medicine. This is what so many of my constituents complain about, that accountants should not make medical decisions. Yet, some managed care organizations interfere with doctors' medical decisions and restrict open communication between patients and doctors. The Democrats' Patients' Bill of Rights protects the doctor/patient relationship and frees doctors to practice medicine.

Most important, it prohibits insurers from gagging doctors. Patients have a

right to learn from their doctor all of their treatment options, not just the cheapest. The Democrats' bill prevents HMOs from interfering with doctors' communications with patients. Doctors cannot be penalized for referring patients to specialists or discussing costly medical procedures.

The Patients' Bill of Rights provides that doctors and patients, rather than insurance company bureaucrats, are once again allowed to make medical decisions. Now, how do we do that? Well, under our bill, HMOs are prevented from inappropriately interfering with doctors' judgments and cannot mandate drive-through procedures or set arbitrary limits on hospital lengths of stay.

In addition, doctors and nurses who advocate on behalf of the patients will be protected from retaliation by HMOs. Also important in this whole idea of allowing doctors to freely practice medicine is to limit improper financial incentives.

Some managed care organizations use improper financial incentives to pressure doctors to deny care to their patients. The Democrats' Patients' Bill of Rights limits insurance companies' ability to use financial incentives to get doctors to deny care. HMOs and insurers also would have to disclose to all patients information about any incentives that they use.

Now, I just want to talk about one more aspect of the Democratic bill, and then I want to talk briefly about the Republican bill that is being put up in opposition to it. This is with regard to enforcement and the whole idea of bringing the appeal when one has been denied treatment.

When health plans deny needed care, patients and doctors reserve the right to appeal the decision and to receive a timely response. To protect patients and give them a meaningful right to appeal, the Democrats Patients' Bill of Rights establishes a sound, independent and timely external appeals process. What we do with our bill is to ensure that patients who are denied care by an insurance company can appeal the decision to an independent reviewer with medical and legal expertise and receive a timely decision that is binding on the HMO.

Finally, I would like to talk a little bit about why it is necessary to have the ability to sue. I think a lot of people do not realize that they can sue the HMO if they have been denied treatment or if they have suffered damages because they did not get proper treatment.

But today, even if an HMO has been involved directly in dictating, denying, or delaying care for a patient, it can use a loophole in the statute called ERISA, the Employment Retirement Income Security Act of 1974. The HMO can use ERISA to avoid any responsibility for the consequences of its actions.

ERISA was designed to protect employees from losing pension benefits

due to fraud, mismanagement, and employer bankruptcies during the 1960s. But it has had the effect of leaving patients harmed by their HMO's decisions to deny or delay care with no effective remedy.

Now, what the Democrats do in our Patients' Bill of Rights is to close this loophole and ensure that, like any other industry, HMOs can be held accountable for their actions. Since HMOs have the financial incentive to deny care to patients, they should bear responsibility if such denials cause harm. Employers, under our bill, are shielded from liability unless they make the decision to deny care. But the HMO is not. The HMO can be sued because they are in fact making the decision.

Now I just wanted to, if I could, briefly talk about these sham piecemeal bills that the Republican leadership has brought up in the last few weeks after we started to get a number of signatures to our discharge petition and it seemed as though at some point in the near future we were likely to get enough signatures to bring the Patients' Bill of Rights to the floor. So the Republican leadership has rolled out eight piecemeal bills which they call HMO reform but are really not.

Let me just point out some of the things that are left out in this Republican approach. First of all, the bills only cover people who obtain health insurance through their employer. They fail to extend patient protections to the millions of people that purchase health insurance individually.

Obviously, the patient protections that we are talking about should apply to all health plans, not just plans that are provided by the employer. Also, the Republican bills pretend to secure patients' rights, but they contain no way to enforce those rights other than the weak penalties currently available through ERISA. So the outside independent review, the ability to sue is not there.

The piecemeal bills are inconsistent and incomplete. For example, one of them is supposed to protect against so-called gag clauses where the physician is told that he cannot speak out about a particular procedure that is not covered. But it does not. But the bill the Republicans have put forward to try to deal with these gag clauses does not prohibit plans from retaliating against doctors who discuss the plans' financial incentives. Well, the reality then is essentially the doctors are still gagged and cannot speak their mind.

There are so many other examples. Let me give one other example in an effort to try to address the Democrats' initiative with regard to OB/GYN care. The Republican bill purports to guarantee women direct access to routine OB/GYN care, but it would allow a plan to require a woman to obtain such services from a generalist.

So these are the kinds of games that we are seeing with this piecemeal approach that the Republicans have put

forward. They pretend that they are dealing with some of the patient protections, but in fact they do not.

Mr. Speaker, what I would really like to point out is that, on the one hand, I am pleased to see that the other body is taking up the issue of HMO reform, but I think that it is crucial, first of all, that we in the House bring up the issue and allow for a debate on the Patients' Bill of Rights.

But even more so, it is necessary for us to bring up a bill, a strong comprehensive approach like the Democrats' Patients' Bill of Rights, allow it to be brought to the floor, vote on it, go to conference with the Senate, and have a strong piece of legislation like the Patients' Bill of Rights go to the President.

President Clinton has repeatedly said that he would sign the Patients' Bill of Rights if it comes to his desk. I notice that, during the break, actually over this past weekend, he again used an opportunity I think when he was out on the West coast in Los Angeles to criticize the GOP, the Republican leadership, for trying to avert a vote on true HMO reform.

We are not going to rest, those of us in our party, and I know some of the Republicans as well who care about this issue are not going to rest until we have a comprehensive bill passed by both houses and on the President's desk.

This is what the American people demand. This is what they deserve. It only makes sense to do so if we are really going to provide protections for patients throughout the country.

#### LAS VEGAS FLOOD

The SPEAKER pro tempore (Mr. GIBBONS). Under a previous order of the House, the gentlewoman from Nevada (Ms. BERKLEY) is recognized for 5 minutes.

Ms. BERKLEY. Mr. Speaker, a flood damage assessment team from the Federal Emergency Management Agency arrived in my hometown of Las Vegas this afternoon.

It may be a bit strange to many of my colleagues to hear the words "flood" and "Las Vegas" in the same sentence. People usually do not think of flooding as a problem that happens in a desert environment. But the potential for flash flood disaster constantly lurks in the summertime in southern Nevada.

I have lived in Las Vegas for 38 years, and I have seen a lot of flash floods. But last Thursday brought rain and flooding like I have never seen before. We were hit with what weather experts called the 100-year flood.

With more than an inch of rain falling per hour, rivers of water swept across the Las Vegas Valley. The metropolitan area was brought to a standstill. Many neighborhoods were under several feet of water. Heroic rescue crews from our police and fire departments and other agencies saved dozens

of people, men, women, and children who were stranded in high waters with frighteningly strong undercurrents, in many cases, danger of being swept to their death by the raging waters. Sadly two people did die.

Helicopter rescue teams crisscrossed the valley, hoisting to safety people who could not escape the onslaught of water and mud that swept down from the surrounding mountain sides. One security officer, Cornell Madison of Las Vegas, repeatedly waded into high waters to rescue trapped motorists. He is one of many, many people who disregarded their own personal safety to help others.

The waters subsided rapidly, and our tourism services were back in full swing within a day. But things did not turn out so well for hundreds of residents whose homes were heavily damaged or destroyed. Many small businesses also suffered heavy losses. In some parts of the city, the devastation was overwhelming, as flood channel banks were ripped apart by fast-flowing run-off waters that were over 10 feet high. Homes were literally torn from their foundations and dumped into the torrent.

Residents were able to flee in time to save their lives, but they had to return to find themselves either homeless or facing massive repair and cleanup expenses.

□ 2015

There is also damage to public infrastructure totaling many, many millions of dollars. I personally helicoptered over the Las Vegas Valley to see firsthand the devastation below, and I went to the worst affected area, the Miracle Mile Mobile Home Park, rolled up my pants legs and went to talk to those residents who had lost everything.

I greatly appreciate FEMA's decision to send in damage assessment teams to help the local governments in my Congressional District identify the losses and advise on how the damage can be mitigated. They will be in the field tomorrow and I will be in communication with them.

I also appreciate the interest and responsiveness of the Small Business Administration in the wake of this disaster. I know that our Federal disaster relief agencies will quickly act upon any requests from local and State officials for assistance. And as representative for the areas that were the hardest hit by this devastating flood, I will continue to communicate the needs of the Las Vegas community to Federal agencies.

The people of Las Vegas have banded together to help one another during this time of dire need for many of our residents. Now is the time for our Federal Government to come into Southern Nevada and lend a helping hand to a community ravaged by flood.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to: