

control bill that was enacted only when Vice President GORE cast the deciding vote. Six Republicans and 44 Democrats voted for this bipartisan plan. It was sent to the House of Representatives and, unfortunately, there the National Rifle Association prevailed. The bill was basically defeated, and the opportunity for sensible gun control was lost.

I hope we have another chance in this session. I hope we have a chance to address not only gun control but the Patients' Bill of Rights, an improvement in the minimum wage in this country, and doing something about the future of Medicare—these things I believe are the reason we are here. It is the agenda with which most American families can identify—doing something about our schools to improve education. Instead we seem to be caught up in a lot of other issues that are at best only secondary. It is time to move to the primary agenda and the primary agenda is the Patients' Bill of Rights and that is what this Senate should be considering.

I thank the Chair for the opportunity to speak in morning business. I hope that as I end my remarks and we go into a quorum call, which is really a time out in the Senate, that all those who watch this quorum call will ask the same question: Why then, during that moment in time, isn't the Senate even talking about or debating the Patients' Bill of Rights? Why isn't that bill on the floor? Why aren't the Senators of both parties offering their best suggestions on how to improve health insurance in America?

Sadly, that has not happened. I hope it happens soon, and the sooner the better. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Massachusetts.

Mr. KENNEDY. I understand we are in morning business until the hour of 2 o'clock.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Is there a limitation of 5 minutes or 10 minutes?

The PRESIDING OFFICER. There is no limitation.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I join with my friend from Illinois and others who have spoken before the Senate on the issue of the Patients' Bill of Rights, which, translated into layman's terms, means legislation that will give assurance to all Americans who are fortunate enough to have health insurance policies that medical decisions are being made by trained professional medical personnel and not by insurance company agents.

That is the underlying concept of this legislation, as has been pointed out during the course of the morning

with the examples that have been given, and there are scores more. If we get the chance during the debate on the provisions, hopefully later in the afternoon, we will be able to review the various protections that we are attempting to achieve and why they are important to the children and families of this country.

Under the Republican program, there is a guarantee of getting direct access to a pediatrician for a child, but if that child has cancer, there is no guarantee the child will see a pediatric oncologist. Or if one has a disability, there is no guarantee that person will have access to the needed specialists. The guarantee they will have the best care available is important to patients, and there is no country which has better quality health care.

We have a challenge nationwide regarding access to health care, and we have a challenge nationwide in terms of the cost of health care, particularly in a number of different areas. One that comes to mind now is the issue of prescription drugs. We are going to have an opportunity, hopefully in this Congress, to address that issue.

On the issue of what we call quality, meaning that patients are going to get the best health coverage in terms of recommendations made by the professionals who have been trained and who have a wealth of experience in this area, we are trying to make sure that every medical decision will be based upon sound and meaningful medical teaching and experience.

That is the heart of this legislation. It is very important we get this kind of protection. Otherwise, we will continue to have today, tomorrow, and the day after tomorrow the tragic circumstances we have experienced and are being experienced in communities and towns all over this country.

Earlier in the day, we had some important statements and speeches by our colleagues. Senator FEINSTEIN talked about a provision making sure every health insurance proposal has as its basis of treatment the best in terms of medical necessity. The best that is available will be the standard used in providing treatment for individuals.

I took some time earlier today and illustrated how different health insurance programs have different definitions. Sometimes a definition works to the advantage of the HMO and works to the advantage of the insurance company but to the disadvantage of the individual. Such a definition can even threaten the life of that individual.

It may be favorable to the HMO regarding its bottom line financially, but it certainly is not favorable to the patient. We ought to be about the business of doing what is important for the patient.

Senator FEINSTEIN has talked about this issue very eloquently and persuasively today. That certainly would be an area that we ought to be able to debate and discuss. I do not believe we have that kind of standard with the

language which is included in the provision being advanced by our Republican friends.

It is not only my opinion that this is important, but it is the opinion of the health practitioners in this country—the doctors, the American Medical Association, the nurses, the various specialists. They are concerned that the Republican proposal does not provide a good standard to protect the health and safety of children, of women, of patients in our country.

We ought to be able to debate that issue. It is a very important issue. Senator FEINSTEIN has spoken eloquently about that particular problem. But we cannot. We are virtually prohibited from being able to do so. We cannot even get this measure up. We were told yesterday to either take the whole package or we were not going to get anything at all. That has been repeated time in and time out. There appears to be the continuation of that policy now by the Republican leadership—delay and deny, delay and deny.

Then later we had the excellent statement that was made by our colleague and friend, Senator MIKULSKI, who was talking about the importance of the kinds of protections that are guaranteed in our Patients' Bill of Rights, particularly with regard to women and children.

She very eloquently pointed out how these gatekeepers who are part of these HMOs—the gatekeeper being the person who ultimately dictates to the doctor what they can effectively prescribe in terms of treatment and in terms of medicines—makes those medical judgments and decisions. That is what is happening out there; and that is startling.

People can say, well, that really isn't happening in America. It is happening. We have given examples of the devastating results that occur as a result of that kind of interference. She illustrated the importance of having those kinds of specialists who are particularly trained and understand the particular needs of women and children.

She talked from her own personal experience in a very significant and important way about how she had a gallbladder operation and was able to stay in the hospital in order to recover. But if a woman had a mastectomy—and she used the word "amputation" because she said that is what a mastectomy is—she would still be required to leave the hospital that same day. She reminded us about the unsuccessful efforts we made in the committee to try to alter and close that gap in the Republican bill. It makes no sense how those efforts were defeated.

It seems to me we ought to be able to have some debate. I do not think that issue would take a long period of time. I thought that Senator MIKULSKI, in about an 8- or 10-minute presentation, made a presentation that was powerful and convincing and compelling.

Maybe there is a good argument on the other side. We certainly have not

heard it yet. We never heard it in the committee when we were marking this bill up. We did not hear one. So maybe there is an argument on the other side that we haven't heard yet. A woman who is going to have a mastectomy ought to be under the care of the doctor, and the doctor and the patient ought to decide whether that person can leave the hospital that day or ought to be there 1 or 2 or 3 more days. Leave it up to the doctors and their recommendations. That is not permitted under the majority's bill.

We heard a great deal of talk about that. That is not in the bill that is the Republican proposal. The specific amendment that the Senator talked about on the Senate floor would be an amendment that we ought to be able to debate. We ought to be able to debate why it is not in the Republican bill that will eventually, hopefully, be laid down before the Senate.

There is not that protection for women in this country. There is not that protection that will permit the doctor to make a judgment about how long it will be medically necessary to keep that woman in the hospital if she has a mastectomy. That protection is not there. It was defeated when it was offered.

Let's have a brief debate on that issue, and let's have the call of the roll. Why is it we are being denied that today? Why is it we are being foreclosed from that kind of an opportunity? Why is it we cannot have the kind of debate in relation to the excellent presentation that the Senator from California, Senator FEINSTEIN, made, the excellent presentation that the Senator from Maryland, Senator MIKULSKI, made on two different kinds of phases?

Yesterday we talked with our Democratic leader, Senator DASCHLE, about the importance of clinical trials and the necessary aspects of increasing the clinical trials. Historically, the insurance companies of this country have basically supported clinical trials. There is a very good reason why they should, because—besides the medical reason that it is important for the patient—if the person gets better they will not need as many services, and that means the insurance company will pay out less in the long run. That is something that should be a financial incentive for the insurance companies; and it is.

Let me repeat that. While clinical trials make sense in terms of the treatment for the patient, they make sense for the insurance companies, too. But what we are seeing, under the health maintenance organizations, is the gradual squeeze and decline in terms of the insurance companies' payments for routine health needs of the particular patients.

Under our proposal, they would only pay for routine costs, as they have historically. The research regime pays for the special kinds of attention, treatment, and tests that are necessary in

order to review whether that particular pharmaceutical drug or other therapy is useful or not. That is not paid for by the insurance companies. So they only have to pay for the routine health needs—the costs that they would pay for even in the absence of a clinical trial. The regime, the testing group or organization or pharmaceutical company that is having that clinical trial, pays for the rest.

But what we are seeing is virtually the beginning of the collapse of clinical research taking place. I will just make a final point on this issue. The group that has had the greatest amount of clinical research done on them in this country has been children. The greatest progress that has been made in the battle for cancer has been—where?—with children.

Most of the clinical researchers who have reviewed this whole question of our efforts on cancer would make the case that one of the principal reasons that we have made the greatest progress in the war on cancer in children, in extending their lives and improving their human condition, is because of these clinical trials.

We want to continue to encourage participation in clinical trials. They offer hope for the future. If the doctor says this is what is necessary for the life and the health of a woman who has cancer, that this is the one way she may be able to save her life, and there is a clinical trial available, we want to be able to say she ought to be able to go there. The opposition says: Let's study it. I say: Let's vote on it.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent to extend morning business until 3 o'clock, with the time equally divided.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I have a question and I shall not object. Can our friend tell us if there is any progress being made on getting the Patients' Bill of Rights to the floor so the good Senator from California, Senator FEINSTEIN, can offer an amendment to assure that doctors make the decisions when people are sick and not a bureaucrat? Is there any chance we might have that on the floor this afternoon?

Mr. NICKLES. Mr. President, I am happy to respond. Our colleagues from

California may want to join our bill; we have doctors make the decisions. To answer the Senator's question, we are negotiating in good faith. We are getting closer, I believe, to coming to an agreement that would have consideration of the Patients' Bill of Rights be the pending business when we return from the Fourth of July break. Hopefully, we will have that resolved in the not-too-distant future.

Mrs. BOXER. I thank the Senator.

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

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California, Mrs. FEINSTEIN, is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I am on the floor because I anticipated that at 2 o'clock we would be returning to the agriculture appropriations bill. I indicated this morning that I would be proposing an amendment to that bill that has to do with giving the physician the right to provide medically necessary services in a setting which that physician believes is best for the patient. I now see that this has been postponed an hour, so I would like to speak to the amendment now and then introduce it at 3 o'clock. I hope there will be no objection to that.

Let me begin by saying, once again, what this amendment does. Essentially, the amendment says that a group health plan or a health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or the setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis, to the extent that such treatment or diagnosis is otherwise a covered benefit.

I read that specific language because it is important to understand that because most people buying a health insurance plan believe that their doctor is, in fact, going to be prescribing the treatment that is best for them, not the treatment that is the least cost effective, not the treatment that might run a risk to the patient but be good for somebody else, but the treatment or the procedure, in an appropriate setting, that is right for that patient. What is right for a patient who is 18 years old may not be right for a patient who is 75 years old, and so on. I will read from the legislation the definition of "medical necessity" or "appropriateness":

The term "medical necessity" or "appropriate" means, "with respect to a service or a benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice."

That is something that everyone expects, that everyone is accustomed to in this Nation, and I believe that is the way medicine should, in fact, be practiced. I am very pleased to say the language of this amendment, from the