

Mr. Speaker, I want to thank my friend, the gentleman from New Jersey (Mr. PALLONE), for having yielded me his time, and I yield back the balance of my time.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for the remainder of the minority leader's hour, approximately 47 minutes.

Mr. PALLONE. Mr. Speaker, I do not know whether I will use all of that time, but I do want to discuss tonight another health care issue. I appreciate my colleague, the gentleman from Vermont (Mr. SANDERS), talking about the prescription drug issue and the reimportation issue; and that is certainly one of the major health care issues that needs to be addressed in this Congress.

I talk all the time about three health care issues that I know that President Bush said during the course of his campaign he would address and that have not been addressed. Unfortunately, what we have here in the House, with the Republicans in control, the Republican leadership so far has been unwilling to address the three major areas that I hear about most in health care. One is prescription drugs, which my colleague from Vermont just mentioned; the other is the Patient's Bill of Rights, or HMO reform; and the third is the need to try to cover those 40 to 45 million Americans who have no health insurance.

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Mr. Speaker, fortunately, the other body is now discussing HMO reform, the Patients' Bill of Rights. I would say that the reason that has happened is because of the switch in the majority from Republican to Democrat in the other body. The first order of business that the new Democratic majority took up was HMO reform, the Patients' Bill of Rights.

Tonight I would like to discuss briefly why I think it is important to pass the Patients' Bill of Rights, and not just any Patients' Bill of Rights, but the Patients' Bill of Rights, or HMO reform, that was introduced in the other body by Senator MCCAIN, Senator KENNEDY, and Senator EDWARDS, and that has been introduced in the House by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL).

These are bipartisan bills, but I need to point out that the thrust of the bills is from the Democratic side, because the Republican leadership, even though there are some Republicans that are playing a key role on these bills, the Republican leadership has refused to bring them up in either House, or to support the Ganske-Dingell bill, the real Patients' Bill of Rights here in the House, or the McCain-Kennedy-Edwards, the real Patients' Bill of Rights in the other body.

I will not refer to them necessarily as the Democratic bills because we do have some Republican support, but they are Democratic bills in that the Democratic leadership supports them in both Houses and the Republican leadership does not support them in either House.

Why are we talk talking about the Patients' Bill of Rights and HMO reform. Two reasons. This comes from my constituents and from Americans from all walks of life. Increasingly, if a person is in a managed care situation, if you are in an HMO, the decision about what type of care you get, and that means whether you get a particular medical procedure, whether you can go to a particular hospital, whether you can stay in the particular hospital for a particular length of time, these types of decisions about your care unfortunately are made almost exclusively now by insurance companies, by the HMOs.

What the Democrats have been saying and what the real Patients' Bill of Rights says is that that needs to change. That needs to go back to medical decisions, what is medically necessary for you as a patient, that decision is made by your physician, your health care professional and you as a patient, not by the insurance company. That is the one major change, and the one need for reform with regard to HMOs that the Patients' Bill of Rights seeks to accomplish.

The other major issue and the other major change is the fact that today in HMOs, if a decision is made about what type of care you get, and you do not agree with that, in other words you have been denied the care that your doctor and you feel is medically necessary, you do not have any place to go. You can file a grievance with the HMO; and they will review it and say sorry, we made a decision, and we are not going to change it.

What the Democrats would like to see, what the Dingell-Ganske bill would do is turn that around and say if you want to seek a redress of grievances because you feel you have been improperly denied care, you can go to an external review board, an independent review board outside of the HMO, and they will review that decision by the HMO. They have the power to overrule it if they think that care was improperly denied and you need the care that your physician says is necessary.

Failing that, in certain circumstances you would be able to go to court and bring suit so you could have the decision of the HMO turned around, or you could even be granted damages if you were seriously injured and it was too late to correct your situation; or God forbid, you died, your estate could sue for damages.

Now, those two things, those two basic theories, the decision about what kind of care you get is made by a health care professional, not by the insurance company, and that you have

some place to go to right that wrong and to turn that decision around are really at the heart of the Patients' Bill of Rights.

Mr. Speaker, I want to talk about some of the specific things that the Patients' Bill of Rights will do which I think are important. I will mention a few that apply to patients, and then I want to mention a few that apply to doctors, because I think as you know, the doctors now under HMOs feel that they cannot even practice medicine. There are a lot of restrictions on what they can do, so the decision is important for the doctors as well as for the patients.

One area is access to emergency room care. The 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.

This is a big concern that patients have. I get chest pains, I think I am having a heart attack, I cannot go to the hospital that is down the street. I have to go to one 150 miles away. I may suffer damage because I have to go to an emergency room so far away. That makes no sense. We reverse that and say if you feel, if the average person feels by having severe chest pains they need to go to the closest hospital, they have the right to go there and the insurance company has to pay for that emergency room care.

Access to needed specialists. Part of the problem now is many patients, many Americans in HMOs do not have access to a specialist. They may have access to a family physician, but if they want to go to a specialist in that particular area where they need help, they cannot obtain that through the HMO.

The Patients' Bill of Rights ensures that patients who suffer from a chronic condition or require 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, for example, to treat a child's heart defect, it would have to allow the patient to see a qualified doctor outside the 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. This is common sense.

The Patients' Bill of Rights also allows direct access to an OB-GYN. It allows the 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. This is very important to women.

Finally, and there are so many other patient protections, and I just want to

mention a few because I want everyone to understand how important these patient protections are, the Patients' Bill of Rights says that needed prescription drugs would be 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 Patients' Bill of Rights ensures that patients with drug coverage will be able to obtain needed medications even if they are not on the HMO's approved list. If your plan does not include drugs, we are not saying that you are going to get it. But if your plan includes drugs, they cannot limit you to the preapproved list of medications.

Let me talk about some of the ways in which the Patients' Bill of Rights, the Dingell-Ganske bill and the McCain-Kennedy-Edwards bill, frees up doctors to practice medicine, because many times they feel that their hands are tied. My point is what I originally said, is that accountants and insurance company executives and staff should not be making medical decisions. It is the doctor who should be able to make medical decisions.

What the Patients' Bill of Rights says is that 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 Patients' Bill of Rights prevents HMOs from interfering with doctors' communications with patients. Doctors cannot be penalized for referring patients to specialists or discussing costly medical procedures.

People do not understand that a lot of Americans are in HMOs where they say that the doctor cannot talk to you about a preferred method of treatment. If the insurance plan does not cover a particular procedure, then they can tell the doctor that he cannot talk to you about it even if he thinks that you need it. That is the gag rule. We have eliminated it.

The Patients' Bill of Rights allows doctors to make the medical decisions. It says that doctors rather than insurance company bureaucrats will basically decide what kind of medical care you get. 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 their patients will be protected from retaliation by HMOs. There are many patient protections in the Patients' Bill of Rights. I am not going to go into all of them tonight, Mr. Speaker. Suffice it to say the main thing is the idea that doctors will make decisions, not the insurance company; and there is some way to appeal that decision outside of the HMO.

Mr. Speaker, I wanted to go into some other areas that relate to the Patients' Bill of Rights because we know that the other body is considering it.

They have done so for about 10 days, and we are hoping that it will come here to the House of Representatives eventually. Some of the arguments that are being used now against the real Patients' Bill of Rights, the Democratic bill, are that a lot of States have already enacted legislation that would protect patients, and so it is not really necessary for the Federal Government to act. I hear this from time to time.

My State of New Jersey has actually passed a fairly strong patient protection act. Some people say we have it in New Jersey, or maybe we have some form of it in other States. Why do we need to do something on the Federal level? I think that is a very important point that needs to be responded to. I just want to talk a little bit about that tonight if I can, Mr. Speaker.

First of all, the real reason we need Federal legislation is that these protections that do exist today are sort of like a patchwork quilt, and there are a lot of holes in it and a lot of differences from State to State. There are a lot of differences in the protections that are afforded to people. There are enormous differences in the way that a person can redress their grievances, what kind of external review they would have, what kind of ability to sue that they would have. Also, let me just get into basically three areas, if I could, where we see the State laws different and I can explain why we need a Federal bill.

Of the 10 areas of consumer protections that are primarily the focus of the Patients' Bill of Rights, only one State has adopted most of those protections. In a lot of States maybe half of the protections are provided and half of them are not. But even in States that have adopted specific patient protections, those laws are not applicable to many of the States' residents. So you might have in a State with no patient protections, or in a State that has some; but you might not be in a group that is covered by those patient protections. The State laws differ in terms of who is covered.

For example, some States have the prudent-layperson standard for emergency room care. If I feel as an average person because I have chest pains I should go to the local emergency room, I can go there and it will be paid for. That varies. Some States have it, and some States do not. About 43 percent of all employees who get their health care coverage through their employer are not covered by protections even in the States that have something like a Patients' Bill of Rights.

Mr. Speaker, I do not want to dwell on this forever, but the point I am making is that it is a very hollow argument for somebody to say that we do not need the Federal law because some States have enacted this because some States have, and others have not. Some people are covered in those States, and others are not; and they may have some protections, but they may not necessarily have all of the protections.

In New Jersey, which has a pretty strong Patients' Bill of Rights, there

was an article just a couple of months ago in one of my local papers, the Home News Tribune, an editorial, that advocated for a Federal Patients' Bill of Rights because it said that it is very difficult in New Jersey to sue if you have been denied care.

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That is just another example, even in a State as strong as New Jersey, where we need some Federal action.

I wanted to talk about two other things tonight, Mr. Speaker, two other areas related to the Patients' Bill of Rights, before I yield back the balance of my time.

One is that I know that in the other body, efforts are being made to weaken the Democratic proposal, the McCain-Kennedy-Edwards bill, through amendment. Fortunately, those efforts have failed. I think it is significant because it shows that even though this is primarily a Democratic bill, that we clearly have enough Republicans now that are coming over with us on these key amendments that we are forging a bipartisan coalition to support the real Patients' Bill of Rights regardless of the fact that the Republican leadership opposes the bill.

The two amendments that came up within the last week, I think, are significant. One of the amendments which was rejected by a vote of 56 to 43 proposed to exempt employers from health care lawsuits in every situation. Now, this has been a major point of contention, because some people say, well, the problem with the Patients' Bill of Rights is that employers may be sued. What we have said is there is a very limited situation where employers can be sued and that is only if they have taken direct responsibility and have been directly involved in the decision of what type of care you should get. But the Republican leadership wanted to just say that they could not be sued under any circumstances. I think that is wrong. I was glad to see that that amendment was struck down. I think actually that took place today in the other body.

The other amendment which I believe was defeated last week related basically to tax breaks. This was a Republican proposal to add a provision speeding up tax breaks to cover costs of health insurance for the self-employed. I mention that one, although it may not be as obvious why that is a bad thing, because what we have seen in the past, and this is what happened in the House of Representatives last year when we took up the real Patients' Bill of Rights, is that there was an effort to try to add all kind of things to the bill, what I call poison pills, to load it up with all kinds of unrelated ideas, if you will, or proposals so that it would never pass.

What really happened last year is that the Republican leadership was fairly successful, in that even though we passed a good Patients' Bill of Rights in the House of Representatives,

they put in all these poison pills or extraneous provisions related to tax breaks, related to malpractice, related to medical savings accounts, and so that when the bill went to conference between the two Houses, it was virtually impossible to get a bill out of conference and to the President because of all these poison pills, added provisions, loading down the Patients' Bill of Rights so that it could not pass and was not a clean bill. We do not want that to happen again.

I have been very happy with what is happening in the other body because it is clear that we have a majority, albeit a slight one, between most of the Democrats and a few Republicans to try to have a bill that clearly will shift the burden so that decisions are made by doctors and there is a real way of redressing your grievances and, on the other hand, not loading this bill down with all kind of extraneous material so we can never get it out of conference and to the President's desk.

But the other development that occurred today that was disturbing, and I think I need to speak out on it because I need to expose again what the Republican leadership this time in the House is trying to do, is that the Republican leadership in the House, which so far has refused to bring up the real Patients' Bill of Rights, will not have it go through committee, will not bring it to the Committee on Rules, will not bring it to the floor, as the Republican leadership has unveiled their own HMO reform bill which, of course, you know, they are going to call the Patients' Bill of Rights, but it is not the real Patients' Bill of Rights. It is not the bill that has already passed the House, that is now being considered in the other body, that has the support of almost every Democrat and about a third of the Republicans.

I want to talk a little bit, if I can this evening, Mr. Speaker, about why this latest House Republican leadership proposal for HMO reform does not cut the mustard and is just a subterfuge to try to kill the real Patients' Bill of Rights, because what I think is going to happen is that the Republican leadership when we come back from the July 4th recess is going to try to bring up their version of HMO reform and ignore the real Patients' Bill of Rights and try to make it so that the real Patients' Bill of Rights never gets considered on the House floor.

Let me tell you a little bit about what this Republican plan that was introduced today, or they had a press conference today, is all about. I would characterize it as an HMO, an insurance company bill of rights rather than a Patients' Bill of Rights. Once again the Republican leadership is protecting managed care plans from simply being held accountable for their actions. Unlike the real Patients' Bill of rights, the Republican plan leaves the review of patient grievances in the hands of the insurance companies and still allows insurance companies the ability to dictate the services patients receive.

Now, I have said before why this is unacceptable. It is unacceptable because the core of the real Patients' Bill of Rights is the idea that the insurance companies do not make medical decisions; the doctors and the patients do. We want to see a real Patients' Bill of Rights, that is what our constituents tell us, not a phony one.

The legislation that the Republican leadership introduced today does not provide many of the assurances that I talked about tonight that the real Patients' Bill of Rights provides. It allows HMOs to choose the external appeals panel and then allows the panel to determine whether the patient can go to court without allowing the patient the right to appeal. In addition, the Republican bill provides only a narrow venue for State lawsuits which then forces all suits over improperly denied care to go to Federal court.

Now, some people may say, Well, what's the difference whether I sue in State court or Federal court? Let me tell you, it makes a big difference. What the Democratic bill says is that you can sue in State court. If the Republican bill forces you into Federal court, there are not that many Federal courts and their dockets are overcrowded and people have a much harder time suing in Federal court, and it costs you a lot more money to sue in Federal court. So there is a difference. I do not want to play it up in a major way, but I want to explain why there is a difference.

I think that what the Republican leadership did today in the House is that basically what they are trying to do is sort of outbest what the other body is doing. They know that the other body is likely to pass a real Patients' Bill of Rights, and they want to bring up a fake one here in the House that the majority of the Members, almost all the Democrats and even about a third of the Republicans are opposed to.

We will see what happens, but I think that we need to expose what is happening here and how this latest bill which was much heralded today by the Republican leadership really does not accomplish the major goal of the real Patients' Bill of Rights, which is to switch the decision about what kind of care you get to your doctor and you rather than the insurance company and that allows you to basically appeal a denial of care to an independent body outside of the HMO and ultimately to court if you do not have a fair shake.

Mr. Speaker, I just wanted to say, I know that every night this week the Democrats are using our time during Special Orders to draw attention to the Patients' Bill of Rights and why we need to pass the real bill here in the House and also in the other body. Last night we had Members of the Texas delegation get up, and I thought that was very significant because, as you know, President Bush said during the course of the campaign that he would sign a bill that was like the Texas law.

Frankly, the Dingell-Ganske bill, the McCain-Kennedy-Edwards bill, the real Patients' Bill of Rights, is exactly like the Texas law. Yet now President Bush says he will veto that bill and he does not find that bill acceptable and is asking for something else. I think that is not the commitment he made during the campaign. It was not the commitment he made when he was Governor. And it certainly is a commitment that he should keep and hopefully if we send him the real bill, he will sign it even though he is now threatening to veto it.

The second thing I wanted to say is that tomorrow night, the Democrats will have some of our Members who are health care professionals, who are nurses and who are other types of health care professionals, taking to the floor.

The reason we are doing that is because I think that oftentimes it is the people that are in the health care profession, the doctors, the nurses, the technicians, these are the people that understand, I think, oftentimes even more than the patients, why it is important to have a real Patients' Bill of Rights, because they want to take care of their patients. They want to make sure they get the proper care and the care they deserve. They do not want monetary or other considerations, the bottom line, to dictate the quality of care for the average American. We will be here as Democrats every night this week and also when we return after the July 4th recess to bring up the point that the real Patients' Bill of Rights must pass. It is the highest priority of the Democrats in both Houses, and we are determined to see it through.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KERNS). The Chair would remind Members not to characterize Senators or Senate action.

ADDRESSING THE NATION'S ENERGY NEEDS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. RADANOVICH) is recognized for 60 minutes as the designee of the majority leader.

Mr. RADANOVICH. Mr. Speaker, I would like to take the time that I have that I have been most graciously given to begin to talk about our Nation's energy needs and the national energy policy that has been put forth by the new administration, by President Bush, and the information contained in the National Energy Policy Development Group's report on national energy policy.

I want to commend the administration for taking the leadership on what is a real challenging issue, and that is, providing energy for America's needs. Being from California, they are urgent