

Scott	Strickland	Udall (NM)	Costello	Jenkins	Portman	Wolf	Wu	Young (AK)
Serrano	Stupak	Velazquez	Coyne	John	Price (NC)	Woolsey	Wynn	Young (FL)
Sherman	Tanner	Visclosky	Cramer	Johnson (CT)	Pryce (OH)			
Shows	Tauscher	Waterson (CA)	Watson (CA)	Crane	Johnson (IL)	Putnam		
Skelton	Taylor (MS)	Watson (CA)	Crenshaw	Johnson, E. B.	Quinn			
Slaughter	Thompson (CA)	Watt (NC)	Crowley	Johnson, Sam	Radanovich	Boehner	Harman	Menendez
Smith (WA)	Thompson (MS)	Watman	Cubin	Jones (NC)	Rahall	Boucher	Horn	Peterson (MN)
Snyder	Thurman	Weiner	Culberson	Jones (OH)	Ramstad	Cannon	Hunter	Scarborough
Solis	Tierney	Wexler	Cummings	Kanjorski	Rangel	Collins	Hutchinson	Smith (WA)
Spratt	Towns	Woolsey	Cunningham	Keller	Regula	Cox	Lipinski	Spence
Stark	Turner	Wu	Davis (CA)	Kelly	Rehberg	Dooley	Maloney (CT)	Stump
Stenholm	Udall (CO)	Wynn	Davis (FL)	Kennedy (MN)	Reynolds	Gephardt	Matheson	McDermott
			Davis (IL)	Kennedy (RI)	Riley	Gutierrez		

## NOT VOTING—6

Boyd	Lipinski	Peterson (MN)	Davis, Tom	Kildee	Rodriguez			
Clay	Pascarell	Spence	Deal	Kilpatrick	Roemer			

## □ 1433

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. BOYD. Mr. Speaker, on rollcall No. 326, H.R. 219, I was unavoidably detained. Had I been present, I would have voted "no".

## MOTION TO ADJOURN

Mr. McNULTY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion to adjourn offered by the gentleman from New York (Mr. McNULTY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

## RECORDED VOTE

Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 55, noes 356, not voting 22, as follows:

[Roll No. 327]

## AYES—55

Allen	Hastings (FL)	Reyes	Goss	Meek (FL)	Shays			
Baird	Hilliard	Ross	Graham	Meeks (NY)	Sweeney			
Berry	Hinchey	Sandlin	Granger	Mica	Sherman			
Bonior	Jefferson	Schakowsky	Graves	Millender-	Sherwood			
Borski	Kaptur	Slaughter	Green (TX)	McDonald	Shimkus			
Brown (OH)	LaFalce	Solis	Green (WI)	Miller (FL)	Shows			
Capps	Langevin	Spratt	Greenwood	Miller, Gary	Shuster			
Capuano	Lantos	Strickland	Grucci	Moore	Simpson			
Clay	Lee	Stupak	Gutknecht	McCarthy (MO)	Simpson			
Conyers	Lofgren	Taylor (MS)	Hall (OH)	McCarthy (NY)	Skeen			
DeFazio	McGovern	Tierney	Hall (TX)	McCullum	Skelton			
DeGette	McNulty	Towns	Hansen	McCrary	Smith (MI)			
Delahunt	Miller, George	Udall (CO)	Hart	McHugh	Smith (NJ)			
DeLauro	Mink	Velazquez	Hastings (WA)	McInnis	Smith (TX)			
Dingell	Nadler	Waterson (CA)	Hayes	McIntyre	Taylor (NC)			
Dingell	Nadler	Waterson (CA)	Hayworth	McKeon	Terry			
Doggett	Oberstar	Watson (CA)	Heffley	McKinney	Thomas			
Farr	Obey	Watson (CA)	Herger	Gordon	Thompson (CA)			
Filner	Olver	Watson (CA)	Hill	Meehan	Thompson (MS)			
Frank	Owens	Watson (CA)	Hildeary	Moore	Tauzin			
			Hinojosa	Napolitano	Tauscher			
			Nussle	Neal	Taylor (NC)			
				Nethercutt	Terry			
				Morella	Thomas			
				Hastings (WA)	Thompson (CA)			
				Hayes	Thompson (MS)			
				Hayworth	Tauzin			
				Heffley	Tauscher			
				Herger	Taylor (NC)			
				Hill	Terry			
				Hildeary	Thomas			
				Hinojosa	Tauzin			
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from Michigan (Mr. DINGELL); and the gentleman from Arizona (Mr. SHADEGG) are all distinguished Members of the Committee on Energy and Commerce. And they, along with many others, have labored for a long time on this legislation, or various versions of it.

I want to also commend the work of the Speaker and the gentleman from Kentucky (Mr. FLETCHER) and the other committees of jurisdiction, because all of them have made significant improvements in the base text of this bill.

A concern of all of us is the needs of American families for health coverage and health care. Let me make a point that I think is incontrovertible, and that is that the most important patient protection in America is access to affordable health insurance, to health coverage, and to care.

Mr. Chairman, new costs and new litigation and new bureaucracy can, we know, raise the cost of health care, and, therefore, the cost of health insurance. Costs will either drive a reduction in benefit or drive a reduction in coverage; and so, as we debate this legislation, let us not pretend that litigation and bureaucracy and mandates are free. While they may provide some protection for a patient, if they raise the cost of insurance and coverage too high for other patients, then other families lose, and those rights to coverage are lost to Americans.

The Congressional Budget Office does not ignore these facts. They state clearly that a significant portion of increased costs will be borne by the purchasers switching to less expensive plans or cutting back on benefits or, worse yet, dropping coverage. That is a sobering point. It means that real families would do with fewer benefits and less coverage.

According to the President's Statement of Administration Policy on the Senate bill, for example, employers already faced an estimated 10 to 12 percent premium increase this year alone. The statement also notes that employers tend to drop coverage for their workers, for roughly 500,000 individuals, when health care premiums increase by a mere 1 percent. Some estimates have put the number of individuals whose insurance would drop by this bill as high as 6.5 million. That is simply unacceptable.

Employer-sponsored health care, remember, is voluntary, it is not mandatory; and we should not make employers choose between reducing benefits and maintaining health coverage for their employees. Employer-sponsored health insurance is still voluntary in America, and increasing health costs will prompt employers to drop coverage or insurance.

The legislation that does the best job of preserving access to insurance and minimizing costs, while protecting patients' rights to their coverage, is obviously the best balanced bill; and that is what we will search for today. That means both eliminating unnecessary

bureaucracy, litigation and cost; and that is why we will support the amendment the gentleman from Georgia (Mr. NORWOOD) has worked out with the President of the United States to, in fact, amend this section to make sure we do not unnecessarily drive up insurance costs. I want to commend my friend, the gentleman from Georgia (Mr. NORWOOD), for that excellent work.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend from Michigan for yielding me time.

Mr. Chairman, in case the President has forgotten, the House of Representatives is the people's House. The people's House. It is not the insurance industry's House. We do not report to Aetna or to Prudential or to Blue Cross/Blue Shield or to Golden Rule; we report to the people, our districts, and the people of this country. Our job is to do what is in the best interests of the individuals we serve. It is not to sustain the health insurance industry's privileged position above the law.

For over 4 years, my friends, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Iowa (Mr. GANSKE), have been repeating the same simple message: if HMOs face no consequences when they put consumers through the wringer, then HMOs will continue to put consumers through the wringer.

Making HMOs face the consequences is not going to lead to skyrocketing insurance rates. For example, in the 3 years Texas has allowed HMO enrollees to sue, there has been only a handful of lawsuits. The right has not led to a flood of lawsuits or to higher premiums; it has led to legitimate health insurance, insurance that actually covers what it says it will cover. The key to addressing the problems so many of our constituents face when dealing with their insurer is to hold HMOs accountable for their actions.

There is only one bill on the floor today that does not emasculate the external review and right to sue provisions to the point of meaningless mess. The Ganske-Dingell bill is the only bill on the floor today that does what it says it will do. It changes the rules of the game so that HMOs will not cheat the public. Unfortunately, the Fletcher bill and the Norwood-Bush bill cheat the public to protect insurance company HMOs.

For more than 4 years, the public has been asking us to do something about HMOs that treat enrollees like an unwanted liability, rather than a paying patient. Putting the shoe on the other foot, making HMOs liable for the harm they do, is the best way to change their behavior. This is our chance to do the people's bidding. Let us do it.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on

Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in support of patients. I rise today in support of Americans who deserve a health care system that works for them. My work in this body, as so many know, has focused on health care issues, and I have worked hard with many of my colleagues to improve the quality of health care for all Americans.

One of the most important things we can do this Congress is pass strong patient protection legislation which can be signed into law. We must work to ensure that a Patients' Bill of Rights will become law.

Two years ago this Chamber hosted a similar debate which most of you remember. We are back again considering legislation to improve the quality and availability of health care for all Americans. Enactment of patient protections would immediately improve the quality of care for millions of Americans, and that is why we must work together to secure passage of patient protection legislation this year.

□ 1500

In past debates, I chastised an administration that stubbornly, stubbornly rejected anything short of its own proposal for health reform. I argued that "The price of such intransigence would again be paid by patients across the country," and it was.

Now I am proud to stand before my colleagues today and support patient protection legislation that has bipartisan support and, most importantly, the support of a President who was willing to listen and to compromise. The leadership of President Bush, of the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, and of the gentleman from Georgia (Mr. NORWOOD), my very good friend, have been invaluable in getting us to this point.

As I quoted in a recent Dear Colleague: "It is not enough to do good; one must do it the right way." Compromise is the right way, and I support patients' rights by supporting the amendments to the Ganske bill. An all-or-nothing attitude is unacceptable. Let us do good for our constituents now.

I challenge those who support patients' rights. Put people ahead of politics and work with us, not against us, to achieve this goal.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, in the 40-plus years I have served here, I have never seen such a remarkable situation. Last night, we were presented with a piece of legislation that no one had ever seen before. The proponent thereof could not explain it, did not

know what is in it. We will see it later today. I hope at that time he has a better appreciation of what his proposal does.

It will be offered as an amendment to the bill, H.R. 2563, the Bipartisan Patient Protection Act. It is my hope that the House will pass this bill, send it to the Senate, and we can afford American patients a decent level of protection.

One thing has remained constant: We need strong, enforceable, meaningful patient protections. The base bill is a good bill. It is the right one for millions of Americans who suffer denial, delay, and injuries at the hands of HMOs who are, like foreign diplomats, totally exempt from lawsuits, a unique class in our society.

This bill would have seen to it that the rights of Florence Corcoran, who lost her baby due to a bad HMO medical decision, would have had relief. It would have helped Basile Pappas, who was denied proper treatment, and it would have prevented permanent quadriplegia as a result of an HMO's refusal to approve covered treatment. The bill would have helped another gentleman, Mr. Lancaster, who was arbitrarily denied coverage for in-patient psychiatric treatment and instead was sent home, where he committed suicide.

None of these protections in the bill means anything without the ability to see to it that they are enforced. Enforcement of rights is everything, and rights without a measure to enforce them are totally meaningless.

HMOs that make bad medical decisions should be treated no differently than any other wrongdoer, and when they engage in the practice of medicine, they should be treated the same as doctors. But they seek special treatment, an exemption from meaningful litigation and, indeed, an exemption from responsibility.

If the Norwood amendment passes, which we saw for the first time in printed form this morning about 8 o'clock, HMOs would be held to different and looser standards than doctors and hospitals. The so-called "remedy" would actually wipe away State laws that protect patients against wrongdoings now and would roll back the law. The Norwood remedy is a sham, because in almost all instances, consumers would never see the State court which is the best place for them to be. Indeed, patient protections now will not work if the flawed Norwood review process is put in place. The Norwood amendment would reduce the role of external reviewers and delay care to patients.

This House should pass H.R. 2563 without the cynical protections sought by the White House and Republican leaders and without the budget-breaking tax breaks and without a last-minute rewrite of consumer protections.

Mr. Speaker, I urge the adoption of the legislation and rejection of the Norwood amendment.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from North Carolina (Mr. BURR), the vice chairman of the Committee on Energy and Commerce.

(Mr. BURR of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. BURR of North Carolina. Mr. Chairman, today will be a heated debate. We will hear people criticized today that just yesterday were praised.

To the Members in this Chamber, do not lose focus on one thing. There is one Member who has had his eye on the American people for years on this issue. His name is Dr. CHARLIE NORWOOD. For those who criticize him today, but praised him yesterday, let no person believe that he is not doing what he thinks is in the best interest of every American.

The fact is that we do have new legislation. This institution can perfect things that are flawed, and I believe today that we are doing that. We will start with a base bill that incorporates the thoughts of many good colleagues, but because of the need to extend patient protections today to the American people, the gentleman from Georgia was brave enough to negotiate with the President until they came to an agreement on a piece of legislation he could sign and that protection could be extended.

This is not about who wrote it or whose amendment it is. Yes, it is about what it says, but it is about whether it can be signed into law. This bill, amended by the Norwood language and, hopefully, several other amendments, can be signed into law and extended to the American people today; and this body will make a mistake if it does not support the Norwood amendment and provide patient benefits for the American people.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio (Mr. STRICKLAND).

(Mr. STRICKLAND asked and was given permission to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Chairman, the American Medical Association has said it well when they asked the question, Why should we oppose the Norwood amendment? They said we should because it overturns the good work done by States in protecting patients.

We should oppose the Norwood amendment because it reverses developing case law that allows patients to hold plans accountable when they play doctor. We should oppose the Norwood amendment because it contains overly broad language that will remove most cases to Federal court. We should oppose it because it raises barriers for patients to make their case in court. And we should oppose it because it provides patient protections, but does not allow the enforcement of those rights in court.

We are dealing with life-and-death matters today. In southern Ohio, Patsy Haynes, a 31-year-old mother who

needs a bone marrow transplant in order to live, is being denied that transplant because of her insurance company. We need the right for the Patsy Haynes families and every other family to go to court and to get what they rightly deserve. The American people deserve no less.

The CHAIRMAN. Without objection, the gentleman from North Carolina (Mr. BURR) controls the time.

There was no objection.

Mr. BURR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, President Clinton's first act was to create a high-profile commission headed by now Senator CLINTON to fix health care. Eight years, and nothing.

President Clinton promised to raise minimum wage. Eight years, nothing.

President Clinton said he would fix prescription drugs, and 8 years, nothing.

President Clinton had to be embarrassed to sign into law Republican reform of IRS and welfare. The truth is, the Democrats had 50 years to reform welfare, IRS, Social Security, Medicare, health care, prescription drugs. Nothing.

I will vote for President Bush's plan today, and I will vote for the Norwood amendment for four reasons. Number one, what good is a Cadillac insurance policy if your company goes out of business?

Number two, Americans will lose their insurance if costs are prohibitive.

Number three, increased costs will force small employers especially to cancel plans, give bonuses, and we will have more uninsured.

Finally, the heavy liability factor will force major manufacturers to leave America like rats fleeing a ship on fire to countries with no insurance, no regulations, no IRS, no liability, no pensions, and wages of \$1 an hour.

We have 43 million uninsured. I do not want any more uninsured Americans in my district.

I will vote today for the only practical reform health care plan to get a vote, and that is the President's, as has been tailored by the Norwood amendment. I commend the gentleman from Georgia and I commend the Republican Party for coming forward with a plan, like it or not. The Democrats failed to perform.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, it upsets me a great deal to hear my Republican colleagues on the other side say that their plan today is going to provide more access for the uninsured, more access to health care, and somehow, the President is going to sign this. How cynical.

The President has never signed an HMO reform bill. The President has no

intention of signing a bill. If that were the case, then why are they mucking it up?

He talks about bureaucracy, mucking up this bill with all the things that are unrelated to HMO reform: malpractice, medical malpractice, MSAs, medical savings accounts. These things do not belong in this bill. These things are being put in this bill today so when it goes to conference, the bill is killed and is dead just like it was 2 years ago.

They talk about providing more people access to care or somehow, they are going to redress the denial of care. Well, then, if that is the case, why in the world are they putting in these roadblocks so that if I am denied care, I cannot even get to an external review panel that is going to be independent and is going to reverse that denial of care?

They put in so many roadblocks in here, nobody is ever going to be able to reverse a denial of care. Forget the courts. That is not the issue.

Mr. TAUZIN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let me take this 30 seconds to introduce the gentleman from Georgia (Mr. NORWOOD), my friend. Many of us claim ownership of legislation around here, correctly and incorrectly, but if there is one person in this Chamber who owns the issue of patient protections, it is the gentleman from Georgia (Mr. NORWOOD). He wrote the first bill.

I saw his first draft. We read it together on an airplane coming back from Boston Harbor where we demonstrated against the awful IRS and income tax together. But as we rode back, I saw the first rough draft of this bill.

Mr. Chairman, the gentleman from Georgia (Mr. NORWOOD) owns this issue, no matter how many other people claim it. The gentleman from Georgia has been a stalwart to get this issue to the President.

Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD), a member of the Energy and Commerce Committee.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman very much for yielding me the time, and I am very grateful for the opportunity to perhaps straighten out a little bit maybe of what has been said.

I say to my colleagues, the first thing is I believe in my soul that the President of the United States does, in fact, want a bill to protect patients. I do not have any doubt about it. He has told me that on many occasions, all the way back to governor.

I also respect the office of the Presidency, and I believe that unless we get his signature, we are going to be continuing to do the same thing that we have done now for 6 years.

This is not just about passing a bill. This is about changing the law of the land so patients can be protected in a health care system that has radically changed over the last 30 years.

I make no apologies to any of my colleagues. I think my colleagues know pretty well where I come from on this issue. I have great affection and respect for the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL) and the gentleman from Arizona (Mr. BERRY). I basically support the bill. Why in the world would I not? I helped write the bill. I am not against that bill at all. What I am against is not having a change in the law.

Now, what I have done is, I have tried to figure out to the best of my ability what could we do to acquire the signature of the President of the United States and, at the same time, maintain at least what I humbly think is the reason all of this got started.

□ 1515

I am real excited, I have to say, I am real excited that in our bill, in the Ganske-Dingell-Berry bill, that the President is willing to sign our patient protections. All of us know how important those are. Some of us know, as well as I know, what is in there. I am very pleased about that.

I am very pleased that now the President is willing to sign, for example, our access pieces. I am excited about that. Those are off the table now. The problem is, for the President, that he wants to sign a bill that he can have some input into. Now, that is fair.

There are some poison pills for this President in our bill, as were potentially poison pills in the Norwood-Dingell bill a couple of years ago that President Clinton would not have signed. I fought a lot of people to make sure those poison pills in the Norwood-Dingell bill were not there. Guess who I fought. I fought my friend, the gentleman from Illinois (Mr. HASTERT). I fought almost every Member of the Republican Conference, and I stayed steady to a principle that I believed we should have, which is there should be some limit on liabilities.

It is totally unfair to people to put their profession, their business, their family, their wealth in a position where they could lose it all just because somebody may have a particularly talented trial lawyer. That is not fair. But I never would put those in or go along with putting those in the Norwood-Dingell bill because I knew President Clinton would not sign that. I was trying to get this law changed because we are now in the sixth year.

Patients are not any better off today after 6 years than we were 5 years ago, and it is time to bring this gridlock to an end. I have looked for a way with this President that we might take some poison pills out for him. The founders said, if we want a law of the land, the President of the United States has to sign it. For a President of the United States to sign a bill, he is going to participate. This President feels very strongly that we should have the bill, but he wants some protections in there.

So we were getting from him an agreement to sign a bill that does what? It gives us the patients' protections exactly like we wrote. It gives us an external review panel made up of independent people. That is so important for the patients, and we need that signed.

It is a bill that says, for the first time in years, every American in this country can choose their own doctor. That is so important. Does it say what we are trying to do or what the President is trying to do: that we are not going to hold HMOs liable for their actions when they deny care, when they deny a benefit or delay a benefit and they kill or harm some of the people that have been used up here as an example? Does anybody really believe that I want to do that? That I do not want to hold their feet to the fire?

I promise I want to put their feet in the fire on this; but there is a way to do that where we also can get this bill signed and achieve our other things.

We will talk about the amendment later. But I want everyone to understand I support this bill. But I support one even more that will go into law.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I would say that it is a privilege to follow my good friend, the gentleman from Georgia (Mr. NORWOOD) up here. He has been a stalwart in fighting for patient protections, even if I have had to take a little Maalox over the last few days.

We will debate the Norwood amendment in a little more detail, but I do want to read a letter from the New Jersey Medical Association dated August 2, 2001. "The Coldest Day in August," is how it is titled by Dr. Angelo Agro, president of the Medical Society of New Jersey.

It says: "Across the Nation patients are waking up to the coldest day in August on record because policy makers are swaying to the needs of the mighty HMO industry rather than those of patients and healthcare providers. The proposed compromise by Representative CHARLES NORWOOD leaves New Jersey patients in the cold and drives physicians into the freezing snow."

"In New Jersey the compromise undermines and very likely preempts the landmark Healthcare Carrier Accountability Act signed just this week by acting Governor Donald DiFrancesco. The proposed plan will drag most claims to out-of-state courts through an anemic Federal legal process. Furthermore, it stacks the system against patients through an appeals process and gives no remedy to patients once their physicians have provided needed care."

"As physicians and as patients advocates, we urge our New Jersey Congressional Delegation to continue its outstanding record on patient protection by opposing this emasculated version of the Patients' Bill of Rights."

That is signed Angelo Agro, M.D., president of the Medical Society of New Jersey.

We can have differences of opinion, but this does make a difference in a terms of a policy.

There are a number of issues, but the one with which I am most concerned is that the Norwood amendment would preempt new State laws in 10 States: Arizona, California, Georgia, Louisiana, Maine, New Jersey, Oklahoma, to name several. This is on page 20, line 20 through 22.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I thank the gentleman from Michigan for yielding time to me.

As a family practitioner, I have had the experience of thinking a patient needs to have counseling. I have to take them into a room, have them dial a 1-800 number to their insurance company, have the clerk who picks up the phone at the end make the decision about whether they get counseling, who they see, and how many sessions they get.

That is practicing medicine. That is delivering medical care. That is why it is my opinion that the Norwood amendment destroys this bill. Please read page 15. I know my Republican colleagues had a caucus this morning. They discussed this State preemption issue. Please read page 15 of the Norwood amendment.

It clearly states: "Yes, States can continue to have the liability provisions for the delivery of medical care," but then it defines that anything that the insurance company has to do with making decisions about claims determinations is not medical care.

The example I gave, the 800 number, they say, No, that is not medical care. Mr. Chairman, that is medical care. When that clerk at the end of the phone makes decisions, they should be held just as liable as the family doctor.

The Norwood amendment destroys the growing protections that are developing in State law. This amendment needs to be voted down.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in support of the Ganske-Dingell Patients' Bill of Rights. This bill gives the American people strong, enforceable protections from the abuses and hard edges of the HMOs. It returns control of medical decisions to doctors and their patients, and takes it out of the hands of the bean counters. It guarantees patients access to health care they desperately need.

I am a nurse. We nurses and our patients are particularly pleased by the whistleblower protections included in Ganske-Dingell. They would protect a nurse or other health professional who wants to blow the whistle on sub-standard care to a regulatory agency or accreditation body.

I want to urge my colleagues to oppose the amendments to weaken this underlying bill. Ganske-Dingell holds HMOs accountable when they harm patients by denying them care. HMOs have been willing to trade patient safety for lower costs and higher profit margins. Ganske-Dingell gives patients the tools they need to protect themselves.

With all due respect to our colleague, the gentleman from Georgia (Mr. NORWOOD), his amendment would eliminate this essential protection. That weakens State laws and would dilute the ability to effectively enforce the Patients' Bill of Rights. His amendment would give the HMOs special protections that no other business or industry has.

This bill should be about protecting patients, not HMOs. Mr. Chairman, I urge my colleagues to support the bill and oppose the Norwood, Fletcher, and Thomas amendments.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the bill offered by the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL), which is the real patient protections bill.

For many years, we have been trying to bring the pendulum back to the center to bring some accountability to the process of health care, where patients are enrolled with an insurer to give them the kind of rights that they need; to bring the physician and the patient relationship back to the sacred center where it belongs.

Last night something happened. The gentleman from Georgia (Mr. NORWOOD), a dentist, brokered something with the White House, and we are being asked to trust.

I want to tell the Members something, I want to verify for my constituents. This is the group that has voted to permit more arsenic in drinking water. This is the group that supports offshore oil drilling. This is the group that wants to drill in ANWR. This is the President that rejects a global warming treaty. This is the group that will not ratify biological warfare bans.

Do Members know what? I do not trust that record. I do not think this is the group I want to go with. I want real patient protection rights. We should reject this attempt to dress it up as something that it is not.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Chairman, I thank the gentleman for yielding time to me. I thank the ranking member, the gentleman from Michigan (Mr. DINGELL), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from Iowa (Mr. GANSKE), and all the people who have worked so hard on trying to get a legitimate Patients' Bill of Rights on this floor so we could vote on it, so the American people would have what they

have tirelessly asked for, and that our people could get the health care they have paid for.

It is unbelievable to me that today we are going to allow an amendment to this bill that will make it possible once again for the insurance companies to mistreat, abuse, take advantage of the American people for time immemorial, it appears, right now.

We are going to be standing here a year from now, and we are going to see these same pictures the gentleman from Iowa (Dr. GANSKE) has been showing us ever since I have been in this House. They are horrible pictures. The thought of an insurance company doing this to a child is unbearable and unbelievable to all of us.

But we are going to take up an amendment today and a bill today that would make it possible for the insurance companies to continue to do this, only with more impunity. We are not going to be able to hold them accountable for anything. We are going to supersede State law; and to make matters even worse, Mr. Chairman, this bill is going to cost \$20 billion, and we are going to use the magic pay-for card to pay for it.

I do not know where this card money comes from, but we are going to start issuing them to anyone. Anytime we have a bill and we do not know where to get the money for it, get the magic pay-for card for it. Members can see it, surely. All we have to do is present it and everything is already all right. We are not even going to pay for this bill.

We had the pay-fors in this bill last night, and the Committee on Rules took it out. It is unbelievable that we would allow the insurance companies to continue to take advantage of the American people.

Mr. Chairman, I urge our Members not to vote for this terrible piece of legislation.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise on behalf of this bill.

What is this bill? It is the bill that the gentleman from Georgia (Mr. NORWOOD) got on the floor and said he supports. It is a bill that, in 1999, 275 of us voted for in a bipartisan fashion, and in a bipartisan fashion for 24 months we have labored to pass that bill. We did pass it, and it was bottled up in conference committee because the Republican leadership did not want it to become law.

The gentleman from Georgia (Mr. NORWOOD) wants a bill that can be signed. I agree. But the way to get a bill that can be signed is to show where the bill ought to be, and those 275 of us for the underlying bill should vote for that bill today and send it to conference, have the conference work on it, and let the President come to the conference; not, with all due respect to my friend, the gentleman from Georgia (CHARLIE NORWOOD), one Member, but to the conference, to the Senate and

House, after they have worked their will and passed a real Patients' Bill of Rights.

□ 1530

Let us adopt the base bill and reject the three amendments.

Mr. Chairman, the American people need and deserve a real Patients' Bill of Rights.

This legislation ensures that doctors make medical decisions, not insurance company bureaucrats.

It gives every American the right to choose his or her own doctor. It ensures broad access to specialists. It prohibits incentives to limit care. And, yes, it allows patients to hold managed care companies accountable when they make decisions that injure or kill.

Responsibility! What's more American than that? Yet, the Republican leadership has fought legal liability tooth and nail.

They said strong liability provisions would cause insurance premiums to skyrocket. But that didn't happen in Texas, where then-Governor Bush let a Patients' Bill of Rights become the law in 1997 without his signature.

They claimed that managed care liability would cause people to lose their insurance. But that didn't happen in Texas.

And they said strong liability provisions would open the floodgates of litigation. But that didn't happen. Only 17 lawsuits have been filed under the Texas law in 4 years.

Today, they're trying to gut meaningful reform with these amendments.

Arbitrary damage caps are a perfect example. I'm always amazed that some of the same people who think a jury is perfectly competent to decide whether a man or woman lives or dies is somehow incompetent to decide whether a person has been injured by negligence and the extent of the injured party's damage.

I urge my colleagues to vote for this bipartisan bill and to vote against these amendments. Let's level the playing field between patients and their doctors and managed care companies.

Mr. TAUZIN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG), a distinguished member from the Committee on Energy and Commerce who has put a great deal of effort in this compromise.

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding me this time. And I rise in strong support of this legislation, and I rise in strong support of the gentleman from Georgia (Mr. NORWOOD).

Make no mistake about it, there is no greater champion of patients' rights in this country than the gentleman from Georgia. And anybody who says that the agreement that the gentleman from Georgia negotiated with the President last night does not protect patients, does not know this issue and is just playing politics.

Well, it is time for politics on this issue to end and for substance to emerge. Let us talk about what is in this bill.

Number one, every single patient protection in the original Norwood-Dingell bill and in the original Ganske-Dingell bill is in this bill. The patient protections are there.

So comes the criticism on liability. Well, let us talk about liability. For those who say this protects plans from being sued, they are not being honest, because whether the external review panel sides with a patient and says the plan was wrong, or whether the external review panel sides with the plan and says the plan was right, that individual can have a lawsuit. They have a right to recover damages.

Let us talk about the current state of the law. The current state of the law in America is atrocious. It says if a health care plan injures someone through their negligence, through their conduct, they are immune. That is dead wrong. I know the Corcoran case inside out and backwards, and it is time to reverse that precedent.

The reality is both sides agree that that policy of absolute immunity for HMOs that hurt people must end. This bill strikes a fair balance. It says that an external review panel, made up of expert doctors who are practicing physicians, will review the decision of the plan and will decide if the plan was right or if the plan was wrong. If they decide the plan was wrong, yes there is a lawsuit and that individual will recover damages.

But let us look at the flip side of that issue. Let us say they decide the plan was right, and many would say that is a reasonable structure; that the panel second-guessed, reviewed through experts, the current status, where plans can simply deny care and walk away, but under that set of circumstance, even if this expert panel made up of doctors says the plan was right, that individual can still go to court. The AMA, when I argued this issue with them last year, said, well, what if the plan was wrong. It is a shocking lack of faith with doctors, but they won. The AMA is getting what they want. Even when the panel says the plan was right, the individual can go to court and sue. That is liability, that is fair, that is a very reasonable compromise.

This is a good bill, and I urge my colleagues to support it.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Chairman, I stand in strong opposition to the Norwood amendment because I have been there and I have done that and I have seen what happens when HMOs are in charge of health care, particularly in lower-income communities. It is a scam. Wake up, before this comes into our community.

The President cannot make government. He cannot make legislation. He is in the executive branch. So let us be sure that we do our job and he does his. Whoever heard of that before?

Two obvious examples stand out here. Our people need to be treated fairly. We need a patients' bill of rights. We need the Dingell bill, and we need it now. And we need to stop this frustration of going through all this nomenclature of medical terms. We

just need to get a patients' bill of rights that is fair to all patients, that will treat everybody the same, and be sure they have some redress.

I do not trust insurance companies. Why should I? They have never been fair to the people I represent. Do you think I am going to do it now? No. Be sure that you support the Dingell bill, it is the bill that is happening.

Mr. TAUZIN. Mr. Chairman, I yield 1½ minutes to the gentleman from Louisiana (Mr. COOKSEY).

Mr. COOKSEY. Mr. Chairman, this is an important piece of legislation because it is important for the health care of the Americans who need good quality health care.

Long before I was a Member of Congress, I was a physician. And when I finished medical school, I guess I was somewhat idealistic because I expected to always be in an examining room with a patient and have that sacrosanct physician-patient relationship in which I was trying to make a diagnosis and carry out a treatment, whether in the examining room or the operating room.

But over the years, we have evolved to a system that we have HMOs and HMO regulators; we have government regulators; we have a whole litany of people that are in that examining room, if not in body, in spirit. And these people are, in effect, practicing medicine or having a disproportionate influence on the practice of medicine when they have never gone to medical school. They do not know what medicine is about.

Unfortunately, some of these groups that are there in spirit are mean spirited. So we do need reform. We do need patient protection. And this piece of legislation will ensure that, number one, the employer-based system will be intact and will not be undermined. And, number two, it will go a long ways towards reestablishing the patient-physician relationship and getting all of those other people out of the examining room, whether they are there in spirit or in reality.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY of New York. Mr. Chairman, the last 24 hours of game-playing with people's lives by the leadership has left a huge mark on the House of Representatives.

Let us look at the score card in the last 24 hours. This week, special interest groups have two wins and the American people have zero. Yesterday, with the energy people, the oil companies won; today, with the so-called patients' bill of rights, insurance companies, unfortunately, are going to win again.

Under the House leadership bill and the so-called patients' bill of rights, many of our constituents are going to have to have their health care needs compromised. However, there are a few good things in this package.

We have been working very hard to make sure our hospitals get prompt

pay. In other words, the HMOs and the insurance companies have been holding back the monies to our hospitals. That is pure wrong. Our nurses and our health care people need the whistleblower protection act, and that will be in there.

But all in all, despite these good provisions, it is clear that special interests are the real winners in this deal. And I am sure of one thing: we need campaign finance reform to get the special interests out of this Congress.

Oppose the Norwood amendment and support the Ganske-Dingell bill. It puts patients' interests first, not special interests.

Mr. TAUZIN. Mr. Chairman, may I inquire of the chairman who has the right to close on this portion?

Mr. DINGELL. Mr. Chairman, how much time do we both have?

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 3 minutes remaining and the gentleman from Louisiana (Mr. TAUZIN) has 1 minute remaining. The gentleman from Louisiana has the right to close.

Mr. DINGELL. I will respect that, of course, Mr. Chairman.

Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, this doctor stands with America's doctors and our patients in support of H.R. 2563. The base bill is not about suing, it is about making sure that insurance companies and HMOs are held accountable when they prevent a patient from getting the care they need.

We must reject the killer amendments which would shield the HMOs from the same accountability that every doctor and hospital as well as every other business is liable for, for our protection. And the HMOs must be laughing at the \$1.5 million cap that is proposed. With their profits, that figure is so small it will be no incentive for them to change at all.

We have fought for more than 5 years for a bill that will protect patients. We have one, and we must not pass a last-minute dead-of-night deal to help the President avoid the decision of signing or vetoing, if that is his choice, legislation which the American people overwhelmingly support.

Our constituents have been waiting too long for relief from profit-driven medical decisions that put them and their loved ones at risk. Let us vote down all amendments and give America a real Patient Protection Act, H.R. 2563.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding me this time.

Two years ago, when I was a State Senator in California, I worked with my colleagues there to pass one of the strongest patient bill of rights packages in the Nation. Other States, Texas, New Jersey, about 30 in number,

have adopted similar strong patient protections. But now, under the most recent capitulation to the insurance industry, these strong patient bill of rights protections around the Nation are preempted by Federal law.

Brought to us by those strong champions of States' rights, this capitulation threatens to take away hard-fought patient protections enacted around the Nation. The new policy evidently is: we believe in States' rights, except where they collide with the rights of the insurance industry, and then the heck with the States. That is no kind of policy for this country.

I urge support for the Dingell-Ganske patient bill of rights that protects and preserves the relationship between patient and physician. It has doctors making medical decisions, not insurance company bureaucracies. It is the real patient bill of rights, the one we have fought for for 6 years, the one we must pass for this country.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DAVIS) for purposes of concluding the debate on this side.

Mr. DAVIS of Illinois. Mr. Chairman, I support patients' rights, but I do not want to support putting a cap on unnecessary pain and suffering. I support patients' rights, but I do not support greed and unaccountability. I support the rights of patients to interact with their doctors to make decisions.

I can tell my colleagues that the doctors in my district support Dingell-Ganske. They have been calling all day saying do not vote for Norwood, vote for Dingell-Ganske.

I follow the doctors in my community, and I urge all of us to vote for Dingell-Ganske.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Six years, when the gentleman from Georgia (Mr. NORWOOD) began this crusade for patient protections, he, through an exercise of extraordinary courage and conviction, has been willing to take on Members on both sides of this aisle. He has taken on his own party. Now he takes on Members of the other party who disagree with him today.

He has shown extraordinary courage and conviction, and he is determined that when we get through today with the amendment that he will offer in agreement with the President of the United States to make sure this bill is signed into law, he has determined this bill will do the following things when we get through today:

It will preserve the right of patients to choose their own doctors and to have the customary patient-doctor relationship.

Secondly, it will extend the patients the right to have an external medical review of HMO decisions.

And, third, it will guarantee patients the right to sue HMOs, to hold them accountable in both State and Federal Court, under the agreement he has reached with the President.

The gentleman from Georgia is to be commended for this 6-year fight. If we do it right today, we will put a bill on the President's desk that he will sign into law and these 6 long years will have been worth his courageous effort that has been carried forth with so much conviction.

Mr. Chairman, I yield back the balance of my time.

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

A few decades ago there was a song, and it went a little bit like this: "Love and marriage, love and marriage, go together like a horse and carriage." Well, for the last several years we have been hearing Norwood-Dingell, Norwood-Dingell, a team that made health care reformers tingle.

□ 1545

And yet today we find ourselves on the floor with a choice. Ironically that choice is to take a giant step toward making law in this area, or to keep alive a very divisive political issue.

In my opinion, there is no Member of the House of Representatives who wants a law more than the gentleman from Georgia (Mr. NORWOOD). In my opinion, there are some individuals here today who are enormously disappointed in the fact that the gentleman from Georgia (Mr. NORWOOD) wants a law because they certainly want to perpetuate a divisive political issue.

In listening to the way in which the gentleman from Georgia (Mr. NORWOOD) has been described, a Member got up recently and said he is a dentist. I do not think that was quite said in a way that would indicate that he has some knowledge in terms of the medical profession or that based upon his experience in dealing with HMOs, he wanted to make a change. I think it was done deliberately. I think it was done on purpose.

If Members really look at the underlying bill and the bill that will remain if the Norwood amendment is adopted, we have 95 percent the same bill. What is the difference? With the Norwood amendment, it has a chance to become law. Without it, it does not.

Well, I will simply leave Members with this. If Members had to think of a word to match with Norwood, the one that comes to mind to me is "sincerity."

If Members have to match a behavior to coincide with what is being exhibited on the other side of the floor, I have to think of a black widow and her mate.

I am pleased today that this very, very difficult issue will be resolved. It will be resolved by those people who stand with the gentleman from Georgia (Mr. NORWOOD) and his amendment, and then stand with the amended Ganske-Dingell-Norwood bill. It is time that we end this division.

Mr. Speaker, the gentleman from Georgia (Mr. NORWOOD), as he did in offering leadership at the beginning, is

again offering leadership. All Members have to do is follow the leadership of the gentleman from Georgia.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, I yield myself 2 minutes.

Mr. Speaker, a person goes to her primary care provider, and the primary care provider notices a lesion on the patient's skin. She says that she thinks that the patient ought to see a specialist to see what the lesion is. Her managed care plan says, no, we do not want you to do that because it does not fit our model of what ought to happen.

The patient does not see the specialist. It turns out the lesion is malignant and becomes metastatic cancer. The patient dies. The patient's estate sues the HMO under the laws of New Jersey or one of the other progressive States that has adopted patients' rights legislation.

Understand this: Under the Norwood amendment that will be coming forward in a few minutes, that claim is barred. Wiped out. No more. The Norwood amendment is a step backward. It does not intend to be, but it is, make no mistake about it.

Rights that the various States have given to consumers in the last few years are repealed. Whether it is by intent or sloppy drafting, they are repealed.

If Members believe in states' rights and the right of States to make decisions that affect their own communities, then Members should not federalize health care law. Then we should have not have one national decision that governs what ought to happen here. Members should reject the Norwood amendment, as the New Jersey Medical Society does for that reason, and Members should vote for the underlying base bill.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentlewoman from Connecticut (Mrs. JOHNSON) to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Norwood amendment, and I thank the gentleman from Georgia for his leadership. There has been no Member in this body who has been more dedicated to the issue of patients getting access to care and having the right to sue when their HMO denies them access to needed care. I commend the gentleman for that.

Mr. Chairman, I commend him particularly today for having the courage to help this House find a way to not only provide these rights to patients, these critical rights to access to specialty care, access to emergency room care, but also access to the right to sue, to provide these critical rights in

a way that does two things. First, it restores power and control over our health care system to the doctors of America. That is what patients want. They want to have the right to the care their doctor recommends.

The Norwood amendment makes very clear that patients must exhaust the external panel review process so that the record shows doctors' review of doctors' decisions. In this era of exploding medical options, increasingly complex care, frankly we are going to need to have doctors reviewing doctors' recommendations to ensure that the patients' interests are best served.

Mr. Speaker, exhausting that panel review before patients get lawyers involved is critical. Otherwise we will do what the Dingell-Ganske bill does: We will simply take power from HMOs and give it to lawyers. This is not progress. This is not progress.

We want to return that power to doctors, and the Norwood amendment does that very clearly and very directly, and backs it up with a system that has two advantages. First of all, it shields the employer far more effectively than any other bill, by clarifying that patients can sue only the dedicated decision-maker who must be bonded.

Therefore, employers can have confidence that they will not have to drop their plans out of fear of being sued. That is a tremendous strength of this Norwood amendment.

Second, the Norwood amendment is a simpler judicial process, a simpler legal system so that the costs do not explode. If the costs explode and the price of access to care and access to the right to sue is losing your health insurance, this is not progress.

Already premiums are rising rapidly. We see that: 15 to 20 percent this year when a 10-13% increase was expected and after double digit increases last year. In good conscience we must not add costs that do not benefit patients. We know from the history of malpractice insurance with doctors that until States controlled costs by adding tort reform or committees through which these proposed suits had to pass for approval, costs were extraordinary. Premiums leapt every year. And who paid? The employer and the employee. That is what is happening now. Employees are facing higher costs.

So the Norwood amendment not only guarantees these rights of access that are so critical to the quality of care and the right to sue, but it does it in a way that restores power to the doctors of our health care system. It does it through a legal structure that controls costs and protects employers who don't make medical decisions.

Mr. Speaker, those are my goals. The Norwood amendment fulfills them, and I commend the gentleman for his hard work.

Mr. Chairman, I am pleased to support the Norwood amendment. It puts in place strong patient protections in a responsible way.

Our goals are twofold: to guarantee patients access to the care they need and to guar-

antee patients right to sue if they are denied that care by their HMO. These patient rights are critical. Critical—but we must guarantee them without causing health care costs to skyrocket. Even without this legislation, premium costs are rising 15 to 20 percent a year and employees are carrying higher and higher copayments and deductibles. We must not, indeed we cannot, in good conscience further increase costs without knowing for certain that the benefit will be directly realized by patients.

I support the Norwood amendment because it guarantees the rights patients need to access specialists and emergency room care, to elect an OB/GYN or pediatrician as one's primary care physician, and other rights of access. It also provides the crucial right to sue one's HMO, but it would do this in a way that we know from experience with certainty will contain costs.

Under this amendment, patients will have the ability to hold plans accountable for poor medical decisions. But it is designed in a way that is straightforward and provides limits on liability, which allows employers to plan for their obligations and continue to offer health care coverage to their employees. In the end, this is the best result for patients.

The Ganske-Dingell liability construct is completely unworkable and will promote litigation years into the future that will only benefit trial lawyers, and not patients.

We must learn from history, when malpractice liability skyrocketed, it drove good doctors out of certain practices and sent premiums skyward. Only when states stepped in and limited liability did costs come under control and Americans no longer faced prohibitive increases in health care costs. Unless we limit liability in our Patients' Bill of Rights, we will set off a similar cycle of escalating costs.

Even before we get to the issue of the size of malpractice judgments, there is the problem of limiting other litigation to which health plans, providers, and employers are exposed. Under the Ganske-Dingell bill, there will be a virtual explosion of litigation activity, because the language of the bill is so complex and subject to so many different interpretations! In contrast, under the Norwood amendment, the rules are clearly written, the lines of liability are clearly spelled out, and most importantly the causes of action available to patients are very clearly defined.

On this last point about causes of action, I would like to point out that under the Ganske-Dingell bill the availability of a cause of action depends on the interaction of state law and the 19 pages of requirements outlined in the bill. That alone will result in years of litigation just to determine jurisdiction and the elements of a cause of action. And that's before we even get to the patient's case.

I want to make one other point about simplicity versus complexity. Under the Ganske-Dingell approach, there are two groups that can be held liable for plan decisions—the "designated decisionmaker" and a "direct participant" in the decision. There are two separate processes for holding these different actors liable, and they are inconsistent. This alone will foster litigation, because plaintiffs will name everyone possible and the courts will have to sort out the liability.

In contrast, the Norwood amendment requires the naming of a designated decisionmaker and requires that the decisionmaker be bonded so that a plaintiff is assured of being able to recover damages.

The Norwood amendment is better for patients for another reason. Under the Norwood amendment, an external appeals process is used and it must be completed before filing suit. There is an exception that allows the patient to get an injunction from a court if irreparable harm will result from delay.

The benefit of requiring this external review is that doctors will be reviewing doctor decisions. The process is faster. In the end, if the external reviewers agree with the treating doctor's decision, the patient gets care immediately. Isn't that what this is all about? Getting the right care to the patient? And if the plan still refuses coverage, the patient has a good medical record to use in litigation, while still being able to get care and hold the plan liable for payment in the end as well as damages.

The message I have is quite simple: we can improve the health delivery system and protect patients; hold health plans accountable, and provide relief to the uninsured.

To this end, the Norwood amendment puts patients first. It will: ensure patients have a process to address benefit denials through an internal and external appeals process; grant access to emergency care services, regardless of cost; provide clear information to plan participants about their benefits and rights; allow parents to determine their child's caregiver; ensure women have hassle-free access to their obstetrician or gynecologist; allow sick or disabled individuals hassle-free access to the specialists they need; advance the goals of FDA modernization by granting access to approved, lifesaving products; ban gag clauses and incentives to deny care; treat cancer patients with new technologies, drugs and biologics; and hold health plans accountable for the decisions they make.

Let's stop the partisanship. Let's stand up for patients, not Washington divisiveness.

Consider your options and then make the right decision. Vote for the best choice.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Chairman, they say that success has many parents, and certainly in this very important debate over the Nation's health care, we have found many of those parents.

I think today that special credit ought to go to the gentleman from Georgia (Mr. NORWOOD) and to President Bush. Through the whole decade of the 1990s we debated these health care issues; only now have we been able to put in place the people who understand that they may have to give up a little to get a lot.

As of last night, we are thrilled that these parties have come together and provided us with what I think is a very good piece of legislation.

What do we mean when we talk about patient protection? What is the Patients' Bill of Rights supposed to add up to? I want to speak to it from the point of view of a woman.

Woman usually schedule their children and their family's health care. What are they looking to be protected from as we look at their health coverage? Everybody supports improving patient protections like prohibiting gag clauses which prevent doctors from talking to their patients about options

in their health care that might not be covered by their particular plan. We do this in this bill.

Women are interested in finding a way to get immediate access to their pediatrician or OB-GYN. We do that in this bill. We do not require a gatekeeper to allow that person to pass through to where she needs to end up.

She is looking for a review process of people like physicians who really care about her best health interests. She wants her family to be safe and well cared for. We provide this kind of recourse in this bill, a truly independent group of health caregivers who are willing to talk with the individual, know her history and her family's history and want the best for her instead of requiring her to pass on to litigation and the courts.

We are looking for access to affordable health care. She often pays the bills. One way we provide accessibility to health care is by expanding medical savings accounts, something which is very popular in this Nation, which allows catastrophic coverage for people who generally are healthy. This woman wants to control costs and keep premiums affordable for her family.

We support medical malpractice reform. That is in this legislation. The physicians I represent already feel under siege by excessive regulations and spiraling liability insurance costs. Often they feel compelled to do tests that may not help this woman, but will keep these physicians out of court.

Today, we take the first step in reducing frivolous litigation by passing the Thomas malpractice reform amendment.

Mr. Chairman, I think it is time that we pass patient protection. It has been almost a decade that we have debated it. We have heroes now with us who have taken all of their time, all of their caring, President Bush and the gentleman from Georgia (Mr. NORWOOD). I congratulate them for their leadership roles by ending gridlock and by placing the American people first.

Mr. ANDREWS. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, the gentlewoman from Connecticut is exactly right: Putting decisions back in the hands of doctors is what we are trying to do, which is why the American Medical Association strongly opposes the Norwood amendment and supports the underlying bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a small business owner.

Mr. TIERNEY. Mr. Chairman, for 5 years-plus Democrats and some Republicans have worked towards a Patients' Bill of Rights. The real heroes in this one are the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL). On the Senate side, they are Senators EDWARDS, KENNEDY, and MCCAIN. Central to the effort is the need to stop unfair denial of access to medical care.

□ 1600

Story after story has been heard in the past of people of all ages being de-

nied appointments with specialists, being denied the right to seek emergency care when they reasonably believed they had an emergency. It is important when it is your child, and it is important when it is your parent.

Also central has been the need to hold HMOs accountable for their bad decisions that unfairly denied people the benefit of their doctor's advice or the care that they needed. Doctors and nurses have been held responsible for their actions but impersonal HMOs have been allowed to deny care, act arbitrarily and with impunity without being held accountable.

In all that time, the person who is now President of the United States first vetoed the Patients' Bill of Rights in Texas, then he opposed it and allowed it to become law only because it had a veto-proof majority and he did not even sign it. Then, of course, he took credit for it during the campaign. The majority of Republicans and Republican leadership resisted true patients' bill of rights reform vigorously. But in 1999, 68 people on the Republican side voted with GANSKE and DINGELL, they voted with the American people and with patients, they voted with the health care community of doctors and nurses. Then the GOP leadership in the Senate passed an HMO relief bill. The Senate and the House leadership conspired to let that good bill, the Ganske-Dingell bill, die in conference.

This year, the Senate passed the Ganske-Dingell bill as the Kennedy-Edwards-McCain bill. The White House panicked, the leadership over the other side panicked, and now they have found a way to kill true managed care reform. Under the guise of passing something that will not be vetoed, they attempt to bring forward a poison pill and provisions that give us a choice that is unpalatable. They want to gut patient protections, abandon patients and protect HMOs' bad practices. They want to pass a bad House bill, then let that die in conference when the Senate holds firm seeking real patient protection.

Mr. Chairman, this amendment is a joke. When people get a chance to read it, they will only be heroes that are consistent with where they have been, not those that have moved around and found themselves with the President's bad acts.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself 15 seconds.

I would like the record to note that actually we have more physicians and direct providers of health care supporting our bill and who were involved in the writing of the Fletcher-Johnson bill than in the other bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE).

(Mr. CRANE asked and was given permission to revise and extend his remarks.)

Mr. CRANE. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in support of the Thomas-Lipinski-Fletcher amendment that will be offered later in the debate. I believe that any patient protection legislation must also address the needs of the uninsured. The Congressional Budget Office estimates that for every 1 percent increase in health insurance premiums, 200,000 to 300,000 individuals will lose their health insurance.

The underlying Ganske-Dingell bill is estimated to increase health insurance premiums by 4 percent. That is 800,000 to 1.2 million more Americans that will be added to the estimated 42.6 million Americans that are without health insurance. We must include provisions that will make health insurance more accessible and affordable to individuals.

I have long been a proponent of medical savings accounts. Individuals should be able to have access to quality health care and make their own provider choices. MSAs allow individuals to save, tax free, for their health care needs and shop around for the best quality care at the best prices.

The amendment makes structural changes to MSAs that will improve their effectiveness and make them more widely available. MSAs are making health insurance affordable for the first time to many Americans since MSA insurance policies usually cost about half of what the average HMO policy costs.

According to the Internal Revenue Service, 31.5 percent of all of those who established an MSA were previously uninsured. MSAs help bring these uninsured Americans into the insurance pool as opposed to being exposed to the risks of uninsured health care costs which are the source of nearly half of all bankruptcies in the entire United States.

In contrast, the underlying Ganske-Dingell bill makes only cosmetic changes to MSAs. The underlying bill only provides for a 2-year extension, raises the cap on MSAs from 750,000 to 1 million, and expands the definition of small businesses from 50 employees to 100 employees.

I urge my colleagues to support the Thomas-Lipinski-Fletcher amendment.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS), who joins with the American Medical Association in opposition to the Norwood amendment.

Ms. SOLIS. Mr. Chairman, I thank the gentleman for the opportunity to shed some light on what I believe my constituents in California are deeply concerned about.

Two years ago we passed some major, major HMO reform legislation. This new proposal that is before us will rip apart those very pieces of legislation that were put together very carefully over the past 2 and 3 years through negotiation with the stakeholders, with insurance, with doctors, with patients, with advocates. This legislation now would go back to the heart of our State

and take away those assurances that many people in that State right now have protections for.

I cannot stand here today as a new Member of Congress and vote for a piece of legislation that is so deadly, because if someone becomes ill under this proposal after 6 years because someone has injected them with tainted blood, they cannot go back and sue that particular health care or insurance group that is providing coverage. That is disastrous. I know that people in my State and this country do not want to stand for that.

As one of the new Members of Congress, I ask my colleagues to vote against the Norwood amendment, the proposal that Mr. Bush is putting before us today and our colleagues from the right.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER), ranking member of the full committee.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding time.

Something very terrible happened last night. Up until last night, we had a competing contest over the question of protection of patients' rights when they engage their HMOs, when they were denied service and in that effort they were harmed, they were injured or they died and whether or not somebody would have to accept responsibility for that.

Then last night at the White House, negotiations took place and we went from a patients' protection bill to an insurance company protection bill. We changed the standard of care within an HMO from that of what a doctor, a medical professional, owes you to now a standard of care that an insurance claims processor owes you. A doctor can make a horrible mistake, an HMO can make a horrible mistake, an HMO can make a callous indecision about your care and their standard is that of an insurance claims processor. When people pay their insurance premiums, when people go to an HMO, when they engage their medical expertise, they do not believe they are engaging an insurance processor. But the insurance companies, the HMOs, have rigged this bill and rigged this language so that is now the standard of care.

Next time you go to visit your HMO, tell them you only want to pay them what you would pay an insurance claims processor because that is the standard of care. This bill and the Norwood amendment shows such insensitivity to families that have to try and negotiate, negotiate to get care, to get satisfaction, to get treatment for their family members. Maybe too many Members of Congress have not done this. I know what it looks like up close and personal when you are trying to negotiate with these people and you are denied care and you are delayed care.

This amendment is like some medical Bull Connor that is going to keep families from having access to care, from access to justice. It is unbelievable. It is unbelievable that we would do this to America's families at the end of this debate and we would so enhance the insurance companies to damage families and damage the people we love.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. FORD), who joins with the health care providers and families of America.

Mr. FORD. Mr. Chairman, what happened last night, if the President is watching or the White House is watching, y'all did one heck of a job on my friend, the gentleman from Georgia (Mr. NORWOOD), who has been a champion, a stalwart on behalf of patients and consumers across this Nation, not just in Georgia. For those of you who thought what might have happened in Florida was good, what happened last night was that much better.

Everyone will recite some of the legal things and the legal changes in this bill, but the truth still stands. The only bill on this floor that will be considered today that provides clear and enforceable rights for patients, clear lines of accountability for decisions made by either employers or insurance companies is the Ganske-Dingell-Berry legislation.

I have great respect for the gentleman from Georgia (Mr. NORWOOD) and will continue to hold him in high regard. I have great respect for the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Kentucky (Mr. FLETCHER). But for those of you interested in providing clear patients' rights, enforceable patients' rights, holding those accountable, those who make medical decisions, you have one clear choice, the American Medical Association's choice, Republican Members in the Senate including Mr. MCCAIN, and those of us on our side: the Ganske-Dingell-Berry bill.

Vote for patients, not the insurance companies.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I am always stimulated to respond when my friend, the gentleman from California (Mr. GEORGE MILLER), stands up and does always such a good job, but maybe a little clarification would be in order.

I think all of you know that the good work in the bill that has been done by all of us solves a lot of problems because just of the external review. You get most things corrected there, which has always been our intent. But to say that a patient that has been denied care and is then harmed has no recourse through our amendment is just not true. If they are denied care through our amendment, they have a cause of action and they have a cause of action, most of them, in the States, which is where we want to be, they

have a cause of action for the denial or the delay of care.

Let me further say to you, and I think I can say this also for the President, we want to be as sure as we possibly can we do not preempt other causes of action at the State level. I know that can be debated whether the language actually does that or does not, but that is pretty common as I understand it between lawyers for one set of lawyers to believe language says one thing and another set of lawyers believes language to say the other, but you just need to know my intent is to make sure at every way I can do that we do not preempt other causes of action at the State level and that is going to be my intent through conference. I am happy that the President agrees that that is our intent. If for some reason when we get into conference that that language is not worked out, I am going to be in there slugging out for it, because that is my intent as well as it is your intent.

Just do not say there is no recourse for a patient who is harmed, that is denied care or delayed care. There is recourse.

Mr. ANDREWS. Mr. Chairman, I yield myself 1 minute.

I appreciate the fact that the gentleman from Georgia's intent is not to preempt these claims; but with all due respect, that is not what his language says. On page 15, line 16, delivery of medical care claims are preserved but everything else is not. Is not.

I yield to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding. I think also if you read the language that they borrowed from the ERISA statute, they now have taken the determination that it is not a standard of medical care no matter how flawed the process is, no matter how egregious the medical malpractice is. The question will be not with the medical professionalism, but it will be whether it passes the review of an insurance industry muster of the acceptable standard of claims.

It is very clever what you have done here, but you have moved from a medical standard to an insurance claims processor on whether or not I have had medical malpractice. You do not get to review the medical standard.

Mr. ANDREWS. Reclaiming my time, this with all due respect is what happens when you start drafting a bill at midnight and finish at 7 o'clock in the morning.

Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN), a fighter for working families in Florida and throughout the United States.

Ms. BROWN of Florida. Mr. Chairman, during last year's campaign, a patients' bill of rights was the top priority of the American public. But just like the Presidential election, the American people are not getting what they voted for.

The President and the leadership of this House is pushing amendments that are a complete sham on the American people. Instead of a patients' bill of rights, they are pushing an HMO bill of rights. The Republican amendments side with special interests over patients, provide special protections for the HMOs, and roll back patient protections.

In last year's election, the Green Party candidate claimed that there was not a dime's difference between the Democrats and the Republicans. I can guarantee Mr. Nader and the rest of the American public if we had a fair election, we would really be debating a patients' bill of rights and also a prescription benefit for our seniors.

□ 1615

The American people deserve quality health care. I ask my colleagues to do the right thing for their constituents, not the big insurance companies. Vote for a real Patients' Bill of Rights. Put the doctors back in charge of medical care, with insurance company accountability, that sometimes kills and harms patients.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from New York (Mr. ISRAEL), who has listened to the doctors and patients of Long Island.

Mr. ISRAEL. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I have only been here in Congress for months, but I have already learned some interesting lessons. Only in Congress can we weaken patient protections, and call it stronger; only in Congress can we protect the HMOs, and call it a Patients' Bill of Rights; and only here can we protect profits, and say we are protecting patients.

Mr. Chairman, I believe in compromise. I came here to try and compromise. But the only thing compromised in the majority's bill is the fundamental right of doctors, nurses, and their patients. The only true Patients' Bill of Rights, Mr. Chairman, is Ganske-Dingell-Berry, and that is what we should pass today.

Mrs. JOHNSON of Connecticut. Mr. Chairman, it is my pleasure to yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I listened with great interest to what has slowly evolved into sloganeering, rather than finding solutions here on the House floor.

It has been interesting, Mr. Chairman, to hear talk about coming together to find some solutions, and now to hear the refrain from the left, it is kind of like that old country song, "That Is My Story, and I Am Sticking to It." It is almost the equivalent of legislative hypochondria.

Now, look: we have a solution and a commonsense compromise crafted by the gentleman from Georgia, the Presi-

dent of the United States, and thoughtful Members from both sides of the aisle. And one thing I agree with is my colleague from Florida, who said put doctors in charge of health care, that is absolutely right. The tragedy of the product offered from the left is that it again seeks to put the trial lawyers' lobby in charge.

Now, like any good piece of legislation, we have come together here. There is quality care here, there is a level of care here, there is an appeals process here. There is a protection device to ensure the sanctity of the relationship between the physician and the patient. That is the key.

But, again, the left will tell us, no, the trial lawyers' lobby must be there, solutions need to come in court rather than in the clinics; and, worse yet, if we come together, no, no, we cannot have that, because it is much more enticing to have an issue than a solution. It is much more politically feasible to continue to indulge in rhetoric, rather than deal with a real solution.

Now something has been crafted to find the hard-won compromise, to deal first with health care, and to say both to insurance companies and to the trial lawyers, neither group gets in the way, quality health care is dependent on the sanctity of the physician-patient relationship.

Mr. ANDREWS. Mr. Chairman, I yield myself 15 seconds.

I agree with my friend from Arizona that doctors should be the decision-makers, which is why the AMA today said, "Representative NORWOOD made a sincere effort to find a workable compromise, but the resulting effort is seriously flawed, and we oppose it. It helps HMOs more than it helps patients."

Mr. Chairman, I am pleased to yield 1 minute to my friend, the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this is a serious matter. We have heard from doctors, patients all over the country, and we want some relief now. I was hoping the conversation that the gentleman from Georgia (Mr. NORWOOD) had with the President would bring about some frustration. Unfortunately, we now feel like we have been whitewashed, we have not solved the problem, that we have caved in.

Therefore, I do not think any of us have a choice but to go along with Ganske-Dingell, which is a bipartisan approach, in order to solve some of these difficult problems that so many people are having with HMOs.

Just think of someone in their 20's that is injured, has a couple of children, sustains a terrible injury, loses income, debts to pay, extended health care services, theoretically going to live for 40 to 50 years. They are not going to get the help that they need under the Norwood bill. That is why we need to get behind the Ganske-Dingell

legislation, which is bipartisan legislation that will solve this difficult problem, and let the patients and doctors be in control of their health care once and for all.

Mr. ANDREWS. Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from New Jersey (Mr. HOLT), who echos the views of the New Jersey Medical Society in opposing the Norwood amendment.

Mr. HOLT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, my wife is a general practice physician. It is kitchen table conversation for us to talk about the change in recent years in the doctor-patient relationship and what has made it so difficult to practice medicine.

Well, the Ganske-Dingell bill addresses that. This hurried bill, this amendment that was thrown together in the middle of the night last night, is no help. It is not a compromise. It puts HMOs in a unique privileged position in American law, and that is why the AMA, the New Jersey Medical Society, patients groups and individual doctors and patients all across America understand that we should go with the Dingell-Ganske approach to patient protection so that we can restore the doctor-patient relationship.

Mr. ANDREWS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the New Jersey Medical Society, in a statement by its President, my dear friend, Dr. Angelo Agro, assisted by my friend, Dr. Joseph Riggs, has called this "the coldest day in August."

The gentleman from Iowa (Mr. GANSKE) read earlier from it, but I wanted to make clear: "The basis for the New Jersey Medical Society's opposition is their correct conclusion that the Norwood amendment wipes out the very strong patient protection law which we in New Jersey enacted last week."

Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman very much for yielding me time.

Mr. Chairman, I would like to provide a copy of correspondence made available from three notable professionals in health care law and policy, Sarah Rosenbaum, David Frankfort, and Rand Rosbenblatt from the George Washington University School of Public Health and Health Services, Rutgers University School of Law in Camden, in the latter two cases, and make it available to the gentleman from Georgia and others, because I think now, in the light of day, as opposed to the midnight oil burning at the White House, you can see that reasonable professionals that deal with this every day indicate that this particular amendment that is going to be proposed would change the law to the detriment of patients, would change the law to the detriment of those people that rely on this body to protect their interests.

It establishes an entirely new level of policy here where, no longer is the standard of care what is existing in the medical profession, but, as the gentleman from California (Mr. GEORGE MILLER) says, what goes on in the insurance industry. It goes beyond that and just basically makes sure that States that have protective rights in there get those thrown out the window, so that all the States, whether it is Massachusetts, whether it is New Jersey, whether it is Florida, they put in protections for their particular people, for patients in their State, they are now out the window, thanks to the largess of the gentleman from Georgia and the White House.

That is wrong. I do not think that is what the gentleman intended, and I would expect upon reading it and now being knowledgeable of it, the gentleman would change his mind.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. TIERNEY. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Chairman, I think it is a very important point the gentleman is making, and that is that what we are doing here is without consultation, but one session at the White House, decisions made in the dark of night, we are overturning, as they point out, 200 years, 200 years, of a standard of care that individuals and their families knew they had when they engaged the medical profession, a hospital, the health care organization, the standards of a medical professional. If your doctor, your health care provider, violated that standard, you could get redress.

Now we are moving from that standard to the standard of a health insurance claims processor in the review. So no matter how flawed, no matter how flawed this review is, if it passes insurance company tests, it is fine; not the standard of care of the medical profession that we have had for 200 years protecting families in this country.

Mr. TIERNEY. Mr. Chairman, reclaiming my time, it goes beyond that. No longer will you have to have a proximate cause be the conduct of decision-makers, but the cause. In a complex area like health care, that is a dangerous thing, and I think the gentleman would agree.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, the Hippocratic Oath says, "First do no harm." But HMO corporate charters say, First give no treatment and see what happens next.

I have supported the passage of a patients' bill of rights, and I will continue to do so until this Congress acts in a responsible manner and passes a strong, meaningful and enforceable patients' bill of rights.

But what we are being forced to do today is a travesty for the American

people, who are going to believe they will now have rights and can stand up to HMOs when they are harmed. Instead, they will continue to be deprived of the type of care that every American is entitled to receive.

If we weaken the Ganske-Dingell bill with the Norwood amendment, we will continue to have HMOs deny care and go unpunished. We will continue to have doctors making decisions based on profit margins, not patient needs. We will continue to have HMOs pressuring doctors to deny referrals; to skimp on care; and to fear retribution by corporate executives, who are concerned with profits, not patients.

We need to pass legislation that gives doctors the power to provide the care that they have sworn to provide. I am not concerned with closed-door agreements, legislative victories, or making good on campaign promises. I am concerned about patients.

So I urge everyone to vote against the Norwood amendment and the Thomas amendment and vote for the Ganske-Dingell patients' bill of rights and reject the majority's attempts to pass an HMO bill of rights.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is very important for the Members to understand that the Norwood amendment, which will be presented as a patients' bill of rights, is most certainly not a patients' bill of rights. It is a mirage. It appears to be a refuge from mistreatment by managed care companies, but it most certainly is not.

In order to get to court to get the law enforced if an HMO does something wrong, you first have to go through an external review process, and, if you lose the external review process, the Norwood amendment vests that process with unprecedented powers in American law. It says if you lose, there is something called a rebuttable presumption against you. That means instead of having to move the ball to the 50-yard line on the field, you have to move it to your opponents's 10- or 20-yard line.

He who has the burden of proof loses, and you would lose in most cases if you had to bring the suit this way.

Second, if you are lucky enough to get past that one, you then have this new Federal cause of action, and we will talk about this later. But it appears that if the HMO is the sole cause of your injury, you can recover; but if it is one of many causes of your injury, you cannot, because the original bill says that your injury has to be a proximate cause, not the proximate cause, which is in the bill drafted in the wee hours of the morning that is before us tonight.

If, by some chance, you are able to overcome these problems and win, we have an artificial limitation on what you can recover. If you buy a defective toaster and it blows up and ruins your eyesight, you are able to recover whatever the value of your injury happens

to be. But if you are denied the right to see an oncologist by an HMO, we put a price tag on that. It cannot be worth anything more than \$1.5 million.

Then there is the problem of the hospital and the doctor sitting side-by-side at the defense table next to the HMO. The hospital and the doctor will have their claim against them decided under State law.

□ 1630

But the HMO has an exalted, special status. The HMO has this new overnight, ready-mix cause of action. The doctor and the hospital will have their claims decided under State evidence laws, State procedure, State discovery, State privileges.

We do not know what will apply to the HMO, because it is not in the bill; we will make it up as we go along. And when you get to the point where the verdict has been rendered, if, let us say, there is a \$10 million verdict and there is what is called joint and several liability, which means the patient can go after any of the three defendants to collect, well, you can collect an unlimited amount against the doctor, and you can collect an unlimited amount against the hospital, but we, with our one-size-fits-all solution, all of us States' rights advocates say, you can only collect \$1.5 million against the HMO.

This is a Pandora's box. If my colleagues believe in the rights of doctors, listen to the American Medical Association, which rejects the Norwood amendment. If my colleagues believe in States' rights, listen to the coalition of groups that support the underlying bill.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Let me set the record straight on a couple of specific things. First of all, there is nothing in the amendment at all that changes the standard of care, and all of the heated speeches of the other side that implied that were simply wrong. We do not change the standard of care.

Secondly, according to a Department of Justice letter, both the Norwood language and the Ganske-Dingell language contain express provisions which preserve certain traditional State law causes of action concerning the practice of medicine or the delivery of medical care. The language of both these underlying bills, both the underlying bill and the amendment, indicates that these provisions would allow, for example, claims under the Texas statute as interpreted in corporate health to go forward.

Mr. Chairman, I yield the remainder of my time to the gentleman from Louisiana (Mr. MCCREERY).

Mr. MCCREERY. Mr. Chairman, I thank the gentlewoman for yielding.

First of all, let me explain so everybody understands, there is no limitation in the Norwood amendment for economic damages. In other words, a

plan, a person, a patient who was injured by a health plan's actions can recover the full extent of his economic damages, all his medical bills, all his lost wages, future lost wages. That is not at issue. That is not limited under Norwood.

What is limited under Norwood is what we call "general damages," pain and suffering, mental anguish, things that cannot be quantified and punitive damages.

Mr. Chairman, the Norwood amendment is the best thing that this House has before it today to solve the problem of HMO abuse, of patients not having real access to recovery under Federal law today. I agree that it is not sufficient. Federal law today is not sufficient to allow a patient to redress wrongs done by a health plan.

But the Ganske-Dingell bill goes way too far. It really endangers the health care system as we know it. It will increase the costs of the health care system, and that is the last thing we need in this country.

When we talk about damages and unlimited damages and we keep talking about the AMA, I will refer my colleagues to some testimony by the AMA. In 1996, Dr. Nancy Dickey, the then-Chair of the AMA board of trustees testified, "Placing limits on punitive damage awards without simultaneously addressing noneconomic damages would lead to gaming of the system. If only punitive damages are capped, leaving noneconomic awards with no ceiling, plaintiffs' lawyers would simply change their complaints to plead greater economic damages."

The Norwood amendment rightly takes account of that reality and does place a limitation on noneconomic damages as well as punitive damages.

Mr. Chairman, the Norwood amendment seeks to give patients redress and yet not clog the courts, not open wide the gates of litigation. The Norwood amendment will allow patients to get that relief most quickly. They do not have to go through the courts. We provide for an expedited review by a panel of physicians and, after all, I think that is what everybody has been begging for is for doctors to make medical decisions. The Norwood amendment does that.

It is the superior bill before us. Let us adopt that and do something for patients in this country.

Mr. BOEHNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, just 6 months into his Presidency, President Bush has worked with the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Kentucky (Mr. FLETCHER) to bring 6 years of gridlock to an end.

I remember when I met the gentleman from Georgia in the autumn of 1994 down in Georgia; he was running his first campaign. As we went around his district that day, his constituents were eager for health care reform, and I think Americans today are just as eager for reform of the health care sys-

tem. Families are worried about soaring costs, they are worried about declining access, and they are worried about access to quality health care. I think they want a reasonable solution.

Seven years later, families are still waiting for that solution. The number of uninsured Americans remains very high, at some 43 million today, and health care costs are on the rise once again. Cost and access remain the top two health care concerns of most Americans.

But Americans today are also concerned about the quality of coverage they receive for managed care, and they want a comprehensive solution to the problems that they see each and every day. But as much as they want a solution, they want a balanced approach that will let patients hold their health plans accountable without sending costs spiraling into the stratosphere and increasing the ranks of the uninsured.

There is no one, no one in this Congress over the last 6½ years who has done more to bring this issue to our attention and to bring it to the attention of the American people than the gentleman from Georgia (Mr. NORWOOD). He has put his heart and his soul into trying to find a compromise, trying to find a solution for this problem that we have been locked in over the last 6 years. I think what he wants and what he has said oftentimes to all of us is that he wants a bill signed into law.

Well, I think the President shares that goal. I share that goal, and I think the American people share that goal. They want a solution that will be signed into law, and I think that we finally have that solution.

I want to thank the gentleman from Georgia (Mr. NORWOOD) and I want to praise the President for reaching out to him and other Members in trying to find a solution to 7 years of legislative gridlock.

The underlying bill that we have before us causes me great concern, because I do believe it will raise costs for employers and their employees who share in the cost of their health insurance. Secondly, the underlying bill, in my view, will cause many employers to simply drop their health care coverage for their employees. That is not what the American people expect from their Congress.

One of the real strengths of the Norwood approach is that it is balanced, is that it will bring patient protections, it will increase access to courts, it will bring new remedies, but it will contain them so that we do not drive up the cost of health care for American employers and their employees. But I think the proposal that we have before us is a hard-earned compromise, and when we compromise here, it is the American people who win, and they are going to win when we pass this bill later on tonight.

Mr. Chairman, I reserve the balance of my time.

Mr. STARK. Mr. Chairman, I yield 1½ minutes to the gentleman from

Massachusetts (Mr. TIERNEY) to set the record straight.

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding me this time.

The only thing that has been compromised here with the Norwood amendment is the rights of the American people as patients. In 6 months, the President has done to this bill what he was unable to do in Texas: he has killed those rights of the American people.

I wish the gentlewoman from Connecticut had stayed longer, because she would realize that in the second sentence of the applicable section of the Norwood amendment, what appeared to be giving States rights is taken away, in essence, what appears to be a pre-emption for the managed care industry of all underlying State law related to health care quality.

On economic damages, yes, you can get the money for the cost of your operation back, but now this law is going to tell you what your arm is worth, what your eyesight is worth, and the limit is quite low.

Lastly, we spent over 5 years trying to deal with an industry that we do not trust, that has made bad decision after bad decision, that the American people have recognized; and the way this amendment deals with it is to say that when you are sick, when you are down and out, you do not just have to prove that you are right by the preponderance of the evidence, as anybody else would with any other type of claim, but you also have to overcome a presumption that is a rebuttable presumption.

This is the HMO protection act. This is something done in the dark of night. I wish the gentleman from Georgia and others had had a chance to get enough light to read its provisions, because if they did, they would know that the only thing the President has done here is what he could not do in Texas: kill patients' bills of rights, kill protection for patients.

We can do better and we should do better. Let us hope the Senate, in conference, can at least get us back on track.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. BALLENGER), the former chairman of the Subcommittee on Workforce Protection of the Committee on Education and Workforce.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding time.

As most of my colleagues know, I have continually criticized the Norwood-Dingell-Ganske bill because of the liability language which threatens the employer-based system of health care. The gentleman from Georgia (Mr. NORWOOD) continually promised me that my company back home in North Carolina would not be sued because of his legislation. I did not believe him. I had 250 insured employees to worry about who might lose their insurance if the trial lawyers got their way.

Well, with the adoption of the Norwood compromise amendment crafted with President Bush, I am now confident that employers will be protected when voluntarily providing health insurance, just as the gentleman from Georgia told me they would. The Norwood amendment excludes employers from being held liable for selecting a health plan, choosing which benefits are available under the plan or advocating on behalf of an employee for coverage.

This amendment also adds the ability for employers to choose a designated decision-maker who will have the sole liability for benefit determinations. These are all essential to protect the employer-based system of health care, protect them from trial lawyers.

Mr. Chairman, in an ideal world, Congress should be considering legislation to tackle the problem of 45 million uninsured Americans. Unfortunately, we are not there yet. But we can make a good start by not only voting for the Norwood compromise amendment, but also the Fletcher amendment to increase access to health care. Through medical savings accounts and associated health plans, we will finally begin attacking the looming problem of the uninsured.

By voting for both the Norwood compromise amendment and the Fletcher access amendment, we protect both employees and employers under the successful employer-based system in place today and start to provide health care for millions more.

Mr. Chairman, I strongly urge my colleagues to vote for these amendments and with their adoption, the final passage of the Bipartisan Patient Protection Act. Protect us all from the trial lawyers.

Mr. STARK. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this is, as many speakers have said before, a sad day for those of us who are neither lawyers or physicians, but from time to time become patients in the medical delivery system. Because what my Republican colleagues have done under the leadership of the President of the United States and the Republican Speaker of the House is just sold out the insurance companies and created a system for the very richest people in the United States.

One might say, there they go again, harming the average working person and bailing out the rich insurance companies, the rich pharmaceutical companies, the rich managed care companies, and making it easier for them to make a profit by denying us care. There is no other way that a managed care company makes a profit, except to withhold care, pay less for it, give us less quality, or harm us.

I am sorry that the gentleman from Georgia (Mr. NORWOOD) sold out for a brief display of the Rose Garden. I am sorry that many of my colleagues would like to make this an issue of trial lawyers.

I would suggest to my colleagues that the American public, when they are faced with a pharmaceutical company or Aetna Life Insurance Company, are going to trust the trial lawyer a whole lot more. And when the doctor cuts off the wrong leg or when care is denied, that doctor is not going to do anything to bring back a loved one, that doctor is not going to redo the procedure. That doctor is going to run and hide.

And the only way we will get the doctors to do the right thing is to take them to court occasionally and make them live up to their professional creed, which we are not seeing much of here in the House today.

□ 1645

I hope that we will continue to support the Ganske-Dingell legislation which is a compromise. It comes close to the Senate bipartisan agreement which again is a compromise. These two bills, when fit together, will do a lot to provide those of us who use managed care with a reasonable certainty that we will be treated fairly, our medical decisions will be decided by people with medical experience and qualifications and not by clerks who will deny care to make a bonus or a profit for their company.

I think we will find that the cost of medical care will not go up as it has not in States which have these programs. The quality of medical care will improve; and who knows, we may find that we may expand coverage to those 40 million people that the Republicans have chosen to ignore.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER), who spent months and months developing this issue.

Mr. FLETCHER. Mr. Chairman, I certainly appreciate the work that has been done by the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce; and as he has excelled in education, now he has certainly excelled in this issue of protecting patients.

Yesterday was a very fine day for the patients across America. After months and months of negotiating, the gentleman from Georgia (Mr. NORWOOD) agreed that it was time to strike a very good compromise, something that was focused on patients. I certainly appreciate the work of everyone that has been doing a great deal regarding this issue over the last 6, 8 years.

But one thing I think we must realize is that we need to have a patients' protection bill that will be signed by the President, one, that makes sure that we stress the quality of health care; two, that we protect access to health care and consider the uninsured; and, three, we hold HMOs accountable. We do that with the Norwood amendment.

It is surprising the respect that the gentleman from Georgia (Mr. NORWOOD) has across this Nation. According to the majority leader in the Senate, he is the most respected voice on patient protection across this Nation. Now because of political reasons, the other side would change their tune because they are more concerned about politics than they are the health of patients.

We have 43 million uninsured in this country, 10 million more than a decade ago. Nearly 40 percent of uninsured adults skipped a recommended medical test or treatment, and 20 percent said they did not get the needed care for a serious problem in the last year.

The uninsured are more likely to be hospitalized for avoidable conditions such as pneumonia and uncontrolled diabetes, and are three times more likely to die in the hospital than an insured patient. That is a striking, a very striking statistic from the Journal of the American Medical Association. It is beyond me how the other side, who has always talked about the most vulnerable in our society, low income and minorities, how they could show such a flagrant disregard for the uninsured, willing to drive up the costs with the frivolous lawsuits to favor the personal injury lawyers over the patients.

It is striking to me how they can ignore this particular fact and the impact of having more uninsured in this Nation will have on the health of Americans. We need to come together, lay aside politics and make sure we cover the uninsured.

That is the reason why I am glad we provide some access programs in the amendment through association health plans to allow small businesses to come together to be able to reduce the cost of premiums from 10 to 30 percent and allow some medical savings accounts.

Again, I appreciate the work that is been done on this by a number of individuals. I certainly want to thank the President for his passion of making sure we get patient protection. I want to encourage everyone to support the Norwood amendment to the Ganske-Dingell bill.

Mr. STARK. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Iowa, Mr. GANSKE.

Mr. GANSKE. Mr. Chairman, I thank the gentleman from California (Mr. STARK), and I thank the gentleman from Kentucky (Mr. FLETCHER).

The underlying Ganske-Dingell bill does have access provisions that I think are bipartisan, for instance, 100 percent deductibility for the self-insured and other small business provisions to help increase access. There will be an amendment on the floor for that that will get debate on further access provisions, and I think that debate will be a fruitful debate.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, first I would like all the Members to join me

in congratulating the gentleman from California (Mr. STARK) for becoming a father with twins born to Deborah. We know that August will be a very busy month for him.

Mr. Chairman, I want to respond very briefly to the points of the gentleman from Kentucky (Mr. FLETCHER). Most of the protections in the Patients' Bill of Rights, many of our States have passed laws that provide that to state-regulated plans. There is no evidence that employers have dropped coverage. The enactment of good medical policy will not reduce the number of people insured in this Nation.

Mr. Chairman, let me point out, many people have said that the Bush-Norwood agreement is a compromise.

It is not a compromise; it is a complete victory for those who oppose a Patients' Bill of Rights. We will take a look at some votes later today, and I think that will be borne out by the people who will be supporting the amendments and those who will be opposing them. This really is a victory for people who want to see us do nothing.

Let me just give one example. Mr. Chairman, I have been working many years with colleagues on the other side of the aisle for access to emergency care protection so that people who go into the emergency room, who have emergency symptoms, find out later that their bills will in fact be paid. We have, in many cases, people going to the emergency room with chest pains, only to find out that they did not have a heart attack, but they have a heart attack later on when their HMOs refuse to pay the bill.

We provide protection in this legislation to deal with that, in the underlying bill. But when we look at the amendment that the gentleman from Georgia (Mr. NORWOOD) will be offering, we give with one hand and take away with the other. We say we give protection, but we offer no enforcement, so the HMOs can continue to deny reimbursement without any fear of any repercussion from their actions. That is not providing patient protection. That is not doing what we should be doing here in this body.

It is even worse than that, Mr. Chairman, because there are certain protections that have been afforded by our States. Forty-one States have passed an external review. That is where people can go to their insurance company, to their HMO, and have a review done by an independent body. Forty-one States have now enacted an external review that is now providing help to those plans that are regulated under State law. So what does the Norwood amendment do? It preempts our 41 States.

My colleagues on the other side of the aisle talk about federalism and protecting the rights of States. The Norwood amendment will preempt the State laws in those areas, and take away protection that the States at least have had the courage to provide

to its citizens that are regulated under State plans.

That is not what we should be doing. A Patients' Bill of Rights protects patients. The Norwood amendment will take it away. Vote down the Norwood amendment.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I had a personal experience with my chief of staff who had what was diagnosed as incurable cancer, had a gatekeeper problem, and I became one of the first cosponsors of the gentleman from Georgia (Mr. NORWOOD) when he initiated his initial legislation.

We talked about the Norwood amendment today. We went over the fact that one is going to have accountability, and yet, they are not going to have so much exposure that small businesses will be denied coverage.

The key element in this entire debate has been balance. This approach is well-balanced. It is going to enable small businesses to have coverage. It is going to have accountability. It is going to move us forward. My old friend and I had a good discussion this morning, the gentleman who was most concerned about this who had incurable cancer. He looked at this thing and he says, this is what we need. Support the Norwood amendment.

Mr. STARK. Mr. Chairman, I am happy to yield 2½ minutes to the distinguished gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Chairman, it is amazing to sit here and listen to the debate, how a person can go in less than 24 hours from an SOB to a PAL, and there is such glowing praise for one of the Members of this body. Wow, where was that praise last year? Where was it 5 years ago when he introduced the Patients' Bill of Rights? What a turnaround.

I know the White House operatives have been looking for somebody to bring forth a poison pill to this bill. The insurance companies, the HMOs, do not like it. The Republicans do not like it; the President does not like it. So what we do in this legislation is sell out the patients.

The operatives in the White House came here and were looking for someone to do the poison pill. They looked at the gentleman from Michigan (Mr. DINGELL) and did not get too far there; they looked at the gentleman from Iowa (Mr. GANSKE) and did not get too far there; then there is a new and sort of popular TV show which I think sums up what happened. My friends, it is called The Weakest Link. They found the weakest link.

So, in a hurried fashion, we are presented with that change, which gives insurance companies privileged status; status that doctors do not have, hospitals do not have, but HMOs, health insurance companies, will have under this bill. I think that is sad.

Now the opponents of the real Patients' Bill of Rights bill say premiums are going to go up 4 percent. Hundreds of thousands of people are going to lose their health insurance. What is that based on? That is based on a real Patients' Bill of Rights passing, the HMOs not changing their bad practice of denying care to sick people, and all of them being sued. That is what it is based on.

However, if a real bill would pass, we know they would change their behavior. No one wants to be sued. But what happens under this bill? They do not have to change their behavior. They can deny us care, ending up in injury, possibly death for the patient, and under the special protections, the pre-emptions of State laws throughout the country, they are not going to get hit.

I ask my colleagues to reject Norwood, or in other words, good-bye.

Mr. BOEHNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I say to my colleagues, I am confused. We have been through 6 years of legislative gridlock on this issue. They all know it. It has been not exactly a partisan divide, but almost.

Finally, the President of the United States reaches out on a bipartisan effort over the last 6 months, does not get many takers on the other side of the aisle, but finally over the last couple of weeks he and the gentleman from Georgia (Mr. NORWOOD) come to an agreement to break this legislative logjam and to move this issue down the road.

It is beginning to sound to me like it is "my way or the highway." Members all know compromise is the art of legislating. I think what we have before us is a bill that only is different in one respect, and that is just how much liability, how much right to sue, and how many damages we can impose on people. That is the only difference in this bill.

The American people want access to health care, not access to the courtroom.

Mr. STARK. Mr. Chairman, I am happy to yield 3 minutes to the gentlewoman from Florida (Mrs. THURMAN), who, unlike previous speakers, has read the bill.

Mrs. THURMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

I would say to my colleague who talks about gridlock, that is wrong. This House, that Senate, passed a bill, Senate to conference, and would not by the majority put on conference committee members who voted for the bill that the House voted for.

□ 1700

So if my colleague wants to talk about gridlock, the gridlock has been because the other side would not allow people to have the will of the House, and they do it over and over and over again.

But let me make a point. When I come to this floor to vote today, my

mind is not going to be on the gentleman from Georgia (Mr. NORWOOD) or the gentleman from Michigan (Mr. DINGELL) or the gentleman from Arkansas (Mr. BERRY) or any of them. My mind is going to be on one person.

This is an editorial that was written by the editor of our newspaper. Roz is your typical over-achieving college kid. She is a hard worker and extremely intelligent. As she graduated from college, she and her whole life are in front of her. But several years ago Roz found a small lump in her breast. Being a smart kid, she contacted her HMO and was referred to a physician. When she went in for an exam she was told the small lump was a torn ligament or muscle and it would just go away. The HMO physician decided that no further expensive tests were needed. But the lump did not go away. In fact, it grew larger.

After a second visit to her HMO-assigned physician, she was told again that the lump in her breast was a muscle; no expensive tests were needed. When Roz went home to her parents for a holiday break, they sent her to a family physician who conducted the expensive test. It was then determined that Roz had breast cancer. The cancer had been with her so long that it had spread to her brain and her spinal cord. She died at the age of 25.

I want a bill, whether the President signs it or not, that takes care of Roz. She will be on my mind when I vote tonight.

Mr. BOEHNER. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Ohio (Mr. BOEHNER) has 10 minutes remaining and the gentleman from California (Mr. STARK) has 7 minutes remaining.

Mr. STARK. Mr. Chairman, I yield 3½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, a patients' bill of rights should be about helping patients: someone who has just received the bad news from her doctor that she faces a life-threatening illness requiring extensive and expensive medications, a parent, who has a child with a serious disability, a family that has been shocked by an accidental injury to a bread winner. With the patient already at a disadvantage, and then further disadvantaged by an abusive insurance company, this Congress has to decide today whether it wants to provide patient protections or insurance loopholes.

The kind of bill that is being advanced by our Republican colleagues is a little like the fine print of some worthless insurance policy that promises much, but in the fine print limits coverage only to those struck by lightning on a summer's midnight during leap year. That is the kind of protection, riddled with countless loopholes for insurers, that Republicans would afford.

In Texas, we stood and chose. We chose the patient and adopted a model

law that the rest of the Nation has looked to for our patients' bill of rights. We adopted that law, it should be noted contrary to the suggestion today, not because of, but in spite of then Governor George W. Bush, who fought it every step of the way, who tried to undermine it, as he has this bill, who vetoed the state legislation once before it became law. He finally let it become law without his signature as he worked hand-in-glove with the insurance companies in Texas in making the very same arguments that are being advanced here today.

Our Texas law has worked well. Our newspaper in the capital city, the Austin American-Statesman, editorialized that this law had "changed the health care climate in Texas." Yet there was a serious problem. The courts interpreted an old Federal law called ERISA, designed originally to protect employees with their pensions, as overriding or preempting our state patient guarantees. This Federal law meant that while some Texans can get state protection, millions get nothing. Federal law wipes out what the State of Texas, over George Bush's objection, adopted to protect our citizens. ERISA preempted that law.

Today, what do we find? We find George W. Bush, now as President, perhaps using the same pen with which he vetoed the guarantees in Texas, and he comes forward and says that preemption for some Texans is not enough. With this Norwood amendment, preemption will apply to all of those State guarantees for all, Texan's and folks in States with such guarantees. These State patients' rights provisions will be wiped out, and replaced with this new federal loophole law. Well, that is not a patients' bill of rights, that is only protection for the insurance industry.

Before I came to this Congress, I served as a judge on the highest court in the State of Texas. I was called a "Justice" and expected to do justice. And yet time after time I saw victims of insurance company abuse come into our court and like other judges, my hands were tied. They were tied by Federal interference in States' rights under ERISA. Our laws, our guarantees, our consumer protections were preempted, and no judge could do justice. Justice was not only blind, but rendered helpless.

In this Congress, we are not helpless. We can reject the same approach that Governor George W. Bush tried to impose on our State and not let it be imposed on this country. We can stand up for patients and reject loopholes for insurance companies.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from the Great State of Ohio (Mr. PORTMAN), my good friend and colleague.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding me this time and affording me this opportunity to talk a little about patient

rights, and I rise today in very strong support of giving patients more protection and in support of patients' rights.

I would also like to thank the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. THOMAS), the gentleman from Louisiana (Mr. TAUZIN), and particularly the gentleman from Kentucky (Mr. FLETCHER), and the gentleman from Georgia (Mr. NORWOOD) for all the good work they have done on this issue, good people coming together in a common cause to reach a result that will help all Americans.

Under the Norwood-Fletcher amendment that we are going to vote on a little later today, this legislation that we are talking about now will be improved, in my view. But this underlying legislation will continue to provide a number of very important patient care improvements. Patients will have better access to specialists. Patients will get guaranteed coverage for appropriate medical care in emergency room settings. Patients will be able to designate a pediatrician as their child's primary care provider. Patients with serious illnesses will be assured of continuous care from their existing physicians. All these patients' rights and many more are going to be included in the legislation, and again I commend the Members of this House who have worked so hard to get to this point.

Perhaps most importantly though, Mr. Chairman, this legislation provides these protections without risking the most important single protection of all, and that is guaranteed health care coverage. I have heard on the floor this afternoon a lot of concerns raised by opponents to the Norwood-Fletcher amendment about what is not going to be included in that amendment. I want to talk about that for a second.

I, too, want to talk about what the Norwood-Fletcher amendment will not do. It will not allow unnecessary and frivolous lawsuits. It will not risk dramatically increasing the cost of health care insurance and thereby risking the number of people who can be insured and have insured access to health care. And it will not take valuable dollars out of the health care system and put them in the legal system. Yet it provides all the protections we talked about and, most important, there is no question that when HMOs and insurance companies wrongfully deny care, they will be held accountable under this approach. I urge all my colleagues to support it.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 3 minutes to the gen-

tleman from Texas (Mr. SAM JOHNSON), the chairman of the Subcommittee on Employer-Employee Relations.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I thank the chairman for yielding me this time.

We have to work for our employees, those who are uninsured. I rise today in support of a hard-fought agreement that would give patients access to an emergency room, assure patients access to independent external review, and hold health maintenance organizations accountable for their actions. However, unlike Ganske-Dingell, the Norwood-Bush compromise does all these things in a responsible way.

The Ganske-Dingell bill subjects employers to as many as 50 different external review standards and treats some patients better than others, depending on where they live. The Norwood compromise guarantees that employers and employees are treated equally no matter where they live.

Unlike Ganske-Dingell, which would subject employers to frivolous lawsuits, this bill would protect employers from Federal lawsuits in all but the most extreme cases. Ganske-Dingell would also subject employers to lawsuits in 50 different States. This bill does not allow suits against employers to be filed in State court. Unlike the base bill, our bill assumes that employers or their agents are using ordinary care if the medical reviewer upholds their decision.

It is time to put patients first. It is time to pass a patients' bill of rights that increases the number of Americans with health insurance. By the end of this debate, I hope to have an amendment included that would increase access to affordable health insurance to the 48 million Americans who currently do not have health insurance through the use of medical savings accounts or association health plans.

Mr. Chairman, we must support the Norwood amendment. It is good for America.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG), who has spent many, many hours on this issue.

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding me this time, and it has been a pleasure to work with him on this legislation. He has been tireless in his efforts to pass good legislation.

These comments about a partisan divide and a deadlock are absolutely accurate. We have struggled to get legis-

lation passed here. And, sadly, the extremes at each end have precluded us from doing so. The extremes who want the plans to have no liability under any circumstance, and the other extreme, which are the tort lawyers, who want to be able to sue over anything, any time, anywhere and get everything.

The Norwood amendment pursues a goal that is absolutely fair, and it is the goal we ought to pursue. Patients get the right care at the earliest possible time. One of my colleagues on the other side said what is wrong with the current system is that HMO bureaucrats make health care decisions, and he is right. But the Norwood amendment, unlike the Ganske-Dingell bill, moves that decision-making authority over the quality of health care in America, what is the standard, what care should people really get, away from those HMO bureaucrats. It takes it away from the HMO bureaucrats and it gives it to a panel of at least three medical doctors who are practicing physicians with expertise in the field.

That is where the decision should be. We should get it away from HMO bureaucrats, and we should give it to doctors so doctors can set the standard of care in America. But here is what is wrong with the underlying bill. They want to take it away from HMO bureaucrats, but they do not want to give it to doctors. What they want to do, and what their bill does, is give the ability to set the standard of care not to a panel of independent doctors but rather to trial lawyers.

Under their bill an individual has to go through external review, but it means absolutely nothing. It is a chimera. It is of no value. Because whether someone wins or loses, they can go right ahead and sue, which means it will get us nowhere. It becomes a battle of experts. It does not advance health care in America. It does not empower doctors to set the standard. It empowers plaintiffs' lawyers. And that is a tragedy.

I urge my colleagues to defeat the underlying bill and support the Norwood amendment.

Mr. STARK. Mr. Chairman, I yield 45 seconds to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, it is interesting to hear that it is lawyers that are responsible for the rising cost of health care premiums, but it is not lawyers who are responsible for awarding damages. It is jurors.

## NOTICE

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