



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147

WASHINGTON, THURSDAY, JUNE 21, 2001

No. 87

Senate

The Senate met at 9:15 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

The PRESIDING OFFICER. Today's prayer will be offered by the guest Chaplain, the Reverend Dr. Priscilla Felisky Whitehead of The Church by the Sea, Bal Harbour, FL.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Good and giving God, we come humbly before You on this new day, first with gratitude: for the gift of life itself, and the gift of another day; for the gift of this great country which strives to become all it can be—a beacon of freedom, hope, compassion, peace, and justice for all; for the gift and privilege of Your call to faithful service in this place, and the opportunities to make a lasting difference.

And then we come before You with humility as we prepare for the tasks before us today, for we know we need wisdom and strength and vision from beyond ourselves.

Give us courage to set aside purely personal or partisan political agendas in favor of what is truly the common good; give us ears attuned to the voices of those who fear they have no voice, whose faith in our country, and us, is a reminder of our sacred obligations; and especially give us open hearts, ever attentive to Your presence and still small voice calling us to do what is right and worthy of people who have already been given so much.

Hear our prayer as gratefully and humbly we offer this day, and ourselves, to You for Your guidance and blessing. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Repub-

lic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 21, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, on behalf of Majority Leader DASCHLE, I announce that the time between now and 9:30 will be evenly divided between the two parties on the motion to proceed to the Patients' Bill of Rights. Following the vote on the motion to proceed, there will be approximately 2 hours for debate equally divided between the two leaders or their designees. At 12 noon, Senator LOTT or his designee will be recognized to offer the first amendment on the Patients' Bill of Rights. We are going to conclude consideration of this bill prior to the Fourth of July recess. We hope we make good progress today. All Senators should expect to work into the evening tonight.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

BIPARTISAN PATIENT PROTECTION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 1052, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to the bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

The PRESIDING OFFICER. Under the previous order, the time until 9:30 a.m. shall be equally divided between the managers of the bill or their designees.

Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Madam President, as I understand, the time between 9:20 and 9:30 is evenly divided.

The PRESIDING OFFICER. The Senator is correct. That is the order.

Mr. KENNEDY. I yield myself 5 minutes.

Madam President, this is a very important day in the lives of families across this country. Today we are addressing one of the principal concerns of families from Maine to Florida, from the State of Washington to California, and the heart of the Nation. That is, are we going to make sure that medical decisions, decisions being made by doctors, nurses, and families, are going to be the final decisions in terms of treatment and care for those particular patients? That is what the issue is all about.

As all of us have seen, we have countless examples where those decisions are

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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being overridden by HMOs and bureaucrats and bean counters. They are making medical judgments, effectively practicing medicine, which they are clearly not qualified to do. As we have seen in the Senate with countless illustrations, that just about every Member has shared, they have caused enormous damage to, and sometimes even cost the lives of, these patients.

The protections we stand for are reasonable. They are sensible. They are common sense. When we get to the debate on this issue, we will have a chance to review them.

We have waited 5 long years since this legislation was introduced to come to this day. We have not had the opportunity to the present time. We have had 14 days of hearings. We have the support of more than 800 organizations. There are few, if any, medical organizations which represent children, women, parents, the disabled, or any of the other patients organizations, that do not support the proposal which has been introduced by Senators MCCAIN, EDWARDS, myself, and others. We take heart that we are advocating for the doctors and nurses in America. They have committed themselves to help those in need, and have acquired the skill and training to make a difference in the lives of these patients.

The fact is, this should not be a partisan issue. It is not. It is bipartisan in the Senate, and it is bipartisan in the House. We welcome our friends on the other side to join with us. As was mentioned previously, the essential aspect of this legislation has been supported by 63 Republicans in the House of Representatives. There are important leaders in the Republican Party, including Dr. NORWOOD, who have led this crusade in the House and continue to do so.

This bill is bipartisan, and has the virtual unanimity of the medical professions and patient organizations behind it. It comes with a series of recommendations which are common sense in their nature, and effectively holds the HMOs liable if they take action that is going to cause injury. This is an important formula for good quality health care in America.

As we have said so often, when we have effective accountability and effective liability, these provisions are rarely used. We have seen this in recent examples from California and Texas. What they do reflect is additional quality protections when they are included in the law.

That is what we are interested in. Those of us who are supporting this measure know what it is all about: It is for the care and protection of patients. We have had a chance to examine it. This issue has been studied, restudied, and studied again.

I look forward to a strong vote at the appointed hour.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, how much time do we have on this side?

The PRESIDING OFFICER. Five minutes.

Mr. FRIST. Madam President, I rise to support the commitment, the vote we will take in a few minutes, to proceed.

As the Senator from Massachusetts said, America is ready for strong patient protections. America is ready to hold HMOs accountable when they are making medical decisions. The debate that will ensue today and will take some time, I believe, is an important one to the American people because all 170 million people who receive their health care through employer-sponsored plans will be affected. All of them are going to pay more money for their premiums because of the legislation on the floor.

These are new rights, new protections. We will see a bill that will be ultimately signed by the President, I am confident of it, if it is a bill that is balanced, that respects this balance which all Americans deserve—the balance between accountability and patients' rights.

We do need to get the HMOs out of the business of practicing medicine. There is no question the pendulum has swung over the last 10 to 15 years to the point that HMOs have gone too far and gotten away from medical decisionmaking, medical decisionmaking being made locally with the doctor-patient relationship. Now it is time to swing that pendulum back.

We need to hold HMOs accountable for decisions they make that are medical decisions. We need to return that decisionmaking back to the doctor-patient relationship. At the same time, we can't unnecessarily pass mandates that don't add protections, that drive the cost of premiums up, that drive the cost of health care up to all 170 million Americans out there unnecessarily because that does drive people to the ranks of the uninsured.

We know if you don't have insurance, you don't have access to as good quality of care. It is that balance that I am very hopeful we can achieve in the Senate.

As the Senator from Massachusetts said, it is not a partisan issue; it should not be. The President of the United States, a Republican, is leading on this issue with the principles he put forth in February. The lead sponsor of the Kennedy bill is a Republican, Senator MCCAIN. The lead sponsor of the Breaux-Frist-Jeffords bill is a Republican. It is a nonpartisan issue, as we reach out to get patients the protections they deserve.

The time element we will be discussing because, although people say we debated this over and over, we have not debated these liability provisions. We did not mark up, so-called mark up, these liability provisions in the Health, Education, Labor, and Pensions Committee. The last hearings we held on patient protection legislation were 2 years ago, and that was on the Jeffords bill that did not have liability or suing HMOs in it at all. What we will have over the next several weeks, for the first time on the floor of the Senate, is a debate on a bill that was introduced

last Thursday, beginning the discussion on liability.

Very quickly, let me illustrate what this entails because it is complex, as we go forward.

Madam President, how much time do I have?

The PRESIDING OFFICER. A minute 22 seconds.

Mr. FRIST. This chart is an outline of the McCain-Edwards-Kennedy coverage determination and liability process. I have started to walk through it as it was in the bill introduced last Thursday. As you can see, it is quite complex. We are going to have to go through the internal appeals process, the external appeals process, and march through and see how much liability should be at the Federal level, how much should be at the State level, and should you go back and forth from Federal to State.

Those are the issues we are going to have to debate as we look at how the whole HMO is accountable. I encourage my colleagues to vote in favor of proceeding so we can engage in the debate and improve the underlying bill.

With that, I look forward to the first amendment at about noon today as we go forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. MCCONNELL) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—98

Akaka	Collins	Hagel
Allard	Conrad	Harkin
Allen	Corzine	Hatch
Baucus	Craig	Helms
Bayh	Crapo	Hollings
Bennett	Daschle	Hutchinson
Biden	Dayton	Hutchison
Bingaman	DeWine	Inouye
Bond	Dodd	Jeffords
Boxer	Domenici	Johnson
Breaux	Dorgan	Kennedy
Brownback	Durbin	Kerry
Bunning	Edwards	Kohl
Burns	Ensign	Kyl
Byrd	Enzi	Landrieu
Campbell	Feingold	Leahy
Cantwell	Feinstein	Levin
Carnahan	Fitzgerald	Lieberman
Carper	Frist	Lincoln
Chafee	Graham	Lott
Cleland	Gramm	Lugar
Clinton	Grassley	McCain
Cochran	Gregg	Mikulski

Miller	Santorum	Stevens
Murkowski	Sarbanes	Thomas
Murray	Schumer	Thompson
Nelson (FL)	Sessions	Thurmond
Nelson (NE)	Shelby	Torricelli
Nickles	Smith (NH)	Voinovich
Reed	Smith (OR)	Warner
Reid	Snowe	Wellstone
Roberts	Specter	Wyden
Rockefeller	Stabenow	

NOT VOTING—2

Inhofe McConnell

The motion was agreed to.

Mr. REID. I move to reconsider the vote by which the motion was agreed to.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Madam President, on rollcall vote No. 193, I was unavoidably detained and was unable to cast a vote. If I had been present, I would have voted in the affirmative on the motions to proceed.

BIPARTISAN PATIENT PROTECTION ACT

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon shall be for debate only, with the time to be equally divided between the two leaders or their designees.

Mr. REID. Madam President, this has been cleared with both the managers of the bill and the two leaders: I ask unanimous consent the first half hour be that of the majority, the second half hour be that of the minority, the third half hour be that of the majority, and the fourth half hour be that of the minority.

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

Mr. REID. That works out almost perfectly. It is almost 10 o'clock now.

Is that order entered?

The PRESIDING OFFICER. The order has been entered.

Who yields time?

Mr. MCCAIN. Will the Senator yield?

Mr. KENNEDY. I yield such time as the Senator desires.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, after years of delay—and I want to emphasize years of delay—and blocking of consideration of this legislation, this important issue, the Patients' Bill of Rights, we are now, finally, going to take up this issue. I am very pleased to hear of the new-found commitment on the part of those who had blocked consideration of this legislation to seeing this legislation through to its completion. I point out again, it is long over-

due that we address this issue. I am glad we are going to address it in a format where amendments are offered, we have debate, and votes are taken without filibustering and without obfuscation of the issue.

There are important issues, there are important negotiations, and important amendments that need to be discussed and debated. Again, I appreciate the commitment on the part of those who blocked—who blocked—consideration of this legislation for years on the floor of the Senate and am pleased to be bringing this issue to a conclusion. I applaud the majority leader who has stated we will not leave for the Fourth of July recess until we resolve this issue and have a final vote on it. I believe it deserves that attention. I hope all of my colleagues will devote their efforts and good-faith energies towards resolving it.

Our personal health and the health of our loved ones is the most valuable thing we possess. Unfortunately, we often take good health for granted until tragedy strikes and the health or well-being of a family member is jeopardized by disease, accident, or infirmities associated with aging.

When one of us or a loved one becomes ill, the obstacles of daily life become insignificant in comparison to ensuring the best health care services are available to our families.

Unfortunately, too many Americans are powerless when faced with a health care crisis in their personal life. Too many Americans have had important, life-altering medical decisions micro-managed by business people rather than medical professionals. Too many Americans believe they have no access to quality care or cannot receive the necessary medical treatment recommended by their personal physician.

Many Americans work hard and live on strict budgets so they can afford health insurance coverage for their family. But the moment they need it, they are confronted with obstacles limiting which services are available to them. They are confronted by frustrating bureaucratic hoops; and confronted by health plans that provide little, if any, opportunity for patients to redress grievances. This happens too often and can be attributed to several factors.

Our health care system is very complicated and can be attributed to several factors.

Our health care system is very complicated. Its language is comprised of thousands of acronyms and codes. Even its acronyms have acronyms. Our overly complex health insurance system intimidates and confuses many Americans. Many of us fail to fully examine the coverage provided by our health plans until we become ill, and then it is difficult to understand the plan's legalese. Health care has become increasingly depersonalized, focused more on profits than on proper patient care.

I am not embarrassed to admit that I am often overwhelmed by the com-

plexity of the health system. I can certainly relate to the majority of Americans who are overwhelmed by a system which does not meet their basic needs in a simple, efficient and affordable manner.

Over the last few years I had an invaluable opportunity to travel around our great country; meeting and speaking with people from all sectors of life and regions of our nation. No matter how small or large a community I visited or where I held a town hall meeting, I repeatedly heard complaints that people's health plans denied or delayed the appropriate medical care, resulting in injury or even death to a loved one.

This is why I began working with my colleagues on both sides of the aisle over a year ago to craft a bipartisan bill that truly protects the rights of patients in our nation's health care system.

The following are the core principles I insisted be contained in our bipartisan bill:

First, our bill is about getting patients the health care they need and not about promoting lawsuits. We have worked hard to ensure that our bill focuses on getting patients the medical care they need. This is not about promoting frivolous lawsuits that could drive up health care costs and increase the number of uninsured in our country. Our bill provides a fair and independent grievance process in the event an HMO denies or delays medical care. A mother should have options when she is told her son or daughter's cancer treatment is not necessary and will not be covered by her insurance. She must have access to both internal and external appeals processes which are fair and readily available and which use neutral experts who are not selected, or otherwise beholden to the HMO. In life-threatening cases, there must be an expedited process.

Our bipartisan bill puts Americans in charge of their own health care. Patients and their doctors should control health care decisions, not HMOs or Washington bureaucrats. Physicians utilizing the best medical data must make the medical decisions, not insurance companies or trial lawyers. We need to put in place a balanced system that allows managed care companies to reduce costs but also reinvigorates the patient-doctor relationship, the essence of quality health care.

This bill protects employers from liability. We protect employers from being exposed to any liability unless they are directly participating in medical decisions. This bill will not make employers vulnerable for health care decisions they are not directly making and will not cause them to drop health care coverage for their employees out of fear of exposure to frivolous and unlimited liability.

Our bipartisan bill provides all Americans with patient protections. Our compromise includes strong patient protections that will ensure timely access to high quality health care for the