possible, through a National Emergency Grant awarded in response to a state application, where eligibility for unemployment insurance is not necessarily a prerequisite.

I share your concern for all workers who have been laid-off due to trade or other reasons, and I want to assure you that my staff will work with you to help respond to layoffs that may impact fishermen in Massachusetts.

Sincerely,

EMILY STOVER DEROCCO.

THE SECRETARY OF AGRICULTURE,
Washington, DC, August 1, 2002.

Hon. JOHN KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERRY, As you are aware, the conference agreement on H.R. 3009, the Andean Trade Preference Expansion Act is pending before the Senate. This Act includes provisions important to the Administration on Trade Promotion Authority and Trade Adjustment Assistance (TAA).

We understand you have concerns regarding the eligibility of the fishing industry to participate in the TAA programs for agriculture authorized in the legislation. As well, we understand the difficult situations that have faced the fishing industry in your State over the last few years.

There has been precedent for including certain fishing enterprises in previous USDA disaster programs. As the Department promulgates the necessary regulations to implement the new authorities provided in the Act, we would be willing to carefully examine and discuss with you whether we can include the fishing industry in the appropriate regulations on TAA.

Sincerely,

ANN M. VENEMAN.

The PRESIDING OFFICER. The Senator from Massachusetts.

PATIENTS BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I regret that we continue to be unable to reach an agreement on the Patients' Bill of Rights that would protect the interests of patients instead of the profits of insurance companies. The sponsors of the Senate Patients' Bill of Rights, Senators MCCAIN, EDWARDS and I, have spent many months talking with the White House. We have repeatedly tried to reach a fair compromise that would address many of the concerns voiced by the opponents of this bill without sacrificing the protection patients need. Unfortunately, we were not able to reach an agreement with them. The Bush administration has simply been unwilling to hold HMOs and insurance companies fully accountable when they make medical decisions. In the end, they were more committed to maintaining special preferences for HMOs and big insurance companies than passing legislation that would protect patients.

This is, at heart, an issue of corporate accountability. HMOs and insurance companies have not been held accountable for their medical decisions; and, as a result patients are being injured every day. Just as Congress took the lead on corporate accountability in the Sarbanes legislation when the White House would not take strong action, I believe Congress will now take the lead and enact a strong Patients' Bill of Rights. The political climate is very different today than it was when the House acted last year. The public is focused. I do not believe the Republican leadership will be able to resist the tide of popular opinion.

Throughout this process, we have been particularly concerned about those patients who sustain the most serious, life-altering injuries. If the law does not allow them to obtain full and fair compensation for their injuries, we will fail those who are most in need of our help. Yet, the administration has steadfastly refused to agree to liability provisions that would treat the most seriously injured patients justly.

Holding HMOs and health insurers fully accountable for their misconduct is essential to improving the quality of health care that millions of Americans receive. Nothing will provide a greater incentive for an HMO to do the right thing than the knowledge that it will be held accountable in court if it does the wrong thing. Placing arbitrary limits on the financial responsibility which HMOs owe to those patients who have been badly harmed by their misconduct would seriously weaken the deterrent effect of the law. Yet, the administration has insisted on a series of provisions which were designed to limit the accountability of HMOs.

The Bush administration wanted to weaken the authority of external review panels to help patients obtain the medical care they need. They demanded a rebuttable presumption against the patients in many cases that would effectively deny them a fair hearing in court. They demanded an arbitrary cap on the compensation which even the most seriously injured patients could receive. They wanted to allow HMOs and insurance companies to block injured patients from going to court at all, forcing them instead into a much more restrictive arbitration process. They insisted on preventing juries from awarding punitive damages even if there was clear and convincing evidence of a pattern of intentional wrongdoing by the HMO. At every stage of the accountability process, the administration was unwilling to treat patients fairly. A right without an effective remedy is no right at all, and the administration was unwilling to provide injured patients with any effective remedy.

Every day, thousands of patients are victimized by HMO abuses. Too many patients with symptoms of a heart attack or stroke are put at risk because they cannot go to the nearest emergency room. Too many women with breast cancer or cervical cancer suffer and even die because their HMO will not authorize needed care by a specialist. Too many children with life-threatening illnesses are told that they must see the unqualified physician in their plan's network because the HMO won't pay for them to see the specialist just down the road. Too many patients with incurable cancer or heart disease or other fatal conditions are denied the opportunity to participate in the clinical trials that could save their lives. Too many patients with arthritis, or cancer, or mental illnesses are denied the drugs that their doctor prescribes, because the medicine they need is not as cheap as the medicine on the HMO's list.

The legislation passed by the Senate would end those abuses, and it would assure that HMOs could be held responsible in court if they failed to provide the care their patients deserved. The Senate bill said that if an HMO crippled or terribly injured a patient, it had a responsibility to provide financial compensation for the victim and the victim's family. It said that if an HMO killed a family breadwinner, it was liable for the support of that patient's family.

The Senate passed a strong, effective patients' bill of rights by an overwhelming bipartisan vote. It was not a Democratic victory or a Republican victory. It was a victory for patients. It was a victory for every family that wants medical decisions made by doctors and nurses, not insurance company bureaucrats. It said that treatment should be determined by a patients' vital signs, not an HMO's bottom line.

Under our legislation, all the abuses that have marked managed care for so long were prohibited. Patients were guaranteed access to a speedy, impartial, independent appeal when HMOs denied care. And the rights the legislation granted were enforceable. When HMO decisions seriously injured patients, HMOs could be held accountable in court, under state law, under the same standards that apply to doctors and hospitals.

The story was different in the House. There, a narrow, partisan majority insisted on retaining special treatment and special privileges for HMOs. That legislation granted HMOs protection available to no other industry in America. Under the guise of granting new rights, it denied effective remedies. It tilted the playing field in favor of HMOs and against patients. The Republican majority in the House said yes to big business and no to American families. Their bill represents the triumph of privilege and power over fairness.

Under the House Republican bill, a family trying to hold an HMO accountable when a patient was killed or injured would find the legal process stacked against them at every turn. The standard in their bill for determining whether the HMO was negligent would allow HMOs to overturn the decision of a patients' family doctor without being held to the same standard of good medical practice that applies to the doctor. Think about that. One standard for a doctor trying to provide good care for patients. Another, lower standard for the HMO which arbitrarily overturns that doctor's decision because it wants to protect its bottom line.

The House Republican bill puts artificial limits on the liability of HMOs when a patient is killed or injured. The Republicans often complain about one-size-fits all legislation, but their bill is an extreme example of it. No matter how seriously a patient is injured, no matter what remedies are available under state law, no matter how negligent or outrageous the actions of that HMO, no matter what a judge and jury decides is an appropriate remedy, there is the same flat dollar limit on the HMOs' liability. And the limit in the Republican bill is far below what the most seriously injured patients receive when they are badly hurt by a doctor's negligence or by the negligence of any other industry. For a child paralyzed for life by an HMO's penny-pinching—an arbitrary limit on compensation. For a child who loses both hands and feet—an arbitrary limit on compensation. For the families of women needlessly killed by improper treatment for breast cancer an arbitrary limit on compensation. For a father or mother hopelessly brain-damaged—an arbitrary limit on compensation.

In addition, the bill essentially provides no punitive damages to deter the most egregious denials of care. Even if the HMO denies medically necessary care over and over and over again, no punitive damages. Even if the HMO engages in fraud or willful misconduct, no punitive damages. Even if the HMO routinely turns down every request for expensive treatment, no punitive damages.

If a patient ever gets to court under the Republican plan, they face a form of double jeopardy—the so-called ''rebuttable presumption.'' If a patient loses an appeal to an external review agency, that patient faces an almost impossible legal hurdle in court. But if an HMO loses an external appeal, the patient does not gain a comparable advantage. In effect, the patient has to win twice. The HMO only has to win only once. This one-way presumption is grossly unfair.

In area after area of Federal legislation, Congress has set minimum standards guaranteeing basic fairness but allowed states to go farther in protecting their citizens. But the House Republican bill sets a ceiling instead of a floor. States are not permitted to have stronger patients' rights laws. The bill would preempt the external review process in more than 40 states, abolishing state laws that provide greater protection for patients.

In a bill that purports to expand patient protections, it is remarkable that the Republican bill actually takes rights away. The Federal RICO antiracketeering statute is a powerful weapon against fraud. Under current law, patients and businesses buying health insurance policies have the right to bring a RICO class action suit against a health insurance company which has engaged in systematic fraud. The House Republican bill would in essence repeal that right, erecting new barriers to class actions against health insurance companies.

Not only does the Republican plan fail to protect patients against HMO abuse, it includes unrelated provisions that could actually harm patients. The bill provides new tax breaks for the healthy and wealthy by expanding and extending so-called ''Medical Savings Accounts.'' These accounts are the pet project of certain insurance companies that have made large donations to the Republican party. They not only benefit the healthy and wealthy purchasing high deductible insurance policies, but a number of independent analyses have concluded that they could result in dramatic premium increases for everyone else. Every day, we seem to find new evidence that the Republicans have never found a tax break for the wealthy that they didn't eagerly embrace.

And finally, the Republican bill eliminates state regulation of so-called ''association health plans,'' a new name for multiemployer welfare arrangements. While well-run plans of this kind can benefit consumers, too often they have failed financially and left patients holding the bag. Fraud has been their frequent companion. Most authorities believe that they need more regulation, not less. And not only does the Republican plan expose millions of families to financial disaster, it would deny more millions important benefits required by state insurance laws—benefits that help women at risk of cervical cancer, children with birth defects, and the disabled. According to estimates by the Congressional Budget Office, hundreds of thousands of people, predominantly those in poorer health, could lose their coverage as a result of this proposal.

I am disappointed that we were unable to reach an agreement with the Administration that would have made it possible to pass a strong, effective patients' bill of rights—one that would have protected patients without providing sweetheart deals for HMOs.

It is unfortunate that this Administration so consistently sides with the wealthy and powerful and against the interests of ordinary people. The positions taken by the White House on these critical health issues do not represent the views of the American people. Just a few days after the President called for severe limitations on a patient's right to seek compensation when he or she is seriously injured by medical malpractice, a strong bi-partisan 57–42 majority of the Senate rejected the President's position and sided with patients.

The Senate version of the patients' bill of rights—supported by virtually every group of patients, doctors, nurses, and advocates for workers and families—passed the Senate with a strong, bipartisan majority of 59–36 . In contrast, the key vote in the House of Representatives gutting the provisions of the bill which would hold HMOs accountable for injuring patients passed by a narrow partisan majority of only six votes—and then only after the Administration used every weapon of arm-twisting and patronage in the book to hold their votes in line.

In the last two weeks, the Senate debated the critical issues of reducing the high cost of prescription drugs and providing a long-overdue prescription drug benefit under Medicare. Over the strenuous objections of the Republican leadership and the Administration, the Senate voted by an overwhelming bipartisan majority of 78–21 to end abuses by wealthy and powerful drug companies that stifled competition and raised prices to patients.

A majority of the Senate also voted to provide comprehensive prescription drug coverage under Medicare—but the objections of the Administration and the Republican leadership proved too strong to reach the 60 votes necessary for passage. The misplaced priorities behind the Republican position were made clear by separate comments of the President and the Republican leader. Senator TRENT LOTT stated that both the comprehensive plan a majority of the Senate supported and even the scaled-back downpayment plan were too expensive for the Republican leadership. But while Republicans rejected prescription drug coverage for the elderly as just too expensive, the President reiterated yesterday his support for extending the trillion dollar plus tax cuts that primarily benefitted the wealthy.

While I am disappointed by the failure to reach agreement on the patients' bill of rights and to achieve 60 votes for Medicare prescription drug coverage, I am not discouraged. The American people want action, and in the end, I believe the Congress will listen to their voice.

We will never give up the struggle for prescription drug coverage under Medicare until we mend the broken promise of Medicare and guarantee senior citizens the prescription drug coverage they deserve. And we will never give up the fight for a strong, effective patients' bill of rights.

Now we will move to a patients' bill of rights conference with the House of Representatives and try once again. We commit today that we will do everything we can to make the conference a success. We will never give up this fight until all patients receive the protection they deserve. We will not rest until medical decisions are made by doctors, nurses, and patients, instead of insurance company bureaucrats.

Finally, I want to once again commend my two friends and colleagues who provided such important leadership here on the floor of the Senate. They were valued advisers, counselors, and helpers in trying to work through, in a constructive and positive way, the differences that existed. They took an enormous amount of time, including great diligence, expertise, and understanding of the issues at stake; They were enormously constructive and helpful in trying to move this in a positive way. We were unsuccessful in that phase of this path towards completing our mission of achieving an effective Patients' Bill of Rights, but we are all committed to achieving it ultimately. I thank them for all the good work they have achieved.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank Senator KENNEDY and Senator EDWARDS for the over-a-year-long effort we have been involved in attempting to reach agreement on S. 1052, the bipartisan Patient Protection Act. It has been over a year since the Senate passed it. It has been just under a year since another version was passed by the House of Representatives. The White House was instrumental in crafting the House-passed version.

So since last year Senator KENNEDY, Senator EDWARDS, and I have worked with the White House in the hopes of reconciling the Senate and the House bills. Much progress has been made as a result of these negotiations. But, regrettably, a resolution eludes us, and I think it is time to appoint conferees.

America has been patiently waiting for Congress to pass a Patients' Bill of Rights. It will grant American families enrolled in health maintenance organizations the protections they deserve. For too long this vital reform has been frustrated by political gridlock, principally by trial lawyers who insist on the ability to sue everyone for everything and by the insurance companies that want to protect their bottom line at the expense of fairness. Caught in the middle are average citizens who are members of HMOs. Americans want and deserve quick enactment of this legislation.

Several years ago I began working with my colleagues on both sides of the aisle to address the problems in HMO's provisions in health care and to craft a bipartisan bill that truly protects the rights of patients in our Nation's health care system.

The Senate passage of the bipartisan Patient Protection Act furthered the effort to restore critical rights to HMO patients and doctors.

I, again, express my appreciation to the Senator from North Carolina, Mr. EDWARDS, for his incredibly fine work. Both the Senate- and the House-passed versions contain important patient protections for the American people. I am confident that with perseverance we can resolve the few differences that remain. If we do not continue to work toward a resolution on this issue, we will be turning our backs on strong patient protections included in both bills.

This is really the shame of our failure so far because included in both bills are external and internal review, direct access to an OB–GYN for women, direct access to pediatricians for children, access to clinical trials for cancer patients, access to emergency room care, access to specialty care, and access to nonformulary prescription drugs. If we do not negotiate, and if we do not reach a successful conclusion, these important commonalities and progress will be lost.

I believe a conference report represents one final opportunity to work out the differences between the House and Senate efforts to enact meaningful HMO reform. I remain committed to working with Members of both bodies, and with the President, to make sure we will enact into law these important protections for which too many Americans have waited far too long.

I look forward to working with my colleagues in conference to bridge the differences between the House and the Senate bills and provide patients with the protection they deserve.

The problem, as I see it, is that we have very small differences, and during the course of our negotiations there will be different versions about how close we came and what our differences were. But I believe they were very narrow differences, and I am very disappointed that they were unable to work out. And I got to spend a lot more time than my colleagues wanted—Senator KENNEDY and Senator EDWARDS and I together—but I believe there was a good-faith effort made.

I believe we are going to lose so many important advances on behalf of patients because of a small difference that really has to do with cases that will be adjudicated in court. And that is a very small number of these cases because with internal and external review, and other safeguards in the bill, there would be a minuscule number of cases that actually would end up in court. And that is the aspect of this agreement on which we were unable to reach agreement with the White House. And I regret it very much.

So as Senator KENNEDY just stated, I believe we will prevail over time, just as we have prevailed on other issues over time, because this is something the American people need and deserve.

There are too many compelling cases out there of people who have been deprived of fundamental care which has inflicted incredible damage, hardship, and sorrow on so many Americans because they have been deprived of simple rights, such as a woman to see an OB–GYN, such as the right of a child to see a pediatrician, such as a doctor making a decision rather than a bureaucrat.

This is what it is all about: Who makes the decisions on patients' care? Should it be someone who is wearing a green eyeshade who can count up how much the costs are or should it be a doctor, a qualified physician, who makes the decision? That is really what this reform is all about.

Unfortunately, it has gotten hung up over court proceedings and who should go to court and whether there should be caps on economic and punitive damages, and other aspects of the minuscule number that would ever be required to do so.

So I hope we can all step back and look at this situation. In the context of how far we have gone, we have gone 99 percent of the way in doing what my colleagues and I set out to do a long time ago; and that was to provide members of health maintenance organizations with fundamental protections which they need and deserve.

So, again, I conclude by thanking Senator KENNEDY and Senator EDWARDS for their hard work and for their dedication to the resolution of this issue. I thank the White House for their efforts as well. In the little interest of straight talk, I think from time to time they were constrained by the other body in the latitude as to the agreements they could make, but I also understand that is how the system works.

But I believe that while we are gone in August, back with our friends and neighbors and fellow citizens, our friends and neighbors are going to come to us and say: Look, we deserve this legislation—the millions and millions of Americans who are members of HMOs—we deserve that we get certain basic protections.

I hope that will reinvigorate us, upon our return, to enact final legislation and resolve the few remaining differences in this bill.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from North Carolina.

Mr. EDWARDS. Madam President, first, I say thank you to my colleagues and my friends, Senator McCAIN and Senator KENNEDY, who have worked so hard on this legislation. Senator KENNEDY worked long and hard on this before a number of us, including Senator McCAIN and myself, became actively involved. He has been rowing the boat for a long time. And his work has been critical to the progress that has been made on behalf of patients. And Senator McCAIN has had such an enormous influence on the work that has been done and the progress that has been made.

Today conferees will be appointed, which is unfortunate. I want to say a word about why this matters and why it matters for people, for patients, and why most of the people in this country don't care at all about the process or the procedures inside the Senate or a conference between the House and the Senate. All they care about, and all they know, is they write those checks every month to the insurance company for their insurance premiums, and they want to get what they are paying for.

They expect, if they are going to pay the insurance company for health care coverage, they ought to get it. If their child needs to see a specialist, that child ought to be able to see that specialist. When they are going to the emergency room, they should not have to call a 1–800 number to get permission to go.

If a woman wants to participate in a clinical trial, she ought to be able to participate in a clinical trial. If the insurance company and the HMO say, we are not paying for this, we will not give you the care toward which you have been writing those checks for every month, they ought to have a simple, inexpensive, fast way of getting that decision overturned. That is what the Patients' Bill of Rights is about. It affects real people's lives.

There is a fellow from North Carolina named Steve Grissom whom I got to know over time. Steve developed all kinds of health problems as a result of a blood transfusion. It got to the place where he needed oxygen basically 24 hours a day in order to continue to function. All of his doctors, including a specialist at Duke University, said he needed it—everybody except an HMO bureaucrat who came along after the fact and said: You don't need this. We are not going to pay for it.

Steve, because of what happened to him, became an enormous advocate for doing something about patients' rights and the Patients' Bill of Rights. He became a powerful, passionate voice for regular people against the HMOs in order to do what needs to be done for families to be able to make their own health care decisions.

Steve lost his life this week, not as a result of what the HMO did, but he is the personification of the problem that exists all over America and what HMOs are doing to patients all over America. Millions and millions of people, children, and families can't make their own health care decisions. Health care decisions are being made by bureaucrats sitting behind a desk somewhere who have no training, no business making those kinds of decisions, and the patients and the families can do nothing about it. They are totally powerless.

HMOs live in a privileged, rarified world that no other business in America lives in. In this era of corporate responsibility, we are trying to say on the floor of the Senate that corporations ought to be held accountable for what they do, for their decisions, they ought to be responsible for what they do; not HMOs, HMOs can do anything they want, and we are powerless to do anything about it.

What the Senate did in the Patients' Bill of Rights, which received strong bipartisan support, was create real rights for patients: Allowing people to make their own health care decisions, to go to the emergency room, to participate in clinical trials, to get bad decisions by HMOs overturned. That is what we did in the Senate. All we said was this: We want HMOs to be treated like everybody else. Why in the world should every person in America be responsible for what they do, every other business in America be responsible for what they do, but we are going to put HMOs up on a pedestal and treat them better and differently than everybody else? They can't be held responsible. They can't be held accountable. They are different. They are better than all the rest of us.

Well, they are not. They are just like everybody else. What could be a better example of the abuses that occur than what we have seen happen over the course of the last several months with the corporate irresponsibility that has had an enormous effect on all American people—investors, Wall Street, the economy?

In this era of trying to do something about corporate responsibility, are we going to maintain this special, privileged, protected status for a group of businesses that have proven—there is no question about it—that they are willing to engage in abuses, all in the name of profit and all at the expense of patients? That is what this is all about.

That is the reason virtually every group in America that cares about this issue supported the Patients' Bill of Rights that passed the Senate. Unfortunately, when the bill went to the House, a much weaker bill passed, a bill that in many cases would have actually taken away rights that States had put into place on behalf of patients. Many would argue it was an insurers' bill of rights, not a Patients' Bill of Rights.

If you put the bills side by side, on every single difference between the Senate bill and the House bill, the Senate bill favored the patients, the House bill favored the HMOs. It is no more complicated than that. As a result of having two bills passed—a strong bill in the Senate and a weak bill in the House—it was necessary for Senator McCAIN, Senator KENNEDY, and me to begin negotiating with the White House because, as I said earlier, the people of this country couldn't care less about the process of what goes on inside Washington. They want to be able to make their own health care decisions. They depend on us to do something about that.

So over the course of many months, Senator McCAIN, Senator KENNEDY, and I had a whole series of meetings, many meetings over long hours, to talk about trying to bridge the differences. I do have to say, on every single one of the discussions, the differences between us and the White House in the negotiations were the same as the differences between the Senate bill and the House bill. Our position favored the patients; their position favored the HMOs.

They did make a good faith effort to talk to us. Senator KENNEDY, Senator McCAIN, and I made a very good faith effort to try to bridge the gap. The differences could not be bridged.

At the end of the day, decisions have to be made. To the extent there is a conflict, you have to decide which side you are on. You can compromise. You can compromise. You can compromise. We made so many proposals in these discussions, new, creative proposals to try to bridge the gap, to try to find a way to bring the differences together. Over the course of time, we did make progress. Senator McCAIN said that. He is right. We did make some progress.

But at the end of the day, a judgment has to be made about whether you are going to decide with patients and families or whether you will decide with the HMOs. It gets to be a fairly simple judgment.

At the end of the day, the White House stood with the HMOs, and we were with the patients, as we have always been. We were willing to compromise. We were willing to make changes. We were willing to do things to get something done. Throughout the whole discussion, we were willing to do that. But our focus was always on the interests of the patients, not on the interests of the HMOs. We knew the HMOs were being very well represented, both in terms of their voice here in Washington and on Capitol Hill, and their influence with the administration.

Unfortunately, this is a pattern. This is not one isolated example. The White House stands with the HMOs, and has throughout this process, and against patients. They have done exactly the same thing in standing with pharmaceutical companies. When we try to do something about the cost of prescription drugs, about bringing a real and meaningful prescription drug benefit to senior citizens, we know where they are; they are with the pharmaceutical companies. They always have been.

The same thing is true when we try to protect our air. Right now they are changing the law, the regulations under the Clean Air Act, to give polluters, energy companies, the ability to pollute our air at the expense of children with asthma and senior citizens who have heart problems. We know where they stand. They don't stand with the people who are going to be hurt. They stand with the energy companies that are doing the polluting.

Over and over and over, they were dragged kicking and screaming into doing something about corporate responsibility, and they finally embraced the Sarbanes bill that passed in the Senate. This is not an isolated incident. This has happened over and over and over. And at the end of the day, it is about corporate responsibility. There is absolutely no question about that.

We will, though, get a bill. We will get a bill for exactly the reason Senator McCAIN said: Because ultimately we will do what the American people are demanding that we do. They have been saying to us for years now: We are not going to continue to stand by and have HMOs run over us. We will not let insurance companies make health care decisions. We want you, our elected leaders, to make decisions that are in our interest, not in the interest of the HMOs.

We all know we can't move out here without bumping into some lobbyist for an HMO. They are everywhere. Who is going to look out for the interests of regular people in this country, for kids and families who need to be able to make their own health care decisions? We are going to; that is who is going to.

That is why, when this process is over, we will have a real Patients' Bill of Rights. We will put decisionmaking authority back in the hands of kids, back in the hands of families. And if HMOs are going to make health care decisions, they ought to be treated just like the people who make health care decisions every day—doctors and hospitals.

We never said we wanted them to be treated any worse. What we did in the Senate was pass a bill that said exactly that. If you make a health care decision—if some HMO bureaucrat makes a health care decision and overrides the decision of a doctor or of a hospital, they are going to be treated exactly as the hospital and the HMOs are treated. They will stand in the shoes of the people who make the decisions. We are going to treat them as everybody else.

Madam President, we are still optimistic. We believe we can do what needs to be done for the American people. This is a critical piece of legislation to families all over America. We will not stop. We will not stop until this legislation and this law that is so desperately needed is signed by the President of the United States.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Madam President, they said they are standing with the American public on what they are demanding. The American public is demanding health care insurance. The Patients' Bill of Rights dramatically increased the cost of health insurance. If we are interested in what the American public is demanding, it is lower health insurance bills. What they would have gotten if this bill had passed and become law in the Senate is higher health care bills, because under this bill we would allow employers to be sued—yes, not HMOs. You always hear HMOs, HMOs. Look, I am happy to have HMOs, but what this bill allows, what they have been arguing for from day one is to allow people who have employer-provided insurance is to let the employer be sued.

To be clear, I haven't talked to one employer in Pennsylvania who, if the Senate bill were passed, which allows employers to be sued simply by providing insurance to their employees—I haven't talked to one who said: I am out of the insurance business; that is not my job; that is not why I provide insurance to employees. I do it as a benefit and to be competitive in the marketplace. But do you know what. I am not going to open up the books and the entire revenues of my company to trial lawyers suing on behalf of my employees because they got a bad health care outfit.

This bill will not only drive up costs, but it will drive employers out of providing health insurance. That is not what the American public is demanding. They are not demanding higher costs and to be uninsured by their employers. That is what this bill would do.

I respect greatly the President for standing firm and saying we are not going to cause massive uninsurance, we are not going to cause massive increases in health insurance, all to the benefit of the trial lawyers of America. That is not what we are about, and it is not what the American public wants, and that is not what we are going to do. I thank the President for not going along with this scheme to end up driving the private markets into the ground and then having those who drove the market into the ground come back to the Senate floor and say: See, look, private employers are not doing their job anymore, so we need a Government-run health care system; let's pass that.

Madam President, that is not why I got up to talk. That is what happens when you listen to other people's speeches.

THE PRESIDENT'S FAITH-BASED INITIATIVE

Mr. SANTORUM. Madam President, we have been trying over the last few hours to get a unanimous consent agreement on the President's faith-based initiative called the CARE Act, passed out of the Senate Finance Committee on a bipartisan basis. We have been working, first, to clear a unanimous consent agreement to get the CARE Act, as passed by the Finance Committee, cleared without amendments being offered by either side, simply a managers' amendment that includes provisions not in the Finance Committee mark because the Finance Committee didn't have jurisdiction over those elements of the bill that Senator LIEBERMAN and I and the President have agreed on as a compromise. We tried to clear that, and there was objection.

So Senator LIEBERMAN and I talked with Senator DASCHLE to see if we could clear a unanimous consent with the limitation on amendments—not relevant amendments but simply tax amendments. We suggested five on either side. That was cleared on our side. That was acceptable to us, to have a limitation on amendments of five on each side. We have just been informed that is not acceptable on the Democrat side. We asked if six was. No. Seven? No.

So my concern is that we will not take the bill clean or with a limitation on amendments. I guess I have to ask—and I will not propound a unanimous consent request, but I believe there are Members on both sides working in good faith to see if we can get this piece of legislation before the Senate and get it enacted into law. It is something I know Members on both sides of the aisle feel very strongly about—to support charitable giving at a time when charitable giving has really taken it on the chin, other than with respect to 9/11. With the stock market down, we have seen charitable giving go down and, in some cases, dramatically. This is needed to help the nonprofit sector to provide for the human service needs out there in America.

So I will withhold a unanimous consent request, even though I think we had some agreement to try to propound one tonight, because there are objections on the Democratic side of the aisle. I just encourage my colleagues on both sides of the aisle to try to work with us to see if we can find a regime in which we can bring this legislation to the floor with some sort of limitation on amendments and debate and have a good discussion and then move forward and pass this legislation. Maybe even if it is acceptable, we can get the House to accept it and move it on to President, and we must go to conference.

I hope we can work in a bipartisan spirit to help. This is targeted to help those who are in need in our society. It is something the President cares about and Senator LIEBERMAN, as do others, including Senator DASCHLE.

Let's have a good-faith effort here to move forward on this legislation and find some sort of unanimous consent agreement to move us forward on this important piece of legislation that is so needed by those who want to be helpful to others in need in our society.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, I ask unanimous consent that I may be allowed to proceed in morning business for up to 30 minutes.

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

Mr. GRAHAM. Will the Senator allow me to enter a unanimous consent request as well?

Mr. BENNETT. I am happy to.

Mr. GRAHAM. Madam President, I ask unanimous consent that I be allowed to speak as in morning business up to 20 minutes immediately after the Senator from Utah.

Mr. REED. Reserving the right to object. I have been waiting patiently for many moments. I only have approximately 5 or 10 minutes to speak, and I have a press deadline. The way it is right now, I will get the floor an hour from now. Is there a way I might be able to go before my colleagues?

Mr. BENNETT. Madam President, I have no problem with the Senator from Rhode Island going ahead. I have been waiting while the other three Senators went through. I don't have to worry about a press deadline in Utah. We have probably already passed it. I am happy to allow the Senator from Rhode Island to go first if the Senator from Florida is agreeable.

Mr. GRAHAM. I am agreeable to the unanimous consent agreement that I follow the Senator from Utah.

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

The Senator from Rhode Island.

Mr. REED. Madam President, let me thank the Senators from Utah and Florida for their graciousness in allowing me to go forward.