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## Senate

The Senate met at 1:45 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Creator and upholder of our lives, we can't escape from Your presence or control, nor do we desire to do so. We stand in awe of Your power, mercy, and majesty. Our thoughts of Your goodness banish our fears. Today give to the Members of the Senate a high sense of the common purpose that unites them. Deliver them from that stubborn pride that imputes to itself infallibility and that pits partisanship against national interest. Father of all, guide our lawmakers through discussion, debate, and confrontation to the solutions so desperately needed in our land. We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic 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 assistant clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 15, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a

Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business for Senators to speak for up to 10 minutes each. There will be no roll-call votes today. Tomorrow Senators should expect a cloture vote on the motion to proceed to the Travel Promotion Act. That will be prior to our weekly caucus luncheons.

This week, we are going to do the best we can to complete the Travel Promotion Act and the supplemental bill. We should be able to do that and, hopefully, get some nominations done. Next week, we have other things we need to do, including the Homeland Security appropriations bill. I spoke with the Republican leader on a number of occasions on that issue. To get to it next week, we need a consent agreement because the House will not act on it until probably Wednesday of next week or something like that. It does not give us enough time, and we need to start earlier. We will work on that and see what we can come up with.

We have announced before that the 5 weeks after we get back from the Fourth of July recess will be very busy with a lot of work. The HELP Committee and the Finance Committee are going to have their bills reported out of their committees before we leave a week from Friday so we can start working on the health care legislation in the Senate.

The next work period will be very heavy, although we have—I cannot complain—we have been able to complete a tremendous amount of legislation. I was told over the weekend the work we have been able to do to this point is as much as any President has ever accomplished and Congress has accomplished with the President during the first 5 months of a legislative session but for the first time of Roosevelt.

We passed some major legislation. We should all feel good about that. But there is so much more to do. We have to roll up our sleeves and work even harder with health care and energy not far down the road.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Virginia is recognized.

### SENIOR NAVIGATION AND PLANNING ACT OF 2009

Mr. WARNER. Mr. President, I rise today to talk about legislation to help

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



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seniors navigate through a complicated and often overwhelming health care delivery system. Because of the fragmented nature of our health care system, we often fail to provide patients, their families, and caregivers with the necessary tools, information, and support to both age well and with dignity in the setting of their preference, oftentimes their homes.

I believe if we provide patients with better information about advanced care planning in noncrisis situations, they will make decisions for themselves and their families that result in better care and a better quality of life.

Today I am introducing the Senior Navigation and Planning Act of 2009 to help seniors and their families navigate through a complex system and to help them make informed medical decisions. My legislation would provide access to an advanced illness care management benefit, a benefit that does not exist currently in our health care delivery system.

My legislation, as well, would increase the awareness of advanced care planning through a national education campaign and clearinghouse. It would also reduce legal hurdles to the enforcement of advanced directives. It would create incentives for hospitals and physicians to get accredited and certified in palliative care. It would increase compliance with medical orders and discharge instructions. Too often a patient may leave a hospital, not do the appropriate actions afterwards, and not follow the discharge information, which can result in the patient being readmitted to the hospital or ending up with their health care provider not having the appropriate followup. We have to make sure we put an end to that.

My legislation would also educate entities, including faith-based organizations, on advanced care planning issues. Oftentimes an individual or family, when dealing with end-of-life issues, will turn not only to their medical provider but oftentimes to their priest or rabbi or minister. We want to make sure folks in the faith-based community understand the challenges and opportunities people have with advanced care planning.

My legislation, as well, would increase coordination and integration between the Medicare and Medicaid Programs. Too often these programs that both deal with seniors, their health care issues, and aging issues do not cooperate or collaborate.

Collectively, these initiatives will create a more accessible environment for seniors to receive the care they need when they need it, and in the setting they prefer.

Let me be clear, this legislation does not deny or withhold services. However, it does recognize that overall health reform should include a thoughtful process that informs patients, their families, and caregivers on how to navigate and think through difficult decisions about when and how to pursue treatments at the end of life.

By enacting these reforms, we will begin to develop a culture in which all of us will have the ability to age well, with dignity, and, again, in the setting of our choosing.

I ask unanimous consent to have printed in the RECORD letters of support from the following organizations: the AARP, the Alzheimer's Foundation, the Duke University Divinity School, the Institute on Care at the End of Life, the National Hospice and Palliative Care Organization, UnitedHealth Group, and Aetna.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL HOSPICE  
AND PALLIATIVE CARE ORGANIZATION,  
June 12, 2009.

Senator MARK WARNER,  
*Russell Senate Office Building,  
Washington, DC.*

DEAR SENATOR WARNER: On behalf of hospice programs across the nation, their professionals, volunteers and most importantly, the patients and families they serve, the National Hospice and Palliative Care Organization is writing to express our support for your Senior Navigation and Planning Act of 2009. This health reform legislation will strengthen the quality of end-of-life care, and make it more cost-efficient through enhanced resources to allow more informed choices and prevent unnecessary and costly medical procedures.

Research has shown that individuals who have discussions about end-of-life care have less invasive medical treatments, and a higher quality of life. We are pleased that your bill enhances access to additional resources for end-of-life care planning, including: a new transitional benefit delivered by hospice teams for patients with advanced illnesses, an expanded use of advance directives, and increased public awareness of the importance of end-of-life planning. These tools implemented nationwide could help reduce Medicare spending by \$15 billion over 10 years.

Your legislation will ensure that patients and families are able to navigate the journey at the end of life with the necessary information and support that will bring dignity, quality care, and hope when they are most needed. For more than 30 years, hospices have been providing high-quality care to people at one of life's most challenging times—and research has shown hospice saves Medicare more than \$2 billion every year. This legislation uses the knowledge and expertise of the hospice and palliative care community in a valuable way.

The Senior Navigation and Planning Act of 2009 will give patients and their families coping with life-limiting illnesses the kind of information and services they need. The National Hospice and Palliative Care Organization strongly endorses your bill, and appreciates your support of strengthening high-quality and compassionate end-of-life care for the 1.4 million Americans who choose hospice each year.

Sincerely,  
J. DONALD SCHUMACHER, PSYD,  
*President/CEO.*

DUKE INSTITUTE ON  
CARE AT THE END OF LIFE,  
June 11, 2009.

Senator MARK R. WARNER,  
*Russell Senate Office Building,  
Washington, DC.*

Re The Senior Navigation and Planning Act of 2009.

DEAR SENATOR WARNER: In my career as a pain and palliative care physician, I have be-

come convinced that innovative models of care that can leverage both community desire and community assets for engagement in the care of the ill and dying—including the involvement and assets of faith communities—are urgently needed.

Almost all patients and families experience illness within their community and receive episodic acute care in the hospital. Meeting the needs of patients requires an approach that raises public awareness, provides training and resources to family members and loved ones, and connects the resources of the hospital environment with care resources in the community. Faith communities are logically and historically positioned to be a locus of effective care for the ill and the dying and are a relatively untapped resource to meet the health care needs in the community.

The Senior Navigation and Planning Act of 2009 provides the groundwork that can spark such innovative models and has tremendous potential to improve care for the rapidly growing numbers of individuals with advanced illness or who are at the near end of life. I applaud this effort and offer you my wholehearted support for its passage.

Sincerely,  
RICHARD PAYNE, M.D.,  
*Professor of Medicine and Divinity.*

ALZHEIMER'S FOUNDATION OF AMERICA,  
June 9, 2009.

Hon. MARK R. WARNER,  
*U.S. Senate, Russell Senate Office Building,  
Washington, DC.*

DEAR SENATOR WARNER: The Alzheimer's Foundation of America (AFA) is pleased to endorse the Senior Navigation and Planning Act of 2009. On behalf of AFA and its members, thank you for your leadership in introducing this important legislation.

AFA was formed in February 2002 "to provide optimal care and services to individuals confronting dementia, and to their caregivers and families—through member organizations dedicated to improving quality of life." Today, the Alzheimer's Foundation of America's membership consists of more than 1,200 member organizations that provide hands-on programs and services from coast to coast, including grassroots nonprofit organizations, healthcare facilities, government agencies, public safety departments, and long-term care communities.

Dignity, respect, and quality of life are the treatment goals for individuals in the end stage of Alzheimer's disease and related dementias; as well as support, training and respite for family caregivers. The Senior Navigation and Planning Act would greatly help those with dementia and their families by establishing a new transitional care benefit through hospice for Medicare and/or Medicaid beneficiaries with a life expectancy of 18 months or less. Valuable services provided under this new benefit would include: palliative care consultation services; care planning services; counseling of individual and family members; discussions regarding the availability of supportive services including information on advanced directives and other end-of-life planning tools; encouragement of patient-centered care; family conference services; respite services up to 16 hours per month; and caregiver training provided at the caregivers' home focused on providing effective personal and technical care.

For the millions of Americans with Alzheimer's disease or a related dementia, advance directive planning services are essential. To address this challenge, the Senior Navigation and Planning Act would create a national awareness campaign of advance directive planning. It would also establish a toll-free telephone line and clearinghouse that the public and health care professionals

may access to find out about state-specific information regarding advance directives and end-of-life planning decisions.

This legislation will allow eligible beneficiaries and their family caregivers to receive the information they need about advance directive and other end-of-life planning tools directly from their physicians. In addition, hospitals, skilled nursing facilities, home health agencies, and hospice programs will be required to provide the opportunity to discuss the general course of treatment expected, the likely impact on the length of life and function, and the procedures they should use to secure help if an unexpected situation arises. Such services will not only help improve quality of life, but will also help to reduce the stigma and fear of facing end-of-life issues in general.

The Senior Navigation and Planning Act would further protect the rights of individuals by requiring providers to honor written medical orders as a condition of payment. The bill would also provide incentives for hospice and palliative care accreditation and certification by providing bonus payments for those facilities with programs in place and a payment cut for facilities that do not have an accredited palliative program in place by 2020.

Beneficiaries with Alzheimer's disease and related dementias place heavy demands on the health care system. Because of the unique nature of their disease, individuals with cognitive impairment must rely on family caregivers and others to identify and obtain the right mix of services and supports to maintain their health and to live in the community as long as possible. This legislation would take the much-needed step of creating an Office of Medicare/Medicaid Integration to align program policies. The Office would simplify dual eligible access to Medicare and Medicaid program benefits and services; improve care continuity and ensure safe and effective care transitions; eliminate cost shifting between programs and among related care providers; eliminate regulatory conflicts; and improve total cost and quality.

Faith-based organizations often play a key role in end-of-life decision-making and planning for those with terminal illnesses. The Senior Navigation and Planning Act would empower the Secretary to create web-based materials as well as to establish end-of-life home-based service, training and education grants specifically for faith-based organizations. For individuals with end stage Alzheimer's disease and related dementias and their family caregivers in particular, faith-based services, training and support can make a world of difference in an otherwise isolating situation.

AFA is the face of care for individuals and their families who are affected by Alzheimer's disease and related dementias. We are proud to support the Senior Navigation and Planning Act and we look forward to working with you to advance this important legislation. If you have any further questions, please feel free to contact me, or have your staff contact Sue Peschin, AFA vice president of public policy.

Sincerely,

ERIC J. HALL,  
President and Chief Executive Officer.

UNITEDHEALTH GROUP,  
PENNSYLVANIA AVENUE, NW.,  
Washington DC, June 11, 2009.

Hon. MARK WARNER,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR WARNER: I am writing to express UnitedHealth Group's strong support for your legislation, the Senior Navigation and Planning Act of 2009, which better equips seniors with the necessary tools, information

and support needed to make informed medical decisions and ensure they receive the highest quality care.

Your legislation will fundamentally transform the way terminally ill patients and their families navigate the difficult decisions encountered at the end-of-life. We understand that when the elderly and their families are provided with relevant information and resources about care options such as hospice, palliative care, and the use of advanced directives, they are able to make more informed and personally appropriate decisions. By combining the best practices found in the public and private sectors, this legislation will go a long way in ensuring that patients facing the end-of-life are provided—through shared decision making with their physicians and caregivers—the most appropriate and sensitive care. UnitedHealth Group strongly supports patient-centered care, support services and planning tools for those with advanced illnesses. We applaud your focus on this important issue within the health reform debate.

UnitedHealth Group has a strong commitment to patient-centered end-of-life care, as demonstrated by the following programs and options that we offer to both Medicare beneficiaries and commercially-insured people:

Evercare Hospice and Palliative Care which operates in ten states and serves more than 1,200 people a day for their end-of-life needs.

The Advanced Illness Care Model which is offered through our Medicare Advantage and Special Needs Plans. This model provides coordinated care for patients with advanced illnesses and supports education for patients and their families regarding their clinical condition and the management of quality of life treatment issues in the last twelve months of life.

The Evercare Institutional Special Needs Plans (SNPs), which are specialized health plans that deploy nurse practitioners in nursing homes to assist in coordination of care and other planning services.

The UnitedHealth Care Hospice benefit which is an industry leader in the comprehensiveness of its plan offerings.

As a result of this accumulated experience, we understand that providing access to early and comprehensive hospice and palliative care services results in an increase in the quality of life for patients and reduction in futile and duplicative clinical interventions.

In conclusion, we are especially encouraged that your bill:

Creates a transitional care benefit to increase access to palliative care;

Establishes a national education campaign and clearinghouse providing advanced care planning resources;

Assures portability of advanced directives across states;

Creates incentives for hospitals and physicians to get accredited and certified in hospice and palliative care; and

Increases integration and coordination between the Medicare and Medicaid programs.

Thank you for your strong leadership in the U.S. Senate on this issue of critical importance to the entire health care system. We look forward to working with you to advance the Senior Navigation and Planning Act of 2009 and on other areas to strengthen our health care system.

Sincerely,

REED V. TUCKSON, MD,  
Executive Vice President and  
Chief of Medical Affairs.

AETNA,  
FARMINGTON AVENUE,  
Hartford, CT, June 15, 2009.

Hon. MARK R. WARNER,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR WARNER: Aetna is pleased to support the Senior Navigation and Planning Act of 2009. This legislation will strengthen the quality of counseling, support services, and care management for patients and families coping with life-limiting illnesses. We commend you for your leadership on these critical issues.

Aetna, itself, has been a leader in advocating for compassionate care in the face of life-threatening illness. In April 2004, Aetna announced a comprehensive program of case management support and expanded benefits to help Aetna members and their families cope more effectively with the complex medical and emotional issues associated with the end of life. In an innovative move, Aetna provided coverage for hospice benefits while allowing members to continue with curative care, and to do so with a life expectancy of twelve months instead of the six months Medicare allows. Aetna also pioneered a comprehensive program of case management provided by nurses trained in advance illness and in coordinating care in a manner that respects ethnic and cultural traditions.

Member reaction to Aetna's Compassionate Care Program has been gratifying. Ninety-six percent of participants' caregivers said they believed the member's needs for pain management and symptom relief were met in the final months of life. Sixty-three percent of program members accessed hospice, a significant increase over traditional Medicare.

In the pursuit of curative care, we too often fail to engage patients and loved ones in discussions of additional options for dealing with advanced illness and to support them in their choices. This legislation will help change that by facilitating the ability of patients and families to make informed decisions at times of stress and vulnerability. Aetna supports this legislation, and hopes to collaborate in the realization of its goals. We look forward to working with you and your Congressional colleagues to advance the quality of health care for all Americans.

Sincerely,

LONNY REISMAN, MD,  
Chief Medical Officer.  
RANDALL KRAKAUER, MD,  
Head of Medicare  
Medical Management.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### JUDGE SOTOMAYOR HEARINGS

Mr. MCCONNELL. Mr. President, it was less than 3 weeks ago that the President announced his intentions to nominate Judge Sonia Sotomayor to the Supreme Court. In announcing her nomination, the White House made much of the fact that the judge had the