

care, this nomination has only re-ignited the debate over the Democratic health care plan. By recess appointing a man who has sung the praises of the government-run British health care service, the administration is only inviting Americans to ask more questions about its own plans.

I would have thought that anyone would be able to understand the significance of getting answers from an avowed admirer of rationed care before putting him in charge of implementing this administration's \$500 billion Medicare cut.

But by denying the American people an opportunity to hear Dr. Berwick defend his past statements and his future plans, the administration is now forcing the Democrats who voted for the Democratic health care plan to defend Dr. Berwick and his views themselves. The administration may have shielded this nominee temporarily, but it has only exposed Democrats in Congress who voted for this bill and everything that follows from it—including this truly outrageous appointment.

This appointment is the latest evidence of how little the administration has concerned itself with the views of the public. When a majority of Americans and an overwhelming majority of Kentuckians opposed its health care plan, they cut deals with Democratic Senators to squeeze it through Congress. Now they are not even bothering with Congress. They are unilaterally installing people such as Dr. Berwick to take charge of its plan for $\frac{3}{2}$ trillion in Medicare cuts.

This has been the administration's approach all along: Go around the American people, and now go around Congress. The administration can try to blame Republicans for a debate they do not want to have. But by denying Congress the ability to scrutinize this nominee, it only raises Americans' suspicions about its health care plan and increases the burden on Democrats who supported it.

Back in March, Speaker PELOSI remarked that we would have to pass the health care bill to find out what is in it. This nomination is part of the same arrogant approach. The same administration that forced this bill on an unwilling public has now forced Don Berwick on to anyone with Medicare and Medicaid. Now Democrats who voted for this bill will have to answer for his statements and for his views.

Mr. President, I yield the floor.

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 of morning business, with Senator permitted to speak therein for up to 10 minutes each.

The Senator from Illinois.

HEALTH CARE APPOINTMENT

Mr. DURBIN. Mr. President, the speech which the Senate just heard from the minority leader on the Republican side is consistent with the Republican position on health care reform. They opposed it. They voted against it. They want it to fail. They do not want to give this health care reform a chance.

It is interesting that although they oppose health care reform, I have yet to hear the first Republican Senator come to the floor and suggest: Well, the first thing we need to do is to make sure we eliminate—eliminate—the tax credits and deductions for America's small businesses to help pay for health insurance that were part of the health care reform plan.

I have never heard them say that. They opposed the plan. Do they oppose the help we are going to give small businesses across America to afford health insurance for their employees? That is what repeal is all about.

Secondly, I have never heard a Republican Senator come to the floor and say: We want to repeal the \$250 check which will be sent to thousands of Americans currently under Social Security, Medicare prescription Part D, to help pay for the gap in coverage in the so-called doughnut hole. That was part of the health care reform plan. So those who come to the floor asking for repeal of health care reform obviously want to repeal this check for senior citizens. I have not heard that said one time.

I have also been waiting for the Republicans who want to repeal health care reform to stand before the Senate and say, honestly, openly: We want to eliminate health care insurance coverage for 30 million Americans who will have it for the first time in their lives—30 million uninsured Americans who will have health care insurance coverage because of health care reform. To repeal health care reform is to repeal that coverage for 30 million Americans.

I have yet to hear the first Republican come to the floor and say they want to repeal extending health insurance coverage and the peace of mind that comes with it. I am waiting for the first Republican who wants to repeal health care reform to stand before the Senate and say: We want to take away the power given in this health care reform to individuals so they can fight health care insurance companies that turn down coverage for families because of preexisting conditions. It happens every day in Illinois, in Oregon, in Arizona, in Kentucky.

The bill we passed gives American families a fighting chance against those health insurance companies. Those who are calling for repeal want to take away the power of families to fight for health insurance coverage when they need it the most.

I have yet to hear the first Republican who calls for repeal of health care reform go to families with kids in college and tell them: We oppose that provision in health care reform which extends family health insurance coverage for young people until they reach the age of 26. Those of us who have raised college-aged students know that is a blessing to have those kids—I call them kids—those young people under your family health care plan after they graduate from college until they reach the age of 26—a period of time when some of them are off taking a trip of a lifetime after graduation or looking for a job and do not have health insurance coverage.

I can recall calling my daughter Jennifer: "This is Dad. I am so happy you graduated from college. Do you have health insurance?" "Oh, Dad, I feel fine. You know, I'm healthy and strong." "No, Jennifer. You need health insurance."

The law we passed, the health insurance we passed, is going to give a family coverage to protect their kids until the age of 26. Those who want to repeal it want to undo that provision. But I have yet to hear them say that on the floor.

They have a different strategy. Senator DEMINT of South Carolina made it clear when the health care reform debate started that the purpose of the Republican effort was to defeat health care reform. In his words: We want health care reform to be Barack Obama's Waterloo in politics. He was very clear. They wanted the President to fail, they wanted health care reform to fail, and they still do. Their latest strategy was to stop the President from putting in place a person to run the program—someone who would try to make it work, someone who would look at the things we have done in Congress and make sure they work in the real world.

Last week, President Obama made a very sensible move, after waiting patiently for the Republicans to give us a chance to vote on a man to serve and to oversee Medicare and Medicaid as Administrator of CMS. His name is Dr. Donald Berwick.

CMS has been without a permanent Administrator since 2006, and it is time this important position be held and filled for the good of American families. This man, Dr. Berwick, is eminently qualified for this role. He is a Harvard pediatrician and policy expert who was committed to improving health care long before our debate started and who today is one of the foremost experts and leaders in health care quality and patient safety. The President appointed him last week when we were gone because my colleagues on the other side of the aisle, the Republicans, had made it clear they intended to elongate this debate on his appointment as long as possible, to rehash argument after argument instead of just giving us an up-or-down vote to let this man serve the Nation

and serve all of us who want quality health care.

Rather than work in a bipartisan way to get things right, to make sure we implement the health care reform that is decades overdue, the Republicans took a political position and held to it. The President was right to come down on the side of helping American families deal with health care rather than to engage in this never-ending political battle.

The Republicans delayed Dr. Berwick's nomination by bringing up the same talking points and the same Republican arguments we have heard again today and over and over again. They are entitled to their point of view, but Dr. Berwick is entitled to an up-or-down vote. The President decided he couldn't wait any longer and made this recess appointment.

By blocking nominees such as Dr. Berwick, the Republicans are blocking progress on improving health care in America. According to RollCall, a publication on Capitol Hill, the coordinated Republican message is called second opinion. I have seen some of my friends on the Republican side of the aisle come to the floor with large posters that say "Second Opinion." A Republican Senate aide says the effort is intended "to draw attention to the consequences of the health care law that the White House hopes people miss."

Well, whose second opinion is this? It is the same opinion we have heard from Republicans from the start who consistently voted against health care reform and refused—refused during the course of the debate—to put on the table any proposal which would extend health care coverage to 52 million uninsured Americans, help to hold down the costs, and give people a fighting chance against health insurance companies. Time and again, they criticized our efforts and never proposed a viable, comprehensive alternative.

Starting this year, we know children will never again be excluded from health insurance because of a pre-existing condition. That is in health care reform. Adults will no longer be dropped just because they get sick. Young adults will be allowed to stay on their parents' plan, as I said earlier, until age 26. These are real changes we are going to see this year. That is the way it should be—health insurance that is there when you need it, not the kind of health insurance where you pay premiums for a lifetime and pray to God you don't go to the hospital and get a diagnosis that says you are headed in for a surgery or a long-term illness and you are not going to have health insurance coverage. That is the reality for too many American families.

The Republicans have never offered an alternative. They have voted against this consistently, and now they want to stop President Obama in every effort to try to make this work for America.

I believe most Americans, even those who have questions about health care reform, believe it deserves a chance. They believe we ought to give it our best human efforts to make it work for America. They want to see us work together. They don't want to see these filibusters, they don't want to see these blockages, and they don't want to see the consistent policy of saying no to everything.

Don Berwick is a well-respected, accomplished, leading authority in health care. We are fortunate to have his expertise at the forefront of the agency charged with making many of the changes in health care delivery. He has the respect of Democratic and Republican leaders, including Mark McClellan, the CMS Administrator under President George W. Bush; Gail Wilensky, the CMS Administrator under President George H.W. Bush; Nancy Nielsen, immediate past president of the American Medical Association; Rich Umbdenstock, president and CEO of the American Hospital Association; John Rother, executive vice president of the AARP; and Ron Pollack, executive director of Families USA. The list goes on and on. He deserved a vote. The President deserves a team to make the law work. The American people deserve something more from the Republicans than the word "no." That is all we have heard in this session.

Now comes an election in just a few months, and the party of no is asking for another chance. This is the same party whose economic policies drove us into this economic recession under the previous President. After driving that car in the ditch, as the President has said, they are asking in November for the American people to give them the keys again and let them start it up all over. Well, we have learned a bitter lesson, and we are not going to repeat it. With so many millions of Americans out of work, with this economy struggling to survive, we cannot and should not return to the policies of the past. We cannot accept no for an answer when it comes to moving America forward.

I am glad the President made this decision to make a recess appointment of Dr. Berwick. He deserved a vote on this floor. He deserved a chance to have his day of service to our country. Sadly and unfortunately, the Republican policy of voting no and saying no to the President has led him to this conclusion and this interim appointment. I wish Dr. Berwick the best. We should now try to work with him to make this policy even better, to make sure more Americans have the peace of mind of having affordable health insurance when their family needs it the most.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

Now let me set the record straight. Republicans have never said no to Dr. Berwick. We have never blocked a vote on Dr. Berwick. There has never been a

vote called on Dr. Berwick. In fact, there has never even been a hearing on Dr. Berwick. Republicans have not stopped his nomination.

It is true there hasn't been a permanent director of the agency that Dr. Berwick will now head since 2006. When Barack Obama became President on January 20, he could have corrected that problem. But I suspect the reason he didn't nominate anyone to head CMS during the debate on the health care bill is because if Dr. Berwick was his nominee, the last thing the President wanted was a discussion of Dr. Berwick's views on health care. His views are antithetical to the views of the majority of the American people, supporting rationing, as he does, and his love affair with the British single payer system, as he has described it. This is not something the American people would have countenanced. So Barack Obama, the President, rather than filling the position, decided to hold off on nominating a person to head CMS until after the health care debate was over.

Now, this is bait and switch. This is not the transparency that Barack Obama promised when he campaigned for the job of President. Instead, in my view, it is hiding the ball: Let's get health care passed, not tell anybody we are going to nominate Dr. Berwick to head CMS, and then, after the bill is passed—in fact, I think about 4 months after the bill is passed—nominate Dr. Berwick, and then have the gall to say Republicans stopped his nomination. We haven't stopped his nomination. There has been nothing for us to stop. There has been no vote.

I am on the Finance Committee. The chairman of the Finance Committee, a Democrat, MAX BAUCUS from Montana, was very upset about the fact that the President appointed Dr. Berwick because he said: I haven't even had a chance to call a hearing yet.

Republicans stopped the nomination? No, we didn't stop it. Has there been a vote on the floor of the Senate? No. Has there been an attempt to have a vote? No. So how could we have filibustered a nominee who hasn't had a hearing, when his name hasn't even been brought up in committee, and who hasn't been sent to the Senate floor for action?

Well, they say: We anticipated you would have objected to him. Yes, that is true. Knowing all we know about him, you are right; a lot of us would have objected to him. So bring him up for a vote, and let's have the vote, up or down. If he has the votes to pass, he passes. If he doesn't, then perhaps the American people's will has been expressed.

I wish to remind my colleagues that the ranking Republican on the Senate Finance Committee, CHUCK GRASSLEY, requested a hearing for Dr. Berwick. He requested that it take place the week of June 21. Why? That was before the hearings for the Supreme Court nominee, Elena Kagan. The reason Senator

GRASSLEY did that was because he wanted to make sure for the several of us—there are three Republicans and I know at least one Democrat who serve on both the Judiciary Committee and the Finance Committee. He wanted to make sure we would have an opportunity to attend both hearings because we knew the time the Elena Kagan hearings were going to be held in the Judiciary Committee. He specifically requested that Senator BAUCUS schedule the hearing for Dr. Berwick the week of June 21. He would have been happy to be there. I would have been happy to be there.

For anybody to suggest that Republicans are to blame for the fact that Dr. Berwick's nomination didn't come to a vote or wasn't brought to the Senate floor is sheer fantasy. We have not held up the nomination. We have not prevented a vote. We have not blocked the vote. Yes, we have been critical of Dr. Berwick. Since when is that a crime? Since when is that the party of no?

Let me mention a few of the reasons we are critical of Dr. Berwick and why the American people are going to rue the day that the President, while we were gone from Washington over the July 4 recess, recess-appointed Dr. Berwick. He didn't go through the regular Senate process. He made a recess appointment before Senators had an opportunity to have a hearing or to have a vote.

Well, I think I know some of the reasons. First of all, his radical views on health care policy. I am not going to quote all of the things he has said, but he did describe his love of the British single payer system in very poetic terms. He said he was in love with it. He has described it in the most glowing terms. He said his preference is for absolute caps on health care expenditures in the United States. He says competition is one of the biggest problems in American health care. He says he believes in one-size-fits-all care. That is a direct quotation. Everything I have said here are quotations from different things he has written, all the way from 1992 through 2008.

We wanted to hear more about some of these views, especially since the CMS, or Center for Medicare and Medicaid Services of the Department of Health Care that he will head up, is in charge of administering the health care law we passed, a law that does—let me just mention four specific things it does, with a budget, as I said, larger than the Pentagon budget. I think he has something like \$803 billion in benefits this fiscal year that he has the opportunity to dole out. So there is a great deal of power.

First of all, we know the bill establishes a Medicare commission which is given the responsibility of finding sources of excess cost growth, meaning tests and treatments that are too expensive or whose coverage would mean too much government spending on seniors. There is an opportunity for rationing.

The law will redistribute Medicare payments to physicians based on how much they spend treating seniors.

That is a way they can adjust the payments and, therefore, determine care.

Third, it will rely on recommendations from the U.S. Preventive Services Task Force—that is the entity that last year recommended against mammograms for women under the age of 50—in order to set preventive health care benefits, which is another form of rationing.

Finally, it will authorize the Federal Government to use comparative effectiveness research, or CER, when making Medicare determinations. Republicans tried to get on a simple amendment to that to say: OK, you can compare effectiveness research but not to deny coverage based on cost. Our attempts to get that amendment passed were defeated. Why? Because they wanted to leave the flexibility in the law for the head of CMS, now Dr. Berwick, to ration care.

What is done in Great Britain is what he says is good policy. He said:

It's not a formula for comfort; it's a formula for constructive discomfort.

He described in several other ways the fact that this would be something people would not like but they would get used to it and have to abide by it. He said:

The decision is not whether or not we will ration care; the decision is whether we will ration with our eyes open.

Indeed, at least his eyes will be open—the people who make the decisions on whether we can get health care for our families and what it is. He will know what is happening, but will we know until it is too late? We didn't even have a chance to ask Dr. Berwick questions about this because he never was given a hearing. We weren't given that opportunity. Instead, the President waits until we are out of town over the Fourth of July recess and recess appoints the individual so that he doesn't have to have a hearing or a Senate vote.

Here is another comment from Dr. Berwick:

I would place a commitment to excellence—standardization to the best-known method—above clinician autonomy as a rule for care.

That means the doctor gets to decide what happens to the patient, along with the patient, as opposed to standardization of the best known method, with a bunch of bureaucrats figuring out in a cookie-cutter way what kind of treatment is less costly and therefore best for people who receive government-paid health care. True, this is the way it is done in some other countries that he thinks are great in terms of their health care system. That is not the way it ought to be in the United States. By this individual now receiving this nomination and this appointment, he now will be the person who helps to determine that standardization rather than the clinician autonomy we have today.

Again, Dr. Berwick will head the agency in charge of implementing much of the new health care law. He will have the responsibility to determine what your health care coverage entails. He is the person whom the President appointed to reduce the government's health care costs. I can guarantee you how that reduction will occur: it will occur when they decide that standardization requires that the government only approve the following kinds of treatment or drugs or services, and too bad if you expected something greater than that.

Given Dr. Berwick's philosophy, public comments, and writings about rationing, I think we have a pretty clear picture of where he will look to achieve those savings.

In 1996, he wrote a book entitled "New Rules." He and his coauthor recommended "protocols, guidelines, and algorithms for care," with the "common underlying notion that someone knows or can discover the best way to carry out a task to reach a decision, and that improvement can come from standardizing processes and behaviors to conform to this ideal model."

This is extraordinarily distressing when we are learning every day of innovative ways physicians and scientists have come up with to treat diseases and chronic conditions and illnesses—with new kinds of drugs, with other kinds of treatment, avoiding surgery in many cases, and now, importantly, using genomic research. The TGEN Institute in Phoenix, AZ, for example, is pioneering work involving the human genome so that ultimately we can determine what is best for each individual person in terms of a treatment. You may have breast cancer, for example, but physicians know all breast cancers are not the same and they are not all treated the same way. One woman can be treated with a particular form of radiation or chemotherapy or surgery, and yet for another person who seemingly has the same cancer, that treatment doesn't seem to work. Through human genome research, they basically map out each person's gene history, family history, and gene makeup in such a way as to know whether various kinds of treatment will be accepted or tolerated or successfully completed for each patient. They can tailor the treatments or the drugs for each particular patient.

If you have standardization of processes and behaviors to conform to this "ideal model," to quote Dr. Berwick, you are going to get away from the kinds of treatments that could really be breathtakingly innovative for the future and could save many lives and improve our quality of life for as long as we live. This is the future. The future isn't cookie-cutter medicine where the doctor has to do exactly what some group of bureaucrats says because they performed a test someplace and that was the most efficient way to treat the particular patient.

Another couple of things.

Dr. Berwick expressed his disapproval for costly cutting-edge medical technologies and has said prevention services such as “annual physicals, screening tests, and other measures” are “over-demanded.” One of the things we did in the health care legislation was provide a lot of different incentives for preventive care, for screening, to try to help people avoid illnesses on the theory that it would be a lot cheaper if we didn’t do a lot of treatment that was unnecessary. If you could identify in advance that an individual had a need for some treatment, maybe you could catch the disease, say, the cancer, early and not have the expensive treatment, the end-of-life kind of care that is frequently very expensive.

Let me close with a couple of things. The Wall Street Journal editorialized about Dr. Berwick’s vision, saying this:

Such a command-and-control vision is widespread among America’s technocratic medical left, but it is also increasingly anachronistic amid today’s breakneck medical progress. There isn’t a single “ideal model” in a world of treatments tailored to the genetic patterns of specific cancers, or for the artificial pancreas for individual diabetics, or other innovations that are increasingly common. This is nonetheless where Dr. Berwick . . . will look for his “savings.”

As CMS Administrator, Dr. Berwick will not only oversee billions in Federal spending but will be responsible for programs that cover millions of lives. It is perplexing, to say the least, that such an important position would bypass Senate consideration, without even so much as holding a hearing.

Moreover, this appointment is just the latest self-contradiction of an administration that claimed it would be the most transparent in history. We now have another example of the lack of transparency—the President recess-appointing someone, I believe, in order to avoid having a hearing and to avoid having a debate that would inform the American people of the kind of person the President was putting into this enormously important position.

Mr. President, I express the same concern Leader MCCONNELL expressed. We regret that the President has seen fit to do this. I understand he can appoint anybody he wants, but what I really resent is turning around and having a spokesman for the President say that somehow or other the fact that he didn’t have a hearing or the fact that he never was voted on is somehow the Republicans’ fault. We had nothing to do with the fact that he didn’t have a hearing. We asked for a hearing. We had nothing to do with the fact that he never had a vote. We never objected to any vote. There has never been a question of having a vote. Nobody ever said, in the Finance Committee or on the Senate floor, let’s vote on Dr. Berwick. We had nothing to object to. The President can make the appointment if he wants to. We can still debate his qualifications even though he will now serve in this posi-

tion. But to blame Republicans for having to do it in this nontransparent way is wrong, and I think Republicans are going to continue to demonstrate to the American people why this is a nominee who should have been aired out in public rather than appointed during the July 4 recess.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I rise to discuss the appointment by President Obama of Dr. Donald Berwick as Administrator of the Center for Medicare and Medicaid Services.

I disagree, respectfully, with my distinguished colleague from Arizona. I guess I agree that it is regrettable that this was a recess appointment, but I believe that on the part of the President it was both prudent and necessary to make this a recess appointment, given, A, the urgency of moving forward with health care reform and, B, the relentless blockade the Republicans have maintained.

Dr. Berwick is perhaps the most qualified person in the country to wield the vast apparatus of the Federal health care bureaucracy toward the comprehensive change we need, to lower the cost of health care, while improving the quality of health care.

In evaluating this urgency, I ask my colleague to consider the situation we are in right now. We are in the midst of an accelerating and unsustainable rise in health care expenditures in America. In 1955—the year I was born—we spent a little bit over \$12 billion a year on health care. That was the annual health care expenditure in the United States in 1955—\$12 billion. Last year, we spent more than \$2.5 trillion. The increase over the previous year was \$134 billion—from 2008 to 2009, an increase of \$134 billion, which is the largest year-to-year increase in history, by the way, and 200 times what we spent in 1955—200 times. Anybody who is looking at this can see both the trend and the increasing acceleration of this curve. It is accelerating, it is unsustainable, and it adds up to, at this point, a stunning 17.3 percent of our national domestic product, our GDP, spent on health care every year. No other nation even comes close to spending that much of its annual domestic product on health care.

In my home State of Rhode Island, had we done nothing on health care, by 2016 a family of four would have faced more than \$26,000 in premiums for family health insurance—\$26,000 per year in 2016 average costs. Last year, premiums for Medicare Advantage plans jumped an average of 14.2 percent nationally—just in 1 year. So there is a clearly unmistakable case that our health care costs are out of control and we have to do something about it.

The escalation, as I pointed out, is unsustainable and accelerating, but it is not inevitable. Indeed, experts from across the ideological spectrum agree that a great deal of health care cost is

simply waste—waste resulting from an irrational, disorganized status quo that too often encourages the wrong choices by patients, payers, and by providers of health care services. That status quo has to change.

As you consider our health care system, set aside for a moment the problem of duplicative tests, the problem of lost medical records, the problem of unnecessary treatments, and the problem of uncoordinated care for patients working between multiple doctors. Set aside all those problems and look just at the administrative overhead of our private insurance market.

By way of reference, administrative costs for Medicare run about 3 to 5 percent. Overhead for private insurers is an astounding 20 to 27 percent. A Commonwealth Fund report indicates that the private insurer administrative costs more than doubled from just 2000 to 2006. In those 6 years, the overhead, the administrative costs of the private insurance industry, more than doubled, up 109 percent. The McKinsey Global Institute estimates that Americans spend roughly \$128 billion annually just on what the report called “excess administrative overhead.” There is \$128 billion that we pay for every year in excess administrative overhead—not health care but administrative overhead—in our health care system in the private health insurance market.

On top of that, you have the duplicative tests, lost medical records, unnecessary treatment, and the uncoordinated care for patients with multiple and chronic conditions. I won’t dwell on those particular topics because I have spoken about them so often on the Senate floor in the past. My point is that because of all this waste in the system, the President’s Council of Economic Advisers concludes that it should be possible to cut total health expenditures about 30 percent. Let me repeat that quote.

It should be possible to cut total health expenditures about 30 percent without worsening outcomes . . . which would suggest that savings on the order of 5 percent of GDP could be feasible.

Five percent of GDP is over \$700 billion a year, and other experts agree. The New England Healthcare Institute reports as much as \$850 billion a year in excess cost “can be eliminated without reducing the quality of care.” Former Bush administration Treasury Secretary O’Neill has written that the excess cost is \$1 trillion a year in our health care system. The Lewin Group, which is often cited in this Chamber on both sides of the aisle as a respectable organization that does authoritative work in this area, finds that we burn over \$1 trillion a year through excess cost and waste.

So is it \$700 billion a year in excess cost and waste, is it \$850 billion a year, is it \$1 trillion or over a year in excess cost and waste? Whatever it is, it is a big number, and we needed to do something about it. This Congress rose to the challenge in the health care reform

bill and passed what health economist David Cutler has called “the most significant action on medical spending ever proposed in the United States.”

This isn't just a partisan view. Analysts of all stripes agree the reform law does more than any previous measure to begin to lift the dead weight of all this wasteful health care cost off our economy. The Commonwealth Fund has projected that the law will reduce the annual growth of national health expenditures—that is the amount that private and public sectors would otherwise spend on health care every year—by 0.6 percentage points annually and nearly \$600 billion over the next 10 years. The Council of Economic Advisers writes that “total slowing of private-sector cost growth” will be approximately 1 percentage point per year—more than \$1 trillion over the next 10 years. That is just what they can prognosticate, what they can anticipate, what they can project.

Here is something that is interesting. Nobel laureate Paul Krugman writes:

There are many cost-saving efforts in the proposed reform, but nobody knows how well any one of these efforts will work. And as a result, official estimates don't give the plan much credit for any of them. Realistically, health reform is likely to do much better at controlling costs than any of the official projections suggest.

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He is not alone. Other respected health economists—Len Nichols of George Mason, Ken Thorpe of Emory, and Alan Garber of Stanford, described the bill's cost controls as vital, a significant improvement on the status quo. And MIT Professor Jonathan Gruber, one of our leading health economists, said of the bill's cost control measures:

I can't think of a thing to try that they didn't try. They really make the best effort anyone has ever made. Everything is in here. You couldn't have done better than they are doing.

So that frames the picture for the appointment of Dr. Berwick because the President's signature of our health care law was just the beginning of the reform project that lies ahead. This law gives those unprecedented tools to fight health care waste and inefficiency, but those tools are meaningless, they are useless unless they are applied both vigorously and wisely. Don Berwick is simply, hands down, the best person to do that. He has vast experience, proven expertise, and he has earned the respect of colleagues in the public and private sectors and on all sides of the ideological spectrum.

For instance, Dr. Nancy Nielsen, immediate past president of the American Medical Association, said Dr. Berwick is “widely known and well-respected for his visionary leadership efforts that focus on optimizing the quality and safety of patient care in hospitals and across health care settings.”

Gail Wilensky, the Administrator of CMS under President George H.W.

Bush, said Dr. Berwick “has long-standing recognition for expertise and for not being a partisan individual, so I think that will assist him in his dealings with Congress, both with the majority and hopefully the minority, as well.”

Tom Scully, George W. Bush's CMS chief said:

You're not going to do any better than Don Berwick.

And Steven D. Findlay, health policy analyst at Consumers Union, has applauded what he calls “a spectacular appointment.”

Don has been an intellectual force in health care for decades. He helped forge many ideas incorporated in the new health care law.

So given this chorus of praise from across the ideological spectrum and the urgency of the task at hand to control those costs, one might think that bipartisan support for Dr. Berwick's nomination would be strong and swift.

Well, you heard the Senator from Arizona. Unfortunately, my Republican colleagues, regrettably, threaten the familiar old Washington playbook of delay and obstruction.

I have spoken many times about how the Republican minority has delayed without substantive justification far too many of the President's executive branch nominees, jamming up the administration's ability to administer the government; usually not because they have any objection to the nominee but just to jam up the administration's ability to administer the government.

On our Executive Calendar right here we have the names of everybody who is waiting on the Senate floor languishing, waiting for a vote. That doesn't even count all the names that are stuck in committees. These are the people on the Senate floor waiting for a vote. Some have been on for months. Some of them have cleared committee unanimously with full Republican support in the committee. Yet they are jammed up here. That is the quagmire into which they were going to stick Dr. Berwick, notwithstanding the urgency of the need.

Since his nomination was first announced, the Republicans made clear they would subject Dr. Berwick to this treatment. There is no doubt about that. It was confirmed just now by the Senator from Arizona. A recess appointment was the only way for the President to ensure that CMS is fully equipped to handle the vital and voluminous and immediate tasks that we have asked CMS to perform.

So why do my colleagues on the other side of the aisle clamor in opposition to Dr. Berwick, the foremost expert in the field of reducing cost by improving quality of care? There are innumerable ways to reduce health care costs by improving quality. Reducing and eliminating hospital-acquired infections is a perfect example. The North Carolina Medicaid effort to provide coordinated care of a medical

home for people who are high users of the health care system is another example.

My Republican colleagues, who so loudly championed cost control, now claim this reducing cost by improving quality is rationing—rationing. Well, here is my question: Whose side are they on? One trillion dollars a year in waste, and they are lining up to defend the waste and call efforts to restrain it rationing? Protecting you and your family from expensive and dangerous hospital-acquired infections, that is rationing? Organizing complex care of people who have multiple diagnoses and chronic conditions into coordinated medical homes, rationing? Whose side are they on when they attack the reforms, the quality improvement, cost-reducing reforms that are Dr. Berwick's signature expertise?

One Senator even stood in this Chamber and said Dr. Berwick endorsed an end-of-life pathway to death. Oh boy, looks like the death panels are back. Dr. Berwick is not just a pioneer in health care quality improvement, he is the pioneer. He was a lead author of the Institute of Medicine's watershed report, “To Err Is Human,” and the follow-on report, “Crossing the Quality Chasm.” “To Err Is Human” launched the quality movement in this country. That report exposed the breathtaking fact that 100,000 Americans die needlessly in this country every year from medical errors—100,000 Americans dead every year in this country because of needless medical errors. Is getting rid of the errors that killed those 100,000 Americans rationing? Don Berwick has devoted his life to saving those lives. Whose side are my colleagues on when they oppose Dr. Berwick?

The connection between quality improvement and cost savings which Don Berwick has spent his career exploring is demonstrated by global maternal mortality figures. Maternal mortality is a cold and statistical way of saying moms who die in childbirth. We in the United States are 39th in the world. Thirty-eight countries, including most of Europe, do a better job of keeping moms alive through childbirth. We would be willing to spend money to get better at that, I would bet. But the strange thing is the many medical errors and the process failures that cause those deaths—and that cause us to be 39th in the world at maternal mortality—also cause a lot of other complications which cost lots of money to treat and recover from. So if you make those quality improvements, you save money. That is the win-win connection between cost saving and quality reform.

That is the area where Don Berwick specializes and has specialized for years—improving care, eliminating process failures, and saving cost. But my Republican colleagues are standing against him and want to talk about rationing. When it improves care, when it lowers maternal mortality, that is the kind of reform I think we could use. If

you are against that, and if you are against Dr. Berwick, whose side are you on?

Dr. Berwick founded the Institute for Healthcare Improvement, one of the first organizations to promote systematic and sustainable health care quality improvement. He has worked on quality initiatives as a board member of the American Hospital Association, as chair of the Advisory Council for the Agency for Healthcare Research and Quality, and as a member of President Clinton's Advisory Commission on Consumer Protection and Quality. That is his work.

That is probably why Tom Scully, CMS Administrator under President George W. Bush, said:

You are not going to do any better than Don Berwick.

So I ask my colleagues: Do we really need to raise the phony scarecrows of rationing, of death panels, of socialized medicine?

Do we really need to go there against \$1 trillion in waste and inefficiency every year? Do you really want reform efforts to fail against 100,000 American lives lost every year due to avoidable medical errors?

Do you really want reform efforts to fail against eliminating hospital-acquired infections and providing better coordinated care for patients who have multiple doctors and multiple conditions? Do you really want the reform effort to fail? Is this how far we have fallen?

There is a huge window where we could work together on a win-win path, where we could improve the quality of health care for Americans while reducing its cost by coordinating the care better, by coordinating electronic health records better, by avoiding hospital-acquired infections, by avoiding unnecessary care, by making sure doctors know what the best evidence is for treatment as they have to take on patients with multiple difficulties and symptoms. We could do this together. This is a win-win, and Dr. Berwick is an expert with bipartisan public/private—or Republican and Democratic support and recognition of his particular expertise in this area. I urge my colleagues to treat Dr. Berwick as the highly qualified individual he is, not as an opportunity for political grandstanding—we do enough of that around here—not as a way to wish failure on America in this vital task that lies before us. At long last, my friends and colleagues, are we not better than that?

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come to the floor today, having just returned from spending a wonderful week over the Fourth of July in Wyoming, visiting with people across the Cowboy State at senior centers, Kiwanis clubs,

Rotary clubs, and repeatedly the issue came up of this appointment of Dr. Berwick to head Medicare and Medicaid.

My colleague who just left the floor talked about the playbook of delay and obstruction. I will tell you that this recess appointment and the overall appointment of Donald Berwick is absolutely a page out of the playbook of the U.S. President of delay and obstruction.

Last year I came to this floor and said we should have somebody in charge of Medicare and Medicaid. When this body is talking about cutting \$500 billion from our seniors on Medicare, not to save Medicare but to start a whole new government program, there ought to be somebody in charge of Medicare in this country who can answer the questions about what are the impacts going to be. But the President of the United States refused to name anyone.

At a time when this body was debating how to handle 16 million more Americans jammed and crammed into Medicaid, a program where half the doctors in the country will not see those patients, it is like giving somebody a bus ticket when a bus isn't coming. Those people may have coverage but they are not able to get care. There should have been somebody in charge of Medicaid. I came to this floor and said: Mr. President, it is time to make someone take over the responsibilities, to be in charge of Medicare and Medicaid so they can come and explain to this Senate and this country what the impacts are going to be of the cuts in Medicare and the cramming of more and more people into Medicaid. But the President of the United States refused.

The playbook of delay and obstruction belongs to this administration. The playbook of delay and obstruction is what led us here today, to a situation where no one was even named to be in charge of Medicare and Medicaid for the United States until after an extremely unpopular and unwise health care bill was signed by the President of the United States. Then and only then did the President of the United States decide who he would want to put in charge of Medicare and Medicaid. To me, this is an insult to the American people, an insult that the American people would never ever have an opportunity of having open congressional hearings to have explained to them the positions of this man nominated to head Medicare and Medicaid for this country.

I think the President of the United States has made a mockery of his pledge to be accountable as an administration, to be transparent as an administration. That is what I heard at senior centers in Rock Springs, WY, and in Riverton, WY, at a Kiwanis club, people there as well as at a meeting in Powell, WY, at the Rotary club. People all across Wyoming and all across the country are very concerned, saying how is this going to affect me

personally. Seniors know if you take \$500 billion away from their Medicare, not to help seniors, not to help Medicare, but to start a whole new government program—they are very interested how that is going to work because that affects each and every one of them personally.

I heard my colleague from Rhode Island talk about coordinated care. I am with him. We need to coordinate care. That is why I was surprised to see Members of the Democratic side of this Senate vote to kill the program of Medicare Advantage for 10 million Americans. These are individuals who signed up for Medicare Advantage because there is an advantage. It actually helps with preventive medicine and it helps with coordinated care. That is going away. Yet the President of the United States did not have anybody in charge of Medicare or Medicaid to explain what would be the impact of getting rid of Medicare Advantage on those 10 million people who need coordinated care and needed preventive medicine.

When I hear my colleague from Rhode Island say if you are against Dr. Berwick, then whose side are you on, I would say I am on the side of the people of Wyoming, the seniors of this country, the people who are seeing \$500 billion of Medicare cut from them to start a whole new government program. They realize it is not going to help them. That is why at town meetings and visits around the State of Wyoming people believe ultimately they are going to end up paying more for their care and are going to have less care available to them because of this very unpopular health care law. That is why, week after week, I come to the Senate floor to talk as a practicing physician, someone who has taken care of patients for 25 years around the State of Wyoming, to give a doctor's second opinion, to talk about what I see, as a physician, with this health care law that ultimately I believe is going to be bad for patients, bad for payers—the people across this country who are going to pay the bill for this—and bad for providers, the nurses and doctors who take care of the patients.

Here we now have appointed, without a hearing, without a debate, without this Senate having had a chance to vote, a Director of Medicare and Medicaid who has expressed many opinions that do fly in the face of and are way out of line with the opinions of the American people. So it is not a surprise you see headlines in places such as the New York Times that say "Tough Confirmation Battle Looming For Medicare Nominee." That is in the New York Times.

The Boston Globe, the hometown paper where the nominee has been known to practice, "Dangerous To Your Health," of Dr. Berwick.

What is this administration trying to hide? Why is this administration unwilling to have hearings? Why is the administration not allowing Dr. Berwick to come to Congress to explain to