

one more attempt to protect HMO's and insurers at the expense of patients.

I ask my colleagues to carefully consider the amendments and the final bill that we are being asked to vote on today. Vote against the "poison pill amendments" and support a true Patients' Bill of Rights. Make HMO's accountable for their actions, just as we hold doctors and hospitals accountable. Vote yes for Representative GANSKE's bill, a bill that will protect patients, not HMO's and the insurance industry.

Ms. BERKLEY. Mr. Chairman, I rise today in support of H.R. 2563, the Bipartisan Patient Protection Act.

This bill is important because it provides direct access to necessary medical care without administrative barriers for our nation's citizens. It allows doctors, not bureaucrats to make medical decisions.

The time has come in America to give doctors the right to make decisions about what kind of treatments their patients receive, how long they stay in the hospital, what type of care is given.

This bill will provide our constituents with the kind of medical care they need, when they need it and they won't have to jump through hoops to get it.

This legislation is long overdue. Let's do the right thing and pass this bill.

Mrs. MINK of Hawaii. Mr. Chairman, I rise today deeply disappointed in the total sellout of a meaningful patients' bill of rights.

For years, a bipartisan coalition of lawmakers have been working together to reform the managed care industry and develop a genuine patients' bill of rights.

A growing number of Americans get their health insurance through managed care plans. Although these plans enable many employers to provide affordable, high quality health benefits, various groups and individuals have expressed frustration with HMO's denial of necessary services and lack of an appeals process. A strong patients' bill of rights puts medical decision making back into the hands of doctors and patients and holds managed care plans accountable for failure to allow needed health care.

Today we are confronted by a compromise reached between Representative NORWOOD and the President, which no longer protects patients' health care rights.

A patients' bill of rights must allow a patient to sue their health plan for any injuries they receive if they were denied proper medical care. Of course, the lawsuit could only occur after an independent medical reviewer considers the patient's medical condition along with the most up-to-date medical knowledge and apply it to the individual's specific case.

A patients' bill of rights must close the loophole that allows HMOs to be the only industry that is protected from lawsuits.

But the agreement reached between President Bush and Representative NORWOOD does neither of these things.

Their agreement changes the external review process to prohibit the independent medical reviewer from modifying the health plans' decision. The reviewer will not even have access to the information they need in order to make a proper decision. The amendment also wipes away any current state laws relating to corporate liability of HMOs when they are acting as health care providers. This amendment preempts laws that states have passed in re-

gards to patient protections. On the surface, the Norwood amendment allows consumers to sue in state court. But upon further examination, one realizes that consumers will never see state court. All cases will be brought to federal court because the amendment states that an action against an HMO may not be removed from federal court; only the action against an employer can be removed from federal court. Their amendment also sets unreasonably low caps on damages.

The Norwood amendment rips apart an otherwise good bill. The real Ganske-Norwood-Dingell-Berry bill would allow all insured Americans the option of seeing the doctor of their choice. This means women would have direct access to obstetric and gynecological care. Women desperately need ob-gyn care without first having to receive a referral and/or prior authorization.

The bipartisan Ganske-Dingell-Norwood bill would protect women who have mastectomies and lymph node dissections. After undergoing these procedures, women would be able to consult with their doctor on how long they need to stay in the hospital without the fear that their health plan will not cover their entire hospital stay.

The bill would also provide access to: emergency room care, without prior authorizations; guaranteed access to health care specialists; access to pediatric specialists; and access to approved FDA clinical trials for patients with life-threatening or serious illnesses.

But the liability provisions agreed to by the President and Representative NORWOOD overshadow all of these things. I simply cannot support a patients' bill of right that does not give individuals the full right to sue HMOs. The only way to hold HMOs fully accountable is to allow consumers a right of redress.

A bill of rights is an empty promise if it lacks the procedure necessary to enforce it.

This has become a bill of rights for HMO's! This "Compromise" bill is a bitter retreat and forces me to vote No.

Ms. BALDWIN. Mr. Chairman, families in Wisconsin are anxious about the state of their health care. Too often, profit takes priority over patient need. Patients are losing faith that they can count on their health insurance plans to provide the care that they were promised when they enrolled and paid their premiums.

As Members of Congress, we have all tried to help our constituents who were denied care by HMOs. We have all heard their heart-breaking stories. Just this morning, I heard from a constituent of mine whose 12-year-old daughter, Francesca, has Cerebral Palsy. His daughter requires surgery to halt deterioration of her walking abilities so that she will not have to be dependent upon a wheelchair.

This father asked his HMO to allow his daughter to have surgery at a particular hospital that is not a provider in their plan because the hospital that is a provider in their plan no longer employs a specialist in this type of treatment. Instead of giving this father a referral, the HMO recommended that he switch plans. No one should fear that their insurance company would abandon them when they need it most.

I urge my colleagues to support the Ganske-Dingell bill and oppose these three amendments that will serve to deprive Americans of the patient protections they deserve.

Make no mistake about it, if these amendments pass, the bill should be renamed the HMO Bill of Rights.

Mr. UDALL of New Mexico. Mr. Chairman. The overwhelming majority of Americans view patients' rights legislation as a priority and strongly support meaningful patient protection legislation. This issue has been debated for many years now and the time for Congress to act is long overdue.

Today, however, we have the opportunity to make up for lost time and provide sound, responsible managed care reforms and meaningful protections for patients and their doctors. We can do this by passing the Ganske-Dingell Patients Protection bill.

This legislation ensures that physicians, not HMO bureaucrats, are making the medical decisions that affect patient's lives. This legislation provides for strong and effective internal and independent external review of claim denials. This legislation allows patients to hold their insurance companies and HMO's accountable for harm as a result of bureaucratic negligence, malfeasance, or incompetence.

This legislation, Mr. Chairman, has my strong support for all of these reasons that I just mentioned.

However, should this House pass the Norwood amendment or any of the other amendments later today, this legislation will be turned from the Patients Protection Act to the HMO Protection Act and will lose my support.

The Norwood Amendment carves out special protection for HMO's, rolls back patient protections and tramples states rights. I cannot support such an amendment, nor any bill that contains such an amendment.

The time for a meaningful patient's protection act is long overdue. Let's not waste the opportunity we have today by passing a bill that protects HMO's instead of patients. I urge my colleagues to support H.R. 2563, and oppose any amendments that would weaken critically important patient protections. The time for meaningful patient protection is now. Vote "yes" on H.R. 2563 and against weakening amendments.

Mr. PAUL. Mr. Chairman, I appreciate the opportunity to explain why I oppose all versions of the Patients' Bill of Rights. Once again Congress is staging a phony debate over which form of statism to embrace, instead of asking the fundamental question over whether Congress should be interfering in this area at all, much less examine how previous interferences in the health care market created the problems which these proposals claim to address.

The proper way to examine health care issues is to apply the same economic and constitutional principles that one would apply to every other issue. As an M.D., I know that when I advise on medical legislation that I may be tempted to allow my emotional experience as a physician to influence my views. But, nevertheless, I am acting in the role as legislator and politician.

The M.D. degree grants no wisdom as to the correct solution to our managed-care mess. The most efficient manner to deliver medical services, as it is with all goods and services, is through the free market. Economic principles determine efficiencies of markets, even the health care market, not our emotional experiences dealing with managed care.

The fundamental economic principle is that true competition assures that the consumer gets the best deal at the best price possible by putting pressure on the providers. This principle applies equally to health care as it

does to other goods and services. However, over the past fifty years, Congress has systematically destroyed the market in health care. HMOs themselves are the result of conscious government policy aimed at correcting distortions in the health care market caused by Congress. The story behind the creation of the HMOs is a classic illustration of how the unintended consequences of government policies provide a justification for further expansions of government power. During the early seventies, Congress embraced HMOs in order to address concerns about rapidly escalating health care costs.

However, it was previous Congressional action which caused health care costs to spiral by removing control over the health care dollar from consumers and thus eliminating any incentive for consumers to pay attention to prices when selecting health care. Because the consumer had the incentive to monitor health care prices stripped away and because politicians were unwilling to either give up power by giving individuals control over their health care or take responsibility for rationing care, a third way to control costs had to be created. Thus, the Nixon Administration, working with advocates of nationalized medicine, crafted legislation providing federal subsidies to HMOs and preempting state laws forbidding physicians to sign contracts to deny care to their patients. This legislation also mandated that health plans offer an HMO option in addition to traditional fee-for-service coverage. Federal subsidies, preemption of state law, and mandates on private business hardly sound like the workings of the free market. Instead, HMOs are the result of the same Nixon-era corporatist, big government mindset that produced wage-and-price controls.

I am sure many of my colleagues will think it ironic that many of the supporters of Nixon's plan to foist HMOs on the American public are today among the biggest supporters of the "patients' rights" legislation. However, this is not really surprising because both the legislation creating HMOs and the Patients' Bill of Rights reflect the belief that individuals are incapable of providing for their own health care needs and therefore government must control health care. The only real difference between our system of medicine and the Canadian "single payer" system is that in America, Congress contracted out the job of rationing health care resources to the HMOs.

No one can take a back seat to me regarding the disdain I hold for the HMO's role in managed care. This entire unnecessary level of corporatism that rakes off profits and undermines care is a creature of government interference in health care. These non-market institutions and government could have only gained control over medical care through a collusion of organized medicine, politicians, and the HMO profiteers in an effort to provide universal health care. No one suggests that we should have universal food, housing, TV, computer and automobile programs; and yet, many of the poor to much better getting these services through the marketplace as prices are driven down through competition.

We all should become suspicious when it is declared we need a new Bill of Rights, such as a Taxpayers' Bill of Rights, or now a Patients' Bill of Rights. Why do more Members not ask why the original Bill of Rights is not adequate in protecting all rights and enabling the market to provide all services? In fact, if

Congress respected the Constitution we would not even be debating this bill, and we would have never passed any of the special-interest legislation that created and empowered the HMOs in the first place!

Mr. Chairman, the legislation before us is flawed not only in its effect but in the very premise that individuals have a federally-enforceable "right" to health care. Mixing the concept of rights with the delivery of services is dangerous. The whole notion that patient's "rights" can be enhanced by more edicts by the federal government is preposterous.

Disregard for constitutional limitations on government, ignorance of the basic principles of economics combined with the power of special interests influencing government policy has brought us this managed-care monster. If we pursue a course of more government management in an effort to balance things, we are destined to make the system much worse. If government mismanagement in an area that the government should not be managing at all is the problem, another level of bureaucracy, no matter how well intended, will not be helpful. The law of unintended consequences will prevail and the principle of government control over providing a service will be further entrenched in the Nation's psyche. The choice in actually is government-provided medical care and its inevitable mismanagement or medical care provided by a market economy.

Many members of Congress have convinced themselves that they can support a "watered-down" Patients' Bill of Rights which will allow them to appease the supporters of nationalized medicine without creating the negative consequences of the unmodified Patients' Bill of Rights, while even some supporters of the most extreme versions of this legislation say they will oppose any further steps to increase the power of government over health care. These well-intentioned members ignore the economic fact that partial government involvement is not possible. It inevitably leads to total government control. A vote for any version of a Patients' Bill of Rights is a 100 percent endorsement of the principle of government management of the health care system.

Those who doubt they are endorsing government control of medicine by voting for a modified Patients' Bill of Rights should consider that even after this legislation is "watered-down" it will still give the federal government the power to control the procedures for resolving disputes for every health plan in the country, as well as mandating a laundry list of services that health plans must offer to their patients. The new and improved Patients' Bill of Rights will still drive up the costs of health care, causing many to lose their insurance and lead to yet more cries for government control of health care to address the unintended consequences of this legislation.

Of course, the real power over health care will lie with the unelected bureaucrats who will implement and interpret these broad and vague mandates. Federal bureaucrats already have too much power over health care. Today, physicians struggle with over 132,000 pages of Medicare regulations. To put that in perspective, I ask my colleagues to consider that the IRS code is "mere" 17,000 pages. Many physicians pay attorneys as much as \$7,000 for a compliance plan to guard against mistakes in filing government forms, a wise investment considering even an innocent mis-

take can result in fines of up to \$25,000. In case doctors are not terrorized enough by the federal bureaucracy, HCFA has requested authority to carry guns on their audits!

In addition to the Medicare regulations, doctors must contend with FDA regulations (which delay the arrival and raise the costs of new drugs), insurance company paperwork, and the increasing criminalization of medicine through legislation such as the Health Insurance Portability Act (HIPPA) and the medical privacy regulations which could criminalize conversations between doctors and nurses.

Instead of this phony argument between those who believe their form of nationalized medicine is best for patients and those whose only objection to nationalized medicine is its effect on entrenched corporate interests, we ought to consider getting rid of the laws that created this medical management crisis. The ERISA law requiring businesses to provide particular programs for their employees should be repealed. The tax codes should give equal tax treatment to everyone whether working for a large corporation, small business, or self employed. Standards should be set by insurance companies, doctors, patients, and HMOs working out differences through voluntary contracts. For years it was known that some insurance policies excluded certain care. This was known up front and was considered an acceptable practice since it allowed certain patients to receive discounts. The federal government should defer to state governments to deal with the litigation crisis and the need for contract legislation between patients and medical providers. Health care providers should be free to combine their efforts to negotiate effectively with HMOs and insurance companies without running afoul of federal anti-trust laws—or being subject to regulation by the National Labor Relations Board (NLRB).

Of course, in a truly free market, HMOs and pre-paid care could and would exist—there would be no prohibition against it. The Kaiser system was not exactly a creature of the government as it the current unnatural HMO-government-created chaos we have today.

Congress should also remove all federally-imposed roadblocks to making pharmaceuticals available to physicians and patients. Government regulations are a major reason why many Americans find it difficult to afford prescription medicines. It is time to end the days when Americans suffer because the Food and Drug Administration (FDA) prevented them from getting access to medicines that were available and affordable in other parts of the world!

While none of the proposed "Patients' Bill of Rights" addresses the root cause of the problems in our nation's health care system, the amendment offered by the gentleman from Kentucky does expend individual control over health care by making Medical Savings Accounts (MSAs) available to everyone. This is the most important thing Congress can do to get market forces operating immediately and improve health care. When MSAs make patient motivation to save and shop a major force to reduce cost, physicians would once again negotiate fees downward with patients—unlike today where the reimbursement is never too high and hospital and MD bills are always at the maximum levels allowed. MSAs would help satisfy the American's people's desire to control their own health care and provide incentives for consumers to take more responsibility for their care.

There is nothing wrong with charity hospitals and possibly the churches once again providing care for the needy rather than through government paid programs which only maximizes costs. States can continue to introduce competition by allowing various trained individuals to provide the services that once were only provided by licensed MDs. We don't have to continue down the path of socialized medical care, especially in America where free markets have provided so much for so many.

In conclusion, Mr. Chairman, I urge my colleagues to reject the phony Patients' Bill of Rights which will only increase the power of the federal government, cause more Americans to lose their health care or receive substandard care, and thus set the groundwork for the next round of federal intervention. Instead, I ask my colleagues to embrace an agenda of returning control over health care to the American people by putting control over the health care dollar back into the hands of the individual and repealing those laws and regulations which distort the health care market. We should have more faith in freedom and more fear of the politicians and bureaucrats who think all can be made well by simply passing a Patients' Bill of Rights.

Mr. CUNNINGHAM. Mr. Chairman, I rise today to add my voice in support of the passage of a strong Patient's Bill of Rights. Congress has been working for several years to improve the delivery of health care to everyone in America. As a cancer survivor, I know how important it is to have good quality health care available when you need it.

I believe that for the most part, Americans who currently have health insurance are happy with their providers. Unfortunately, too many Americans can not afford the health care they need, and sadly, there are extreme cases where some Americans are the victims of fraud or abuse that prevent them from accessing the care that they are paying for.

I am committed to ensuring that America maintains the world's best health care system by enacting reforms giving people more choices, and more access to high quality health care. That is why I rise today in support of the Patients' Bill of Rights agreement reached by President George W. Bush and Congressman CHARLIE NORWOOD, as well as in support of an amendment to expand Medical Savings Accounts (MSA) and allow for the creation of Association Health Plans (AHP).

I am proud to support a Patients' Bill of Rights that will empower individuals and doctors to make health care choices, without the interference of government bureaucrats or trial lawyers. I support the Bush/Norwood agreement because it ensures that the American people will have swift recourse when an insurance company bean-counter decides to practice medicine.

There are a lot of people who say that when your insurance company denies coverage, you should be able to run them straight into court. Let's stop and think about that for a minute—when an individual is denied coverage by an insurance company, what is it that they really want? Coverage for life saving medical care! Lawsuits don't get you medical care. Lawsuits drag on in court for years, and line the pockets of trial lawyers. Lawsuits won't provide care for sick patients. The bottom line is that lawsuits don't save lives—but an independent medical review process will.

While we are working to improve health care for those who have insurance, we must

also take action to bring this high quality care to those who cannot currently afford insurance. I support the inclusion of a provision to give millions of Americans the best patient protections of all—health care coverage. I hope that today an amendment will prevail to expand Medical Savings Accounts, and allow for the creation of Association Health Plans. Association Health Plans will allow small businesses and the self-employed the same purchasing clout and administrative savings that large, multi-state employers and labor unions currently enjoy. This provision will expand health care coverage for thousands of employees of small businesses who cannot currently afford to provide coverage to its employees.

I urge my colleagues to join me in supporting the passage of the Bush/Norwood agreement on Patients' Rights which balances the need for affordable health insurance with the need for real patient protections.

Mr. ETHERIDGE. Mr. Chairman, I rise today in support of H.R. 2563, the Patients Bill of Rights, and in opposition to all "poison pill" amendments and in particular the Norwood amendment.

Like many of my colleagues in this House, I strongly support the Patients Bill of Rights. In fact, the Ganske-Dingell Patients Bill of Rights provides strong patient protections. It ensures access to emergency room care, allows for clinical trials, provides for continuity of care, and holds managed care plans legally responsible for their actions. But, today we have been asked to consider a new amendment to this bill. This amendment, if passed, would gut the spirit of the Ganske-Dingell bill.

The Norwood amendment would give HMO's a rebuttable presumption in court, which means that if an HMO follows its procedures in the review process, the patient bringing a suit would be held to a higher standard of evidence that separates HMO's from any other industry, business, or individual in America. Mr. Speaker, that higher standard prevents a patient from making a case in court. That is unfair and it is wrong.

We must hold HMO's and health insurance companies accountable for their actions, and I will oppose any amendment that protects HMO's and prevents patients from getting the care they need. If this amendment passes, I will oppose the amended bill because it will become unenforceable and will let HMO's off the hook. A right that is unenforceable is no right at all.

Mr. Chairman, I have consistently supported a patient's bill of rights that is strong and enforceable. Today, I am afraid, the House majority is going to pass an insurance company's bill of rights. Maintaining health security is one of the primary challenges facing North Carolina's working families today. Families deserve to know that they can count on affordable high quality health care in their managed care plans. Making crucial decisions about a patient's health care should be the responsibility of the doctor and the patient—not some insurance company accountant.

Today's debate is about patients. They are the Americans we hear about in the news and in our communities who are sick and hurting. A real patients bill of rights provides these Americans with access to the care they need and holds managed care plans legally accountable for decisions that lead to serious injury or death. The Republican leadership supports the Norwood amendment because it will

send this bill to a conference. And we all know what that means, Mr. Chairman. The Patient's Bill of Rights will die there.

America needs a Patients Bill of Rights. Our families are depending on us to give them that right today in this House. The only way we can ensure that they will get that right—the right to clinical trials, emergency room care, and to hold HMO's accountable for their decisions—is to oppose all of the "poison pill" amendments proposed today and support the real patient's bill of rights. The Republican bill is a fraud. It is a sham bill.

I urge all of my colleagues to support H.R. 2563, and ask that they join me in opposing the Norwood amendment and other poison pills that will kill a bill that America's patients desperately need.

Mr. COYNE. Mr. Chairman, it is time for Congress to enact a true patient protection bill. American families have already waited far too long for us to pass common-sense consumer protections.

Today, millions of Americans workers have no employer-provided health insurance, and over half of American Workers who do have employer-provided health insurance have no choice of health plan. The only health care coverage provided to those workers is a plan chosen by their employers. This plan may or may not address their health care needs and the health care needs of their families. Under current law, many of those workers and their families have no place to turn if they are harmed by decisions which are made by their insurance companies.

We need to pass a true consumer protection bill that would guarantee basic health rights for these workers. Families should be able to see specialists when they need to, appeal unfair denials, and seek emergency care when they experience severe pain. Doctors should be free to tell their patients all the options and to make medical decisions without fear of retribution from health plans. Health plans should be accountable if they make medical decisions, just as doctors are now.

Some would suggest that enacting true patient protection legislation undermines our long-held goal of health coverage for all Americans. They say that patient protection legislation could cause health insurance costs to rise and then families may become uninsured. They would have us believe that a health insurance plan that protects basic health care rights is out of reach for the average American. That is wrong. It is our responsibility to find a better way to help the uninsured than telling them to buy bad health coverage, coverage which may not be there when they need it.

Unfortunately, an unfair process to debate a meaningful patient protection bill has been set up by the Leadership of the House of Representatives today and this action effectively kills any chance of enacting a real patient protection bill. The bill being debated today contains numerous loopholes and fails to enact proper patient protections and rights. It fails to hold health plans accountable by the same standards that are applied to physicians for negligent decisions. All actions against health plans would be determined exclusively under a new federal law with no ability to apply state law. As well, when an injured patient does go to court to seek remedy, certain provisions in the legislation will tip the scales of justice in favor of the health plan. This bill also contains