

my appreciation to the distinguished Senator from Oregon for his comments. We have been working together in a cooperative fashion. I think progress has been made. It has been one of those things where I thought it was worked out, and it didn't seem to be quite worked out.

I know there is good faith all around. Senator DASCHLE and I have been following it closely. I thank the Senator for allowing this pipeline safety legislation to go forward. It is very important legislation, and if it expired, it certainly would pose problems for pipeline safety in the country. We will work with him to see if we can come to an agreement. There is at least one more vehicle it can be attached to if we can get it worked out.

So I thank the Senator for allowing this important legislation to go forward.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, it is my pleasure to rise today in recognition of 100 years of significant accomplishments by the American Academy of Ophthalmology. Since 1896, the four major causes of blindness in the world have been identified and are now preventable, and Academy pioneers have led the way in the eradication of cataract blindness worldwide. The Academy's mission of helping the public maintain healthy eyes and good vision is a lasting tribute to its membership.

In April 1896, Dr. Hal Foster of Kansas City sent out more than 500 invitations to physicians practicing ophthalmology and otolaryngology, inviting them to Kansas City for organizational purposes. Several name changes of the nascent medical society resulted in what ultimately became known as the American Academy of Ophthalmology and Otolaryngology, and remained so until 1979 when the two medical disciplines split into separate academies.

Today, the American Academy of Ophthalmology is the largest national membership association of ophthalmologists—the medical doctors who provide comprehensive eye care, including medical, surgical and optical care. More than 90 percent of practicing U.S. ophthalmologists are Academy members—20,000 strong—and another 3,000 foreign ophthalmologists are international members.

Many principles and strategies that the American Academy of Ophthalmology founded over the years are still championed today. The Academy has fostered a culture of outstanding clinical and educational programs, cutting edge technologies, the latest ophthalmic practice support mechanisms, and highly effective public and government advocacy activities.

Education remains the primary focus of Academy activities. Academy members will celebrate the Centennial Annual meeting in Chicago, October 27-31, 1996. One of the largest and most important ophthalmological meetings in

the world, this 5-day educational event will offer symposia, scientific papers, instructional courses, films, posters, and exhibits designed to educate ophthalmologists and others about practical applications of new advances in eye care.

In the coming years, it is my sincere hope that both the individual and collective efforts of ophthalmologists will continue to transform new knowledge into improved clinical care for the benefit of the American public.

On this centennial observance, I commend the American Academy of Ophthalmology for its steadfast dedication in helping the public maintain healthy eyes and good vision. I urge my colleagues to join with me in saluting the members of the American Academy of Ophthalmology for their many sight-saving accomplishments over the past 100 years.

#### WYDEN-KENNEDY AMENDMENT PROHIBITING GAG RULE IN HEALTH INSURANCE PLANS

Mr. KENNEDY. Mr. President, gag rules have no place in American medicine. Americans deserve straight talk from their physicians. Physicians deserve protection against insurance companies that abuse their economic power and compel doctors to pay more attention to the health of the company's bottom line than to the health of their patients.

You would think everyone would endorse that principle. But the insurance companies that profit from abusing their patients do not—and neither does the Republican leadership in the House and Senate. Senator WYDEN and I offered an amendment to the Treasury-Postal appropriations bill to end this outrageous practice. A 51-48 majority of the Senate voted with us. But the Republican leadership used a technicality of the budget process to raise a point of order requiring 60 votes for our proposal to pass. We have now revised our proposal so that there will be no point of order when we offer it again.

But the delaying tactics of our opponents still continue. We first offered our amendment on September 10. The point of order was raised against it on September 11. We tried to offer the revised version later that day. We waited on the Senate floor all afternoon and evening, and through the next day as well. We were ready to agree on a time limit to permit a prompt vote. Still the Republican leadership said, "no." Finally, the Republican leadership abandoned the whole bill, rather than allow our amendment to pass.

Since September 12, we have waited for another bill on which to offer this proposal. We were prepared to offer it on the pipeline safety bill, but the Republican leadership will not allow that bill to move forward unless we agree to drop our amendment. The pipeline bill was first offered on September 19—and then abandoned in order to block our amendment.

Since September 19, we have also been attempting to negotiate a reasonable compromise with the Republicans that would achieve the goal of protecting doctor-patient communications, but each time agreement has seemed close, new demands have surfaced. Rolling holds were used to block the Kassebaum-Kennedy bill for months. A similar tactic is being used now.

This issue could be resolved in a few minutes of debate on the Senate floor. A stricter approach than the one we proposed was approved by a 25-0 bipartisan vote in the House Health Subcommittee last June, and the full House Commerce Committee approved it by a voice vote in July. The only thing that stands between the American people and ending these outrageous HMO gag rules is the insistence of the Republican leadership on putting the insurance companies first—and patients last.

The need for this proposal is urgent, which is why we are pressing this issue so strongly in the closing days of this session. Patients deserve this protection—and so do doctors. So why is the Republican leadership in Congress protecting the insurance industry?

One of the most dramatic changes in the health care system in recent years has been the growth of health maintenance organizations and other types of managed care. Today, more than half of all Americans with private insurance are enrolled in such plans. In businesses with more than ten employees the figure is 70 percent.

Between 1990 and 1995 alone, the proportion of Blue Cross and Blue Shield enrollees in managed care plans more than doubled—from 20 percent to almost 50 percent. Even conventional fee-for-service health insurance plans have increasingly adopted features of managed care, such as continuing medical review and case management.

In many ways, these are positive developments. Managed care offers the opportunity to extend the best medical practice to all medical practice. It emphasizes helping people to stay healthy, rather than just caring for them when they are sick. Managed care often means more coordinated care and more effective care for people with multiple medical needs. It offers a needed antidote to profit incentives in the current system to order unnecessary care. These incentives have contributed a great deal to the high cost of health care in recent years.

But the same financial incentives that enable HMOs and other managed care providers to practice more cost-effective medicine can also be abused. They can lead to under-treatment or arbitrary restrictions on care, especially when expensive treatments are involved or are likely to reduce HMO profits.

There is a delicate balance between the business side of medicine and the medical side of medicine, and Congress has an important role to play, especially in cases such as this, where doctors and patients are on one side and

the insurance industry is on the other side.

As Dr. Raymond Scalettar, speaking on behalf of the Joint Commission on Accreditation of Health Care Organizations, recently testified:

The relative comfort with which the fee-for-service sector has ordered and provided health care services has been replaced with strict priorities for limiting the volume of services, especially expensive specialty services, whenever possible \* \* \* [T]hese realities are legitimate causes for concern, because no one can predict the precise point at which overall cost-cutting and quality care intersect. The American public wants to be assured that managed care is a good value, and that they will receive the quality of care they expect, regardless of age, type of disorder, existence of a chronic condition or other potential basis for discrimination.

It is easy for insurance companies to put their bottom line ahead of their patients' well-being—and to pressure physicians in their plans to do the same. Common abuses include failure to inform patients of particular treatment options; barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order needed diagnostic tests; and reluctance to pay for potentially life-saving treatments. It is hard to talk to a physician these days without hearing a story about insurance company behavior that raises questions about quality of care.

In some cases, insurance company behavior has had tragic consequences. The experience of Alan and Christy DeMeurers is a case in point. An HMO cancer specialist recommended—in violation of the HMO's rules—that Christy should obtain a bone marrow transplant. The doctor made the necessary referral. The DeMeurers then spent months trying to obtain this treatment. The HMO tried to deny the treatment. It also attempted to prevent the DeMeurers from obtaining information about the treatment. The delays they experienced may have cost Christy her life.

Alan DeMeurers made the trip to Washington from Oregon several weeks ago to speak out in support of our amendment. I had the opportunity to meet with him. His story is powerful support for ending abuse as soon as possible—now, this year, not next year.

Our amendment bans the most abusive types of gag rule—those that forbid physicians to discuss all possible treatment options with the patient and make the best medical recommendation, including recommendations for a service not covered by the HMO.

Specifically, our amendment forbids plans from "prohibiting or restricting any medical communication" with a patient with respect to the patient's physical or mental condition or treatment options."

This is a basic rule which almost everyone endorses in theory, even though it is being violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations require that "Physicians cannot be restricted from sharing treatment

options with their patients, whether or not the options are covered by the plan."

As Dr. John Ludden of the Harvard Community Health Plan, testifying for the American Association of Health Plans has said, The AAHP firmly believes that there should be open communications between health professionals and their patients about health status, medical conditions, and treatment options.

But too often these days, that basic principle is being ignored.

The best HMO plans do not use gag rules. In our view, no plan should be allowed to use them. Most of us came to this debate with the assumption that HMOs which prevent physicians from giving the best possible medical advice to their patients are rare exceptions. But the vehemence with which the insurance industry opposes this simple, obvious rule—a rule which is entirely consistent with every ethical statement issued by the industry—leads us to wonder just how widespread this practice is.

Our amendment has strong support from both the American Medical Association and Consumer's Union—because it is a cause that unites the interests of patients and doctors. It has been strongly endorsed by President Clinton. It passed the House Commerce Committee by an overwhelming, bipartisan vote. It has already received a majority vote in the Senate. The only thing that stands between this bill and passage is the insurance industry and its allies in the Republican leadership in Congress.

These are the same groups that fought the Kassebaum-Kennedy insurance reform bill. They tried to defeat the Domenici mental health parity bill and the Bradley bill to protect mothers and newborn infants from being forced prematurely out of the hospital.

In each case, the Republican leadership knew it could not win the battle in the open. So they resorted to the tactic of delay in public and denial behind closed doors. That tactic failed on those bills, and it should fail on the gag rule bill. Unscrupulous insurance companies have no right to gag doctors and keep patients in the dark.

If this bill does not pass this year, the American people will have a chance in November to cast their votes for a Democratic Congress and a Democratic President that will make fair play for patients our first priority next year.

#### VA/HUD APPROPRIATIONS

Mr. KERRY. Mr. President, on the night of September 24, the Senate very quickly took up and passed by unanimous consent the Veterans Administration/Housing and Urban Development/Independent Agencies Appropriations Bill for Fiscal Year 1997. Because it was not possible for me to comment on the bill at that time, I would like to do so today.

Mr. President, there is much to commend this bill, but there are a few glaring

faults. I will focus first on the positive features.

Part of the good news is that the bill provides level funding for the HOME and CDBG programs. These are two of HUD's model programs that provide an appropriate mix of local flexibility within federal priorities.

I am also particularly pleased that the final conference agreement includes a provision that I sponsored in the Senate with Senator DOMINICI to provide \$50 million for vouchers for disabled individuals. These vouchers are a critical housing resource for those disabled people who are affected when public housing authorities designate certain buildings for elderly residents only when those buildings used to be available also to nonelderly disabled individuals. I thank the Chairman and the Ranking Member for including this provision in the final agreement.

The mental health parity provisions the Senate added by floor amendment were included in this bill, and I congratulate Senators DOMINICI AND WELLSTONE, who initially proposed this legislation, for their efforts. Many health plans now impose lifetime limits of \$50,000 and annual caps of \$10,000 for treatment of mental illness—far lower than comparable limits for physical treatments in most insurance policies. The mental health parity provision will require greater equality between the lifetime and annual limits for mental health coverage and the limits for physical health coverage. Millions of American families will now be able to get the therapy and other mental health treatment they need.

Mr. President, we have taken another very important step in this bill by including Senator BRADLEY's legislation to ban "drive through deliveries." Health insurers will now be required to allow mothers and their newborns to remain in the hospital for a minimum of 48 hours after a normal vaginal delivery and 96 hours after a Caesarean section. By taking the decision of how long to stay in the hospital out of the hands of insurance companies and placing it in the hands of health care providers and mothers who have just given birth, we will have healthier babies during their first days and we will give the mothers the help and security they deserve.

Mr. President, I am also pleased that my colleagues have chosen to place the needs of children suffering from spina bifida, a serious neural tube defect, ahead of partisan politics. This conference report contains the Agent Orange Benefits Amendment, which extends health care and related benefits from the Department of Veterans Affairs to children of Vietnam veterans who suffer from spina bifida. In March, the National Academy of Sciences issued a report citing new evidence supporting the link between exposure of service men and women who served in Vietnam to Agent Orange, the chemical defoliant sprayed over much of Vietnam, and the occurrence of spina bifida in their children.