

MEASURE PLACED ON THE
CALENDAR—H.R. 3717

Mr. JEFFORDS. Mr. President, I have further business for the leader which I neglected here. I understand that there is a bill that is due for its second reading at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3717) to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs.

Mr. JEFFORDS. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. JEFFORDS. Mr. President, now I will proceed in morning business.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2054 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I know we are in morning business with a time limitation of 10 minutes. I ask unanimous consent to be able to proceed for 15 minutes.

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

Mr. KENNEDY. I thank the Chair.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, in the United States we have the best doctors and hospitals in the world, and the investments we have made in research pay off each day in the form of new therapies and procedures that save lives or dramatically improve the quality of life for countless patients. Yet, too many people are being denied access to medically necessary care by cost-driven insurance companies that are bent on putting profits before patients.

People across the country are concerned. In a recent survey by NBC News and the Wall Street Journal, 80 percent of the respondents said passing a bill of rights, a health care bill of rights, a Patients' Bill of Rights, is very important—including 33 percent who said it was vital.

So, what is wrong with today's health insurance system? We could ask Glenn Nealy's young widow. But before we go through that rather tragic story, I will just review very quickly the essential elements in our Patients' Bill of Rights.

It guarantees the access to specialists and emergency rooms and other needed care.

It expands the choices, which enable patients to select doctors and plans, and it removes the gag law which, in too many instances, denies doctors the ability to tell their patients about the best medical procedures to take care of their particular needs.

It ensures independent appeals. If individuals find they are denied access to certain types of procedures, there will be an opportunity for an independent appeal—to make sure the kind of care that those individuals are receiving is really the best.

It holds plans accountable for medical decisions. That is extremely important. We should not be excluding these health plans from accountability for the decisions that they make. I am confident that the good plans have nothing to fear from this proposal. They make medical decisions that are carefully considered and justified. But there are increasingly too many plans in this country that are putting the bottom line first and are not living up to their responsibilities. And there is no reason in the world that those plans should not be accountable, consistent with what the State laws provide.

It restores the doctor-patient relationship. All patients who are being treated need to know they are receiving the treatment that is necessary from the medical point of view, rather than from the insurance company's point of view, or some accountant's point of view, back in an office that may be practicing almost cookbook medicine. That is, obviously, not in the interest of the patient and doctor. This is a proposal that allows doctors—who have dedicated themselves to good patient care and then find themselves restricted by the various HMOs and insurance plans—the opportunity to practice the best in medicine.

And it establishes quality and information standards so patients have information available to them and are able to make informed and good judgments.

As one who was the principal sponsor for HMO legislation in the 1970s, I am a great believer in using the concept of preventive medicine in the treatment of patients and in trying to build into our health care system the concept that the system should generate income for those who are going to keep the patients healthy, rather than reward a system that treats patients only when they are sick. That was a very basic and fundamental concept. The good HMOs, and we have many of them in my own State of Massachusetts, have done this. They have invested a great deal in preventing illness and disease. That is not a general feature of our health delivery system today. But some HMOs have done that and have been very aggressive in doing it, in keeping people healthy. In those areas where they have been very successful in keeping people healthy and

then providing quality care for those who are sick, they are an extraordinary example for good health care delivery in this country today, and we salute them. We salute them.

But, what we are finding is that these excellent groups are, too often and increasingly, put at a disadvantage by those who are going to represent that they are going to provide those kinds of services to the patients and then, when the time comes, cut back on those services because they are being driven by the economics of treatment of the patients and are making decisions that are based on interest in the bottom line of these HMOs, rather than what is in the interest of the patients.

So we have developed legislation here in the Congress for the Patients' Bill of Rights. It is legislation that also has strong support over in the House of Representatives. There is a broad group of Members of this body who have supported this legislation. There is a very considerable number of our Republican colleagues and friends who have supported this and similar legislation—Congressman NORWOOD, Congressman GANSKE and others in the House of Representatives. There are some differences in the proposals, but there is a general recognition of the need for action in this Congress. That is what we are hopeful of, at least having some action in this Congress.

This past week, we attended to the abuses in the IRS and its reform. It seems to me that we ought to now turn to the abuses that exist out there in the delivery of health care systems which, in many, many instances, mean the difference between life and death.

All of us were shocked and horrified after learning of the abuses of bureaucrats in the IRS and how they treated individuals. That was shocking for, I think, all Americans. We passed legislation responding to that. We acted quickly.

We have even more egregious challenges that are facing patients across this country, and this issue demands action as well. It is really going to be a question of whether we are going to have the opportunity to debate these issues and come to a resolution on those items and do it in the next several days, because we do not have a great deal of time in this session. The time is moving on. We are now into May. Only about 75 legislative days remain before we move towards adjournment.

I cannot think of many measures that are more important than having legislative action to debate and pass this, and to send it to the President.

The President of the United States supports it. There is strong indication by the vote that we had during the budget consideration that almost half of the Members of this body support these concepts. And I believe if we have a full opportunity to debate and discuss these issues, we can certainly develop broad support for this type of legislation.

There is strong support by the American Medical Association. There is strong support because doctors know what is at risk. There is strong support from consumers. We have the support of more than 100 organizations across the country, representing all different factions of the health care system. That is an extraordinary—extraordinary—group of representatives who have strong interests in different aspects of our health care system. But I daresay, I rarely see that kind of a coalition support legislation. When they do, we ought to at least have an opportunity to address it on the floor of the U.S. Senate. We should not be effectively denied that opportunity, and we won't be denied that opportunity.

We will not be denied that opportunity, Mr. President, because the great majority of American people believe that we should address this issue. And those of us who are in strong support of the bill that has been introduced by Senator DASCHLE, and of which many of us are cosponsors, know where there are areas of this bill that can be altered or changed. But we ought to have that opportunity on the floor of the U.S. Senate to do so.

What is not right is telling the American patients in this country, telling the doctors in this country, telling the families in this country who have suffered abuses of the managed care system that, "You are going to be denied any kind of redress." That is effectively what we will be saying if we do not have the opportunity to debate this issue.

Mr. President, let me give you an example. We have been listening to these examples over the past several days. They go on and on. People may say, "Well, you can always find one or two instances out there, and that is not a sufficient reason that we ought to provide a patients' bill of rights."

Of course, that is hogwash, Mr. President, when you look at the range of challenges and problems we are facing in local communities across the country. The type of situation that I will mention in a moment is being replicated every single day in communities all across this Nation and cries out for action, and action we will have, Mr. President. Let me assure you: There is no shortage of tragic stories about families who have been hurt by the current system. And we will continue to raise these examples until this body passes legislation to address the abuses.

I mention this morning a story about a young man, Mr. President, a gentleman called Glenn Nealy. Glenn had a heart condition and was under the care of a cardiologist. In March of 1992, his employer switched health plans, and Glenn chose a new plan after gaining assurances from the plan's agent that he would be allowed to continue seeing his cardiologist from the old plan. He was told that he simply had to choose a plan doctor as his primary care physician and that the plan doctor

would then refer him to his current cardiologist for continued treatment.

We are talking about access to a specialist for care that is clearly needed by the patient. Here is a young person, a worker, who changes health plans. He is concerned about changing health plans, but it is represented to him that he can change and continue to use his cardiologist who has been treating him for many months. He goes ahead and signs up with this new program, but he has to follow the procedures to go to a primary care doctor before he can see his cardiologist.

On April 9, 1992, Glenn went to see his new primary care doctor to obtain the referral to his cardiologist, but the new doctor refused to see Glenn because he was not yet issued his new HMO card. It was represented to him, if he switched, there would be a continuity of care, better services. He believed that he would be treated in this manner. He was given assurances of continued care under his cardiologist, and all he would have to do is effectively get the signoff from his new primary care doctor. So he went ahead.

As I mentioned, he went this primary care doctor, and he was told that his new HMO card had not been prepared. For 3 weeks, Glenn contacted the plan's offices to get the necessary paperwork and was twice issued incorrect cards. When Glenn finally was able to see his new primary care physician, his request for a referral to his cardiologist was refused.

The family had indicated that they never would have signed up for this plan if they were going to be denied access to that doctor. They were given the assurances that they were going to be able to have a continuity of care, but the primary care doctor said no. The doctor professed not to know the HMO rules governing referrals.

In addition, Glenn's prescriptions to treat his heart condition went unfilled because the HMO provided incorrect information to the local pharmacy. Yet another instance of ineptitude that contributed to the tragic result.

On April 29, the HMO formally denied Glenn's request because they had another so-called participating provider in the area. That means they have another provider. It was not the cardiologist that he wanted. He had no idea whether that cardiologist had the training, had the background, or experience of his old cardiologist. He was just told that there was a participating provider for the kind of services that he needed related to his heart. He was assigned, by the plan, a new doctor.

The promises they made while recruiting Glenn to join their plan were meaningless. For 2 weeks, Glenn fought with the plan to continue care with his old doctor, but when faced with no care at all, he agreed to see the HMO's cardiologist. An appointment was made for May 19.

But Glenn never saw the plan's cardiologist. Tragically, he suffered a massive heart attack on May 18, the day

before his appointment. He left behind a wife and two children. Glenn was only 35 years old.

This should not happen in America. Health plans must be held responsible for the information they give patients, and patients must have the right to access the care that they bought with their premiums. It is fundamentally unfair to provide HMOs with immunity from bureaucratic decisions that mean the difference between life and death.

Mr. President, we must take up and pass meaningful patient protections this year in the Congress. The legislation, as I mentioned, is supported by more than 100 groups representing millions of patients, health care professionals, and working families. We have the bill, the Patients' Bill of Rights, to prevent tragedies like this from occurring. Our bill would protect and restore the doctor-patient relationship.

Our bill would guarantee that a change in plans does not mean an abrupt change in providers. Our bill would allow the Glenn family to hold their plan accountable for their negligence.

The Senate must show the American people whether they stand with the patients or with the greedy guardians of the status quo.

So next week the Senate may turn to a bill targeted only to breast cancer issues, but the women's community and the breast cancer community and the broader coalition of patients and professionals support comprehensive managed care reform legislation. They want the Patients' Bill of Rights.

They understand the need for the Patients' Bill of Rights because this legislation will provide access to important clinical trials. Clinical trials are critical to promoting the discovery of new life-saving treatments and therapies. They offer hope and opportunity for patients who have nowhere else to turn.

This will be the new century of life sciences. No one can help but pick up the newspaper every single day and find these extraordinary—extraordinary—changes that are taking place, to the benefit of all mankind. Whether we are discussing pharmaceutical breakthroughs, various kinds of surgical procedures, or other treatments—these discoveries are all taking place at this time.

Those that have been afflicted with the terrible tragedy of breast cancer want to be able to participate in clinical trials. And they will be guaranteed that under the Patients' Bill of Rights. But they will not be guaranteed it under the legislation that has been referenced briefly here on the floor this last week.

These women need access to the right specialists. They will be guaranteed that under our bill—but not under the other legislation—and they need to know that care will not be abruptly interrupted when the plans change.

Mr. President, our bill includes the right to an independent and timely appeal, but the other bill does not. If a

breast cancer patient or her doctor believe that she is not getting the kinds of treatment, she must have the right to be able to go through her HMO and, if necessary, outside the HMO for a timely appeal. Time is of the essence in these situations. Results are needed quickly—quickly.

Let me be clear. I am strongly opposed to drive-through mastectomies. I cosponsored Senator DASCHLE's legislation to end that practice. And I believe strongly that insurance companies that cover mastectomies have an obligation to also cover reconstructive surgery and prostheses when a woman has had to have a mastectomy. I have worked closely with National Breast Cancer Coalition and many others to correct these injustices. But these two proposals address only a small portion of the serious problems faced by women with breast cancer. These are both included in our comprehensive bill, but they are augmented by additional matters that are of enormous continued importance to those same patients.

We are guaranteeing them in our bill access to the kind of specialty care, the critically important clinical trials, and the ability to hold the plan itself accountable. And when you have a process whereby you can hold a plan accountable, where you have the possibility of enforcement, then you have real rights. When you do not have the ability to enforce something, then that right is not meaningful.

That is true across the board. You can pass laws every day about burglary and robbery and other crimes, but unless you are going to have a penalty, those laws are meaningless—they are meaningless. That is what we understand. We want to have those various plans held accountable for the decisions they make.

Mr. President, the HMOs that are providing good quality medicine have nothing to fear. It is understandable because they are living up to these kinds of quality challenges. They are at a competitive disadvantage by those plans that are trying to trim and reduce services, and therefore claim that they are providing the same range of services but doing so on the cheap. The obvious result is a diminution in care for those patients, and in a number of instances even the loss of life for those patients. And that is wrong.

Mr. President, many Americans have seen that movie, "As Good As It Gets." I think people understand this issue very well. Helen Hunt won an Oscar for her role in this movie. In it, she delivers a sharply worded criticism of her son's managed care plan, and audiences across the country erupt in laughter and applause. These hoots and the hollers make it very clear that the American people understand what is happening in too many of these managed care systems.

Everyone loves their managed care system until they get sick. Then we find too many instances where managed care becomes mis-managed care.

So, Mr. President, I am very hopeful that we can come to a full debate and discussion on this issue. It is a matter, as I mentioned, of life and death in many circumstances. Our colleagues on the floor of the Senate have given these examples. And these examples are not going to go away. The problem is not diminishing; the problem is increasing. This is an area that cries out for action, and the American people deserve no less.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 3717. An act to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HOLLINGS, Mr. MURKOWSKI, Mr. LEAHY, and Mr. HAGEL):

S. 2054. A bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a model project to provide the Department of Veterans Affairs with medicare reimbursement for medicare health-care services provided to certain medicare-eligible veterans; to the Committee on Finance.

By Mr. REID:

S. 2055. A bill to require medicare providers to disclose publicly staffing and performance data in order to promote improved consumer information and choice, to protect employees of medicare providers who report concerns about the safety and quality of services provided by medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of medicare providers; to the Committee on Finance.

S. 2056. A bill to amend title XVIII of the Social Security Act and title 38, United States Code, to require hospitals to use only hollow-bore needle devices that minimize the risk of needlestick injury to health care workers; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself, Mr. MCCAIN, Mr. HOLLINGS, Mr. KERRY, Mr. AKAKA, Mr. WYDEN, Mr. GORTON, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. JEFFORDS, Mrs. MURRAY, Mr. GREGG, Mr. D'AMATO, Mr. CHAFEE, and Mr. TORRICELLI):

S. Res. 226. A resolution expressing the sense of the Senate regarding the policy of the United States at the 50th Annual Meeting of the International Whaling Commission; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HOLLINGS, Mr. MURKOWSKI, Mr. LEAHY, and Mr. HAGEL):

S. 2054. A bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a model project to provide the Department of Veterans Affairs with medicare reimbursement for medicare health-care services provided to certain medicare-eligible veterans; to the Committee on Finance.

THE VETERANS' EQUALITY FOR TREATMENT AND SERVICES ACT OF 1998

Mr. JEFFORDS. Mr. President, I am proud to rise with my colleagues, Senator ROCKEFELLER, Senator SPECTER, Senator HOLLINGS, Senator MURKOWSKI, and my friend from Vermont, Senator LEAHY, to introduce the Veterans' Equality for Treatment and Services Act, or VETS Act, of 1998. This bill will give our Nation's veterans greater freedom to choose where they receive their medical care.

Also known as "Medicare Subvention," the VETS Act will authorize the Department of Veterans Affairs to set up 12 pilot sites around the country for Medicare-eligible veterans who are either barred from getting care at VA facilities, or cannot afford costly VA copayments.

As members of the Senate Finance Committee, Senator ROCKEFELLER and I worked successfully last summer to pass this exact piece of legislation through the Senate Finance Committee. We were disappointed that before final passage of the 1997 Balanced Budget Act our legislation was replaced with a requirement to simply study the matter and issue a report.

Well, we have studied the issue and it is now time to act. The Veterans Health Administration under the able leadership of Ken Kizer has devised Medicare Subvention payment methods and I have recently spoken with Secretary Togo West about our mutual commitment to the passage of Medicare Subvention in this Congress.

Under current law, the VA will not generally treat a non-service connected Medicare-eligible veteran because they have no way to recover the full cost of doing so. Under the VETS Act, this same veteran could go to their VA for care and Medicare would reimburse the VA at the normal Medicare rate. Total Medicare reimbursements