

heard it yet. We never heard it in the committee when we were marking this bill up. We did not hear one. So maybe there is an argument on the other side that we haven't heard yet. A woman who is going to have a mastectomy ought to be under the care of the doctor, and the doctor and the patient ought to decide whether that person can leave the hospital that day or ought to be there 1 or 2 or 3 more days. Leave it up to the doctors and their recommendations. That is not permitted under the majority's bill.

We heard a great deal of talk about that. That is not in the bill that is the Republican proposal. The specific amendment that the Senator talked about on the Senate floor would be an amendment that we ought to be able to debate. We ought to be able to debate why it is not in the Republican bill that will eventually, hopefully, be laid down before the Senate.

There is not that protection for women in this country. There is not that protection that will permit the doctor to make a judgment about how long it will be medically necessary to keep that woman in the hospital if she has a mastectomy. That protection is not there. It was defeated when it was offered.

Let's have a brief debate on that issue, and let's have the call of the roll. Why is it we are being denied that today? Why is it we are being foreclosed from that kind of an opportunity? Why is it we cannot have the kind of debate in relation to the excellent presentation that the Senator from California, Senator FEINSTEIN, made, the excellent presentation that the Senator from Maryland, Senator MIKULSKI, made on two different kinds of phases?

Yesterday we talked with our Democratic leader, Senator DASCHLE, about the importance of clinical trials and the necessary aspects of increasing the clinical trials. Historically, the insurance companies of this country have basically supported clinical trials. There is a very good reason why they should, because—besides the medical reason that it is important for the patient—if the person gets better they will not need as many services, and that means the insurance company will pay out less in the long run. That is something that should be a financial incentive for the insurance companies; and it is.

Let me repeat that. While clinical trials make sense in terms of the treatment for the patient, they make sense for the insurance companies, too. But what we are seeing, under the health maintenance organizations, is the gradual squeeze and decline in terms of the insurance companies' payments for routine health needs of the particular patients.

Under our proposal, they would only pay for routine costs, as they have historically. The research regime pays for the special kinds of attention, treatment, and tests that are necessary in

order to review whether that particular pharmaceutical drug or other therapy is useful or not. That is not paid for by the insurance companies. So they only have to pay for the routine health needs—the costs that they would pay for even in the absence of a clinical trial. The regime, the testing group or organization or pharmaceutical company that is having that clinical trial, pays for the rest.

But what we are seeing is virtually the beginning of the collapse of clinical research taking place. I will just make a final point on this issue. The group that has had the greatest amount of clinical research done on them in this country has been children. The greatest progress that has been made in the battle for cancer has been—where?—with children.

Most of the clinical researchers who have reviewed this whole question of our efforts on cancer would make the case that one of the principal reasons that we have made the greatest progress in the war on cancer in children, in extending their lives and improving their human condition, is because of these clinical trials.

We want to continue to encourage participation in clinical trials. They offer hope for the future. If the doctor says this is what is necessary for the life and the health of a woman who has cancer, that this is the one way she may be able to save her life, and there is a clinical trial available, we want to be able to say she ought to be able to go there. The opposition says: Let's study it. I say: Let's vote on it.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent to extend morning business until 3 o'clock, with the time equally divided.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I have a question and I shall not object. Can our friend tell us if there is any progress being made on getting the Patients' Bill of Rights to the floor so the good Senator from California, Senator FEINSTEIN, can offer an amendment to assure that doctors make the decisions when people are sick and not a bureaucrat? Is there any chance we might have that on the floor this afternoon?

Mr. NICKLES. Mr. President, I am happy to respond. Our colleagues from

California may want to join our bill; we have doctors make the decisions. To answer the Senator's question, we are negotiating in good faith. We are getting closer, I believe, to coming to an agreement that would have consideration of the Patients' Bill of Rights be the pending business when we return from the Fourth of July break. Hopefully, we will have that resolved in the not-too-distant future.

Mrs. BOXER. I thank the Senator.

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

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California, Mrs. FEINSTEIN, is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I am on the floor because I anticipated that at 2 o'clock we would be returning to the agriculture appropriations bill. I indicated this morning that I would be proposing an amendment to that bill that has to do with giving the physician the right to provide medically necessary services in a setting which that physician believes is best for the patient. I now see that this has been postponed an hour, so I would like to speak to the amendment now and then introduce it at 3 o'clock. I hope there will be no objection to that.

Let me begin by saying, once again, what this amendment does. Essentially, the amendment says that a group health plan or a health insurance issuer, in connection with health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or the setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis, to the extent that such treatment or diagnosis is otherwise a covered benefit.

I read that specific language because it is important to understand that because most people buying a health insurance plan believe that their doctor is, in fact, going to be prescribing the treatment that is best for them, not the treatment that is the least cost effective, not the treatment that might run a risk to the patient but be good for somebody else, but the treatment or the procedure, in an appropriate setting, that is right for that patient. What is right for a patient who is 18 years old may not be right for a patient who is 75 years old, and so on. I will read from the legislation the definition of "medical necessity" or "appropriateness":

The term "medical necessity" or "appropriate" means, "with respect to a service or a benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice."

That is something that everyone expects, that everyone is accustomed to in this Nation, and I believe that is the way medicine should, in fact, be practiced. I am very pleased to say the language of this amendment, from the