

woman in the State of California to serve as a Chief of Police for a municipality. Chief Carlton has been a trailblazer throughout her career, breaking the "glass ceiling" for every one of her promotions. Lucy Carlton's efforts have paved the road, so that others might follow.

Police Chief Carlton holds a Bachelor of Arts Degree in Administration of Criminal Justice from San Jose State University and has completed graduate work in Public Administration at California State University, Hayward. She also holds a lifetime Teaching Credential from the State of California and has taught classes at San Jose State University, and Evergreen, Gavilan, San Jose City and Chabot Colleges. Ms. Carlton has lectured throughout the United States in the field of adult and child sexual abuse investigation. During her assignment in the investigation bureau, she was certified as an expert witness in the area of child sexual abuse.

Lucy Carlton is the past chair of the Santa Clara County Domestic Violence Council, the Santa Clara County Police Chiefs Association and the Administration of Justice Foundation at San Jose State University. Ms. Carlton has served on the board of the California Peace Officers' Association and currently serves on the board of the California Police Chiefs' Association. During her career, Chief Carlton has worked on a number of Peace Officer Standards and Training (POST) projects, which resulted in the development of training guidelines for officers in the area of sexual assault and child abuse investigations. She also served on the Department of Justice task force, which developed State guidelines for the implementation of Megan's Law.

Lucy Carlton has mentored dozens of men and women preparing for entry into law enforcement, as well as those preparing for promotional exams. In 1998 she assisted in the development of a series of classes for both men and women on the subject of Women's Issues in Law Enforcement. Chief Carlton has taught in the program since its inception.

Lucy Carlton has volunteered hundreds of hours to the Milpitas-Berryessa YMCA and served on their board for eight years. In 1995 she was named their volunteer of the year. She also serves on the advisory boards of WATCH (a transitional housing program for battered women and their children) and the Support Network for Battered Women. In 1990, she was named "Woman of the Year" by former Assemblywoman Delaine Eastin and honored for her outstanding service and dedication to the people of the State of California. In 1996, the Women's Fund of Santa Clara County and the San Jose Mercury News honored her as a "Woman of Achievement" in the category of Public Service. In 1998 she was honored as a "Distinguished Alumni" from San Jose State University's Department of Administration of Justice. The Los Altos Kiwanis Club honored her last year as their 2000 "Kiwanian of the Year."

Police Chief Lucy Carlton has been a valuable asset to the State of California and to our district. Though her commitment and dedication will be sorely missed, I am grateful to her for her years of service and wish her the best in the next phase of her life.

## BIPARTISAN PATIENT PROTECTION ACT

SPEECH OF

**HON. W.J. "BILLY" TAUZIN**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, August 2, 2001*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2563) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage:

Mr. TAUZIN. Mr. Chairman, the Ganske-Dingell bill does not guarantee a right to sue for patients. Indeed, the bill makes it difficult for states to create or maintain a cause of action because such causes of action must meet pages of very complicated requirements. A State could, in the future, pass a law consistent with these many requirements. Until they did so, however, patients who were harmed may have no recourse for damages at all. The preemption language under Ganske-Dingell is so fraught with ambiguity that it may take decades to determine whether patients in certain states even have a cause of action and can hold HMO's responsible for negligence.

Professor Larry Alexander, Warren Distinguished Professor at the University of San Diego Law School, has reviewed the bill and concludes: ". . . state common law is quite unlikely to contain these specific features, and state judges are unlikely to possess the authority to read them without legislative assent . . . Professor Alexander also states that the literal reading of the provisions of the bill appear to be ". . . an attempt to directly impose Federal conditions on state law . . ." without offering state governments a choice. Professor Alexander states such a reading would be a Constitutional problem.

Professor A.J. Bellia of Notre Dame Law School in a letter dated August 1, 2001 reviewed the Ganske-Dingell approach and stated: ". . . H.R. 2563 raises substantial constitutional issues. I anticipate, that if enacted, these provisions will spawn significant constitutional litigation . . . He cites several courts and several reasons for these findings.

The Ganske-Dingell approach also forces employers, plans and issuers to follow conflicting definitions, rules, and standards of conduct. The resulting uncertainty and litigation will not help patients, will drive costs, and will increase the number of uninsured.

As drafted, the Ganske-Dingell bill also preempts State law to reduce liability for negligent or reckless conduct by health professionals and treating hospitals. That means reducing the liability for health care professionals who issue faulty diagnoses, leave an instrument in during surgery, or inject the wrong medicine. Indeed, virtually any medical error would be shielded from a state cause of action where employers or the plan seek recovery or contribution.

The Department of Justice (DOJ), Congressional Budget Office (CBO) and Congressional Research Service (CRS) all confirm this interpretation. A DOJ memorandum dated July 25, 2001 states: ". . . This provision is broadly drafted to apply to claims arising out of 'any

care provided' or 'any treatment decision made'. . . as such, it would appear to foreclose, for example, a contribution or indemnity claim by a group health plan or health insurance issuer for negligent treatment by a physician or hospital which was the sole cause of a patient's injury. . ." (emphasis added)

The Congressional Budget Office Cost Estimate of H.R. 2563 states ". . . It would prevent any recovery by plans from doctors or hospitals resulting from medical malpractice. . ." (emphasis added). A memorandum from the Congressional Research Service further confirms this point. It says: ". . . This language appears to supersede all causes of action under state law, arising from state statutory or common law. . . Presumably, causes of action for recovery, indemnity or contribution arising from a contract between the health plan and the physician would also be superseded. . ." (emphasis added)

The CRS memorandum continues: ". . . Based on this preemption, health plans or health insurance issuers providing health insurance coverage would not be able to seek contribution from a treating physician or hospital for damages incurred as a result of [a] cause of action brought against the plans pursuant to the provisions of this legislation or under common law based upon the quality of care received. Nor would they be able to recover costs incurred in the form of benefits paid due to the negligence of a treating health care professional or hospital. . ." (emphasis added)

It is for these and other policy reasons that I support the Norwood Amendment as a better liability proposal.

## THE SOLIDARITY FLAG RESOLUTION

**HON. JO ANN EMERSON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 2001*

Mrs. EMERSON. Mr. Speaker, today, the men and women of the United States are facing a tragic loss. But in that adversity we see men, women, and children who possess an unbreakable, unwavering, and unshakable spirit and a commitment to preserving freedom and democracy, said Emerson. So, in a unified show of support, Congress is asking that for the next 30 days everyone, in every community across America, fly their American flags. Whether it is at home, work, in public buildings, schools, or places of worship, this is a symbolic gesture to remember those individuals who have been lost and to show the solidarity, resolve, and strength of the greatest nation on earth—the United States of America.

## JOYCE MESKIS—A CHAMPION OF INTELLECTUAL FREEDOM

**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 2001*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Joyce Meskis.

Owner of Denver's famous Tattered Cover Bookstores, Joyce is an ardent supporter of

reading and literacy and a strong defender of intellectual freedom. She has served as president of the Colorado Citizens Against Censorship, was a founder of the American Booksellers Foundation for Free Expression, and a leader in the National Coalition Against Censorship.

Her leadership in this area now has been recognized by her receipt of the National Intellectual Freedom Award given by the National Council of Teachers of English.

A strong supporter of the freedoms that are guaranteed to all of us by the Constitution's First Amendment, Joyce recognizes how these freedoms make our democracy great. She is an outstanding American who has dedicated herself to ensuring that intellectual freedom and diversity will continue to enrich our lives and the lives of our children. Her contributions have been well summarized in the words of Carol Edmonds Sullivan, a professor at the Colorado School of Mines who nominated Joyce for the National Intellectual Freedom Award: "Bookseller Joyce Meskis is nurturing democracy's vital need for access to books, even unpopular ones."

Mr. Speaker, I am attaching an article on Joyce that recently ran in the *Denver Post* and ask my colleagues to join me in this tribute.

[From the *Denver Post*, September 2, 2001]

(By Carl Edmonds Sullivan)

Confronted a year ago by five police officers expecting to execute a search warrant for the purchasing records of one of her bookstore customers, Denver's Tattered Cover owner Joyce Meskis refused access to the store's files, on behalf of the First Amendment rights of her customers.

Later, she wrote her customers a "Dear Reader" letter, admitting that, "When you get served, or even threatened with a subpoena or search warrant, it's pretty scary." Meskis and her bookstore, which she purchased in 1974, have consistently protected readers' rights by offering a diversity of materials and author events "without prejudice." In other words, she explains, "We cannot abrogate our responsibility to the First Amendment, which we believe to be the cornerstone of our democratic tradition and of our bookstore. And make no mistake, it is just as much a censorial act to prevent an author signing because one doesn't like the view of the author as it would be if the book were disallowed on the shelf."

In October 2000, Denver District Judge Stephen Phillips ruled that Meskis was obligated to turn over her purchase records to law enforcement officials. Meskis appealed the ruling to the Colorado Supreme Court, where it is still pending. Meskis' love of reading is rooted in her childhood, when, she says, "I read my way through the library." One can readily picture her as Roald Dahl's Matilda, particularly in the fourth grade when an adult (whom she declines to identify) told her she couldn't read a particular book since it was for adults, not children. "But my mother wouldn't mind," she protested.

That was among the earliest of Meskis' indefatigable efforts to protest actions that would muzzle intellectual freedom. When she was a young woman working at the Littleton Public Library, a parent chastised her because Meskis recommended Margaret Mead's "Coming of Age in Samoa" to a teenager. Meskis has organized or led various coalitions to assert intellectual freedom—including her service as president of the Colorado Citizens Against Censorship, a founder of the American Booksellers Foundation for Free Expression, and a leader in the National Coalition Against Censorship.

When the Tattered Cover offers controversial books, it loses customers. "Permanently," Meskis emphasizes. Critics accuse her of seeking profit at the expense of morals. Meskis said she has found, "When we have a controversial author, there's a far greater likelihood" that offended customers will never return. Meskis also worries about the shrinking harbor for ideas outside the mainstream. In the closing of a "Dear Reader" letter to customers, Meskis makes this declaration: "I increasingly wonder how will we ever continue to be a viable bookstore presenting the variety of books and authors that, in their diversity, strengthen our democracy in the debate of ideas. I worry that all of these forces may interfere with our freedom to read, and faster than a lightning bolt, zap away the soul of our First Amendment, thereby diminishing our democratic society."

#### TRIBUTE TO JUDY EVANS

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 2001*

Ms. LOFGREN. Mr. Speaker, today I rise to congratulate Judy Evans, who for the past thirty-three years served as the Executive Director of Friends Outside National Organization. Judy Evans retired as of July 1, 2001.

Friends Outside National Organization provides parenting education programs and case management services in all 33 California state prisons. Under Judy Evans' leadership Friends Outside National Organization has grown to a \$3.9 million dollar agency with 139 employees. Over 9,000 children and 21,000 adults receive services at their prison visitor centers each month.

Judy was instrumental in developing an innovative family reunification partnership with the San Francisco Department of Human Services. Through this program, Friends Outside National staff members are able to facilitate successful reunifications between incarcerated parents and their children in conjunction with county social workers. These children are all in foster care or kinship placement. The goal is to assist the birth parent, whenever appropriate, to regain physical custody after release, with the ongoing support of social services. This program directs resources to where they can be used most effectively: to the family.

Judy Evans has mentored a generation of social service professionals who continue the difficult work of counseling families caught up in the criminal justice system. Her example will serve as an inspiration, not only to them, but to all of us.

Previous to her Executive Director position at Friends Outside National, Judy served as the Santa Clara County chapter's Executive Director for ten years, as well as its Director of Family Services for twelve years. Additionally, Judy has served the community through the YMCA, Correctional Institutions Chaplaincy, Justice System Advisory Board, The Women's Fund and the Association of United Way Executives.

Judy has received awards of recognition by the Pathway Society, California Association of Marriage and Family Therapists, California Department of Corrections and the Community Alliance Program for Ex-Offenders.

I, along with many others, thank her for her years of service to the State of California and to our District.

#### RESOLUTION OPPOSING THE MEDICARE PRESCRIPTION DISCOUNT CARD PROGRAM

### HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 11, 2001*

Mrs. JONES of Ohio. Mr. Speaker, Whereas, President George W. Bush unveiled his principles for Medicare reform on July 12, 2001; and

Whereas, under the program, Medicare beneficiaries would be able to purchase Medicare-endorsed prescription drug discount cards with access to lower cost drugs at the point of sale; and

Whereas, the Program was conceived by a select group of pharmacy benefit management companies without the deliberation of the larger pharmacy community; and

Whereas, Community pharmacies will bear the greatest financial burden for this Program to discount prescription drugs; and

Whereas, drug manufacturers account for nearly 80% of the cost of prescription drugs sold in the U.S. but will bear very little of the financial burden created by this Program; and

Whereas, The Program does not provide seniors with access to prescription drugs or the pharmacist's professional services; and

Whereas, seniors take more prescription drugs than any other population group in the U.S. and need the accessibility and expertise of their community pharmacist; and

Whereas, peer-reviewed research has demonstrated that discount programs have been proven not to be effective; and

Whereas, The Program is not insurance coverage nor will it provide drug coverage to those millions of seniors who cannot currently afford even inexpensive prescription drugs; and

Whereas, the Program promotes the under utilization of generic drugs, heavy use of mail order, and limits senior citizens to the option of only one drug per therapeutic class;

Therefore be it resolved, that the National Pharmaceutical Association representing all of America's minority pharmacists at its House of Delegates assembly during the 54th Annual Meeting July 20–24, 2001 in Cleveland, Ohio joins other national pharmacy associations in opposing the Prescription Drug Discount Card program as presently composed and urges the President of the United States, the Secretary of the Department of Health and Human Services, and the Administrator of the Center for Medicare and Medicaid Services to immediately revisit this flawed and potentially unconstitutional Program; and

Be it further resolved, that the Secretary of HHS appoint a blue ribbon committee consisting of all facets of the national pharmacy community to study this issue and make recommendations to solve America's pressing issue of prescription drug coverage for those Americans over the age of 65; and finally

Be it resolved that a copy of this Resolution be forwarded to the President, Secretary of HHS, Administrator of CMMS, and all the national pharmacy organizations.