

together for a gathering at the capital. But I will tell you this. I hope that some of the folks who held the press conference also talked about how we can make sure that family farms have a future several years from now. I think we have to speak the truth. And the truth of the matter is, this Freedom to Farm bill of 1996 is a freedom to fail bill.

The fundamental crisis is a crisis of price. Right now our corn growers get \$1.75 at the local elevator; our wheat growers get \$3.13 for wheat. This is nowhere near the cost of production. They cannot cash flow. They cannot make a living. Unless we fix this freedom to fail bill and we go back to some sort of leverage for farmers in the marketplace, some kind of safety net which will give them a decent income, some sort of price stability, our family farmers do not have any future. That is what this is all about.

I am not interested in semantics. If people want to say, I am still for the Freedom to Farm bill, I don't care. But I will say this. The flexibility in that legislation to farm a whole lot of different crops does not do any good if there are record low prices for all of them. So let's get the assistance to people so they can survive.

But let's get beyond the short run, and let's be honest with one another. Let's fix that Freedom to Farm, or freedom to fail, bill, and let's make sure there is some price stability and there is some farm income out there; otherwise, our family farmers have no future.

Finally, if there was a press conference yesterday, I sure as heck hope there was some focus on the distortions in the market. I would like to join all my Republican colleagues in calling for putting free enterprise back into the food industry. I would like to join with all of my Republican colleagues in being a true Adam Smith apostle and calling for a market economy. I would like to join with all my Republican colleagues, in other words, in calling for some antitrust action.

How in the world can our family farmers make it when you have four large firms, the packers dominating the livestock farmers, the grain companies dominating the grain farmers? There has to be some fair competition. Everywhere our family farmers turn, whether it is from whom they buy or to whom they sell, we do not have the competition.

Let's really be on the side of these family farmers and insist on some competition. Let's have the courage to take on some of these conglomerates that have muscled their way to the dinner table exercising their raw political power over our producers and over our consumers, and, I say to the Chair, who is my friend, I think over the taxpayers as well.

So I am all for a focus on family farmers. This is a crisis all in capital

letters. I hope we will have some action. But I want to make it crystal clear, I think these are the issues that are at stake.

PATIENTS' BILL OF RIGHTS

Mr. WELLSTONE. Mr. President, I also want to make it crystal clear that I have been proud to join with my Democratic colleagues out here on the floor; and the sooner we have Republican colleagues joining us, the better. We have been focusing on the importance of patient protection legislation. Protection of medical records privacy is very important to the American people. I hope we will have an opportunity to debate the Patients' Bill of Rights because I want to offer an amendment for segregation of records. The right to privacy is deeply rooted in American culture. American citizens expect that we will continue that tradition.

This amendment allows a person to segregate any type or amount of protected health information, and limit the use or disclosure of the segregated health information to those people specifically designated by the person. I want to just give one more example and, in this small example, tell a larger story.

It would allow a person, any of us, to take some of the particular private health information, and make sure it is not a part of a total record by segmenting it off and preserving privacy. We are getting more and more worried about genetic testing. For example, if you are talking about a woman who has genetic testing for breast cancer, she may fear the results if she thinks the life insurance companies are going to get ahold of this information or employers are going to get ahold of this information. She might not want to even be a part of this testing.

We want to protect the privacy rights of people. The same thing could be said for people who are talking to their doctor about mental health problems or substance abuse problems. The same can be said on a whole range of other issues.

There is the whole question of making sure ordinary citizens have some privacy rights, some protection in terms of who gets to see their medical records and who doesn't, making sure it is not abused. I will give a perfect example. I have never said this on the floor, but I will to make a larger point, I had two parents with Parkinson's disease. Research is now showing there is probably some genetic predisposition. As we move forward with this research, I may want to be a part of whatever kind of test or pilot project is put together by doctors. But maybe I wouldn't, if I thought there would be no way that, whatever their research suggested, that I wouldn't have some right to ensure I had some protection.

The right to privacy is relevant for the potential for genetic map research,

for testing, and, for that matter, treatment, for maybe even finding cures for diseases. There are a lot of people who are not going to want to be a part of it, and there are a lot of people who are going to worry about that information if we don't have the privacy rights.

Conclusion: The pendulum has swung too far. I think we should be talking about universal health care coverage as well, and we will. At the moment, here is what we are faced with.

In the last several years, since we were stalemated on every kind of major national health insurance legislation or universal health care coverage bill, major changes have taken place in health care, not here in Washington but in the country. They have been revolutionary in their impact on people. The pendulum has swung too far. We have now moved toward an increasingly bureaucratized, corporatized, impersonal medicine where the bottom line has become the only line, where you have a few large insurance companies that own and dominate the majority of the managed care plans to the point where consumers, ordinary people, the people we represent want to know where they fit in. Right now they don't believe they fit in at all.

So without going into all the specifics, because we have been talking about this for a week, what people in the country have been saying is, if you want to do a good job of representing us, please make sure we have some protection for ourselves and our children to make sure we will be able to get the care we need and deserve. That is what we hear from the patients. That is what we hear from the consumers.

What we hear from the providers, the care givers, is, Senators, we are no longer able to practice the kind of medical care we thought we would be able to practice when we went to medical school or nursing school. We have become demoralized. Demoralized care givers are not good care givers. So we have a lot of work to do to make sure we have families in our States getting the health care they deserve. That is what this debate is all about.

We have been trying for a week to get some commitment from the majority party that we would have a substantive debate. That is the Senate. I hope that we will have an agreement. I hope we can come back to this. I hope we will have an agreement, and then I hope we can have the substantive debate and Senators can bring amendments to the floor.

There are several amendments I am very interested in, and probably a number of other Senators have amendments they are interested in. We will vote them up or down. We will all be accountable. We will all do what we think is right for the people in our States.

The point is, we are not going to accept not being able to come to the floor

and fight for people we represent on such an important question. That is what last week was about. That is what the beginning of this week is about.

I hope there will soon be an agreement. I hope there will soon be a debate. My hope is that before it is all over, we can pass a good piece of legislation that will not be an insurance company protection act but will be a consumer or patient protection act.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator from Minnesota. Before he leaves the floor, I say to my friend that he pointed out we have been talking about this for a week solid. I came down to the floor today to talk about how we have been fighting this for over 2 years. We have increased and we have escalated the debate in the last week, but I asked my staff to go through my earliest talks on this subject.

Mr. WELLSTONE. Will the Senator yield?

Mrs. BOXER. Yes.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Tiffany Stedman, who is an intern, and Carol Rest-Minberg, who is a fellow, be granted the privilege of the floor today.

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

Mrs. BOXER. I know we are running short of time so I will be glad to yield to my colleagues for questions.

On January 28, 1998, I came to the floor and talked about the case in my State of a gentleman named Harry Christie who had a very poignant story to tell me about his daughter who, when she was 9 years old, was diagnosed with a very malignant and dangerous tumor in her kidney. It was explained to Mr. Christie that there were only a couple of surgeons who knew how to operate on this kind of a tumor, and it would cost \$50,000 for the operation.

He went to his HMO. He said to them: Look, this is my flesh and blood, my daughter. She means everything to me. I am assuming the HMO will allow me to go out of the plan, get the specialist, and then the HMO will pay the specialist.

They said: No, we have good oncologists on our staff. We have good physicians, and they will handle it.

He said to them: Did they ever do this kind of pediatric surgery?

No, they had never done it in their lives.

And Mr. Christie said: This is an impossible situation, and I won't accept this.

They said: Then too bad. You will have to pay for it yourself.

Well, that is exactly what he did. It was not easy.

What about parents who can't do that? What happens to their child?

This is just one story. I told it January 28, 1998. By the way, the end of the story is that Carley is now 15 years old and her cancer is gone. She is a fantastic young woman.

Mr. SCHUMER. Will the Senator yield?

Mrs. BOXER. Yes, I am happy to yield.

Mr. SCHUMER. I would like to ask the Senator a question because I have heard of so many similar instances. A young woman, a nurse on Long Island, needed an orthopedic oncologist to remove a tumor from her leg. No, she can't have it. She couldn't afford it. So she went to a regular orthopedist, not the oncological orthopedist, who took out the tumor. It grew back. She can hardly walk. Then she had to go to an oncological orthopedist and pay the \$40,000 herself because there was no other choice.

So the Senator is right. She has fought for this for so long.

I just heard—parenthetically, it is sort of related, because one of the things that inspired some of us to join in this fight was what happened on guns—for instance, that the majority leader in the House has said they would not appoint conferees at least until after July 4, which I consider truly outrageous. I will talk more about that later when we get time. I think it is so wrong to not allow the will of the people to happen. We are doing the same thing on the Patients' Bill of Rights. We just want to debate and let people vote on what is important.

I ask the Senator, is this the only case she has heard of in this situation, or do you hear, when you go around your State, as I go around mine, hundreds of cases where people are denied treatment that the doctors feel they need? They sit there in anguish.

Mrs. BOXER. Yes.

Mr. SCHUMER. They almost go into complete debt to get the operation or get an inferior product.

Mrs. BOXER. Yes. My friend is exactly right.

First of all, I think his point about the House putting off any action on the juvenile justice bill that deals with making sure we keep guns out of the hands of children and criminals is an outrage. When they tried to put this bill forward, we pointed out it was really a sham. Now we have the same thing in the Senate.

I think the Senator from North Carolina was speaking before and we were talking. He points out that it is not a question anymore of the Republican bill or the Democratic bill. He said that we ought to just say it is about a bill that is supported by patients and doctors versus a bill that is supported by insurance companies. We understand on this side of the aisle that it is supported by patients and doctors.

Mr. DURBIN. If the Senator will yield, I would like to ask a question of her. I think it is important to remind those who are following this debate why we are here. We are here trying to bring this issue to the floor of the Senate. We want there to be a debate between Democrats and Republicans on giving patients and families across America some rights when it comes to dealing with these insurance companies. The Republican leadership does not want this debate. We think the American people do. We think that is why we were elected—because families across America know there is real concern when you take your child to the hospital.

I literally ran into a doctor from Highland Park, IL, Sunday night who told me a terrible situation that just happened to him a week before. He is a cardiologist. A woman came in to see him in his office on a Thursday complaining of chest pains. He was worried and said: I want to get you into the hospital tomorrow morning for catheterization. It is a diagnostic process to find out what was wrong with her heart. She said: Fine. He said: We will do it tomorrow morning.

He called her insurance company. The insurance company said: No, we don't approve of the hospital where you want to send her. Let us call our hospital under her insurance policy, and we will see when we can get her scheduled.

They told that to the doctor on Friday. They never had a chance to schedule it. She passed away on Sunday. That was a decision made by the insurance company not to let this woman go to a hospital on a Friday morning to get the catheterization. They did not understand her problem.

Is this not what this debate is all about?

Mrs. BOXER. It is exactly what this debate is all about.

I want to talk about another case that I brought up about a year or two ago, also a doctor with a similar story in Texas. He came to testify before the Democratic Policy Committee. This was in Texas. This doctor was assigned to work in the emergency room. A gentleman comes in with terribly high blood pressure. They checked him into a room, and they monitored his blood pressure. It could not be controlled by medication. They were giving him a lot of medicine that didn't work. The doctor called the HMO and said: We need to keep this patient overnight. I am very fearful he will have a stroke.

Bottom line: The HMO says: You control it by drugs. He says: I can't.

He has to now tell the patient that the HMO won't cover this, and he says to his patient: Pay for that out of your own pocket; I will fight for your right to be reimbursed.

The patient said: How much will it be? Five thousand dollars. I can't do it,

says the man, I am sure the HMO wouldn't hurt me.

P.S.—you know the story. The gentleman had a stroke, and he is totally paralyzed on one side.

The irony of all ironies about this is that under current law the doctor can be sued but not the HMO that actually made the decision.

Isn't there any wonder that doctors are joining with patients? You spend your life trying to save others' lives, and now you can't do it—a doctor in Highland Park, and a doctor in Texas. It goes on.

I would be happy to yield to my friend.

Mr. EDWARDS. With respect to the instance described by our distinguished colleague, the Senator from Illinois, where obviously a catheterization would have saved this patient's life, will the Senator from California explain to the American public and to our colleagues, No. 1, when they decided initially, no, we are not going to pay for the care, and, therefore, they could not get the test done, and a lot of life-saving tests that needed to be done, what avenue or recourse does that patient have? Is there anything they can do under the circumstances under existing law if we don't pass a real Patients' Bill of Rights?

Mrs. BOXER. We have to pass a Patients' Bill of Rights, because, unless you are so wealthy that you can pick up the tab and the cost for these very expensive procedures, you are just plain out of luck. We have said this a number of times to our friends on the other side of the aisle. We have good health insurance as Members of the Senate. We really do. We are fortunate. We have the clout. We have good health insurance. We are trying to bring everybody up to our standards.

Mr. DURBIN. If I can ask the Senator, isn't it true that, as Senator EDWARDS of North Carolina just said, the example I gave where the lady didn't get the catheterization and passed away—if her family hears of this and they are upset and want to go to court and believe there has been medical malpractice and negligence—the only exposure and the only thing they can sue the insurance company for is the cost of the catheterization, or for the procedure? That is it under the law. And that our bill says health insurance companies, as every other company in America, will be held accountable for their actions. If they are guilty of negligence, they can be held accountable. But under current law, a law being protected by the Republican bill, the patients will not have that right of recovery.

Is that not the fact?

Mrs. BOXER. That is the most incredible thing about this. As I said, in many of these cases, the doctor can be sued if he is working and he is contracting with the plan and not an em-

ployee. The doctor can be sued—a doctor who is trying to fight for the patient—but not the HMO.

Mr. EDWARDS. If the Senator will yield for one other question, with respect to what my distinguished colleague from Illinois just pointed out, it is my understanding that under existing law we have this very privileged group of insurance companies—very wealthy insurance companies—that are singled out in American life as not being held accountable for what they do. You and I can be held accountable. Everybody in our State of North Carolina, and Illinois, New York, and California, can be held accountable. Every other business, small and large, can be held accountable. But the health insurance industry is special. It is different. It is better than the rest of us. It can't be held responsible.

I want to know how the Senator from California would respond to a family, or to our children who we are trying on a daily basis to teach about personal responsibility, personal accountability, something that all of us believe in deeply, how do we explain that we have singled out this very well-to-do industry for privileged treatment, and, in fact, unlike our children, unlike our families, we are not going to hold them responsible or accountable?

Mrs. BOXER. I think the Senator has made a very good point. If we believe that each of us should be responsible for our actions and our deeds, the current law certainly undermines that. It is unfathomable to me. As the Senator from Illinois has pointed out in another debate, the only people in our country today who are truly exempted from any kind of accountability—you can't go after them—is a foreign diplomat and an HMO. Something is wrong with that.

Mr. SCHUMER. I was going to ask the Senator another question related to one of the other problems we face; that is, even before they get the right to sue, there is an appeal.

Let us say, as in the case that the Senator from Illinois brought up and the unfortunate death that occurred, the doctor said that she needed catheterization, and it is denied by the insurance company. The only type of appeal that is required by law is an internal review. I want to know if that is required—that the only appeal that would be required would be an internal review.

I ask the Senator a question, and that is this: Wouldn't it be much fairer if it at least were mandated that there be some external, impartial review so that in instances over and over again where inadequate health care maybe would be provided before the stroke occurs—as in the case related by the Senator from California, and the unfortunate death that occurred—some outside, independent reviewer gets to say, hey, that actuary didn't quite make

the correct medical decision; I agree with the doctor?

Mrs. BOXER. My friend is right on point. It is another aspect of our Patients' Bill of Rights where you have a truly independent outside review so the people who are looking at the actions of the HMO are not part of the initial decision. On the other side of the aisle, they have an appeals process where essentially the HMO says who the outside reviewers are. That is not really an outside review.

I want to say to all of my friends who have been so good on this issue I had such a transforming event 2 years ago at a hearing the Democratic Policy Group had. A woman from an HMO spoke. By the way, she was afraid to show her face. She was on a satellite television hookup with her face covered and her voice was disguised because she was a whistleblower.

In the course of her testimony, she said something that made my skin crawl. I wonder if my friends feel the same. We kept asking questions about patients. We said: What happened when a patient came in and had heart symptoms? How was it handled? Who made the decision?

In the course of describing the patient, she said: This unit was a case we felt we had to look at.

I said: What did you say?

She said: This unit.

I said: What do you mean, this "unit"?

That is how we refer to clients.

I said: You mean patients?

She said: Yes, we refer to patients or clients as units.

I had this sense there was no humanity left. It is all about "units." It is all about dollars. It is all about the bottom line. It is all about profit. It is not about serving. That is why doctors are saying this is against their Hippocratic oath: Do no harm, help people.

Now they are doing harm. They are in situations where they have predicted patients could die if they didn't get the treatment, and the HMO didn't give the treatment.

I want to hear from my friends as we go back and forth on this question.

I yield to the Senator from North Carolina.

Mr. EDWARDS. I was thinking about the comments from the Senator from Illinois, the comments from the Senator from New York, and the comments made about the health insurance executive accounting, talking about human beings as "units."

I did understand the Senator correctly?

Mrs. BOXER. Units, U-N-I-T-S.

Mr. EDWARDS. Units. Not human beings but units.

Under existing law, health insurance companies have proven time and time again they are motivated by one thing, and that one thing is the dollar bill. Profit is the bottom line.

We have talked about doing two things in a patients' bill—not in an insurance industry bill. Since money seems to be what motivates these folks, we will do two things.

No. 1, as the distinguished Senator from New York mentioned, we will create an independent body that can oversee the insurance industry, the HMO. When they make arbitrary decisions, when they decide even though it is clear a patient or child desperately needs a treatment or a test and that was an arbitrary decision, they can get a quick reversal from that truly independent board. That is one thing.

In addition to that, we also say health insurance companies and HMOs, as every other segment of American society, will be treated the same. They can be held accountable. They can be held responsible. They can be held responsible in a court of law.

Those two things together—a truly independent review, done swiftly so reversals can occur, combined and working in concert with arbitrary, money-driven decisions where if some child is severely injured as a result, they can be held accountable.

I wonder if the distinguished Senator would comment on whether she believes those two things, working together, create a tremendous incentive that does not presently exist for HMOs and health insurance companies to do the right thing to start with, so we never get to an independent review board, we never get to a court of law; instead, insurance companies and HMOs are doing the right thing, not making arbitrary decisions, doing what the treating doctors are advising needs to be done in the very first instance when it is most important and could do the most good.

Mrs. BOXER. I thank my friend from North Carolina for articulating two areas of our Patients' Bill of Rights which are so important: The right to independent review if a patient feels the HMO made a mistake, and the ability to hold HMOs accountable if they do the wrong thing.

By the way, the opposition from the other side is misleading because all we do is say if States choose to hold HMOs accountable, they can. We don't dictate the law on the right to sue. It is up to the States. However, we lift the impediment to holding them responsible.

I think it is important to note that we in America have the safest products in the world, even though every once in a while there is a horrible example of something monetarily wrong. The reason is, we hold companies accountable if they make an unsafe product that could explode and harm a child. Most of the time we don't have any problem because we have a very clear precedent in law that says if you don't take into account what your product can do to a human being, and they get hurt, you will pay a price. For HMOs, we don't do

that. The irony is that they are dealing with life and death decisions every day and they are making wrong decisions.

My friend is right on those two aspects of our Patients' Bill of Rights, working together.

Mr. WELLSTONE. I follow up on what the Senator from North Carolina said.

Five years ago I introduced a bill on patient protection. This matter has been going on for a while. There is an issue that defines "medical necessity," another issue the Senator from North Carolina raised about an external independent appeals process, another issue on "point-of-service" option—making sure the families have a choice, and they don't now have when the employer shifts from one insurer to another.

There are two bills on the floor. People in the country have become more and more disillusioned with the politics that they think is dominated by money and special interests.

Does the Senator from California agree people want to see a piece of legislation passed that has some teeth in it, that will make a difference and provide some protection?

My question is, Do the Senators think this patient protection legislation, what we are trying to do, is a test case as to whether or not the Senate belongs to the insurance companies, or whether or not the Senate belongs to the people in this country?

Is that too stark a contrast, or does it ultimately boil down to that core question?

Mrs. BOXER. I think the Senator has put his finger on it exactly right.

Who is supporting our Patients' Bill of Rights? It is every patient advocacy group, every provider who has an organization, including the nurses and the doctors. And who is on the other side? The insurance companies.

What do we have? Two bills. The bill on our side is supported by these advocacy groups and doctors; the other is supported by the insurance companies.

My friend is right. People are getting so upset that this place seems dominated by the special interests.

I yield the remaining time to my friend from Rhode Island.

Mr. REED. I thank the Senator from California.

Let me follow up and perhaps engage in a brief dialog. I think the Senator from Minnesota made a good point about the heart of the Republican legislation. The most telling point, in my view, is the coverage. It simply covers one-third of the eligible private-insured individuals throughout the country.

As I understand the legislation, it is aimed at those self-insurers. These are businesses that contract with HMOs simply to manage the health care of their employees, so the only people who will directly be impacted by their

legislation are those individuals who are essentially insured by their employers directly through self-insurance.

Mrs. BOXER. That is correct.

Mr. REED. In a sense, the only protections in the Republican bill are protections for the insurance industry. They are completely without risk. All of their patients, all of the people they directly insure, where they directly assume the risk, are exempt from coverage by this legislation.

The Democratic bill covers all of those who are private-insured HMOs throughout the United States. If the logic is these protections are good enough and necessary enough for those in employer-sponsored self-insured plans, why aren't they good enough, important enough, necessary enough, for those who are direct insurers of HMOs?

The answer, frankly, is that the legislation has been designed to protect the insurance companies from any additional risk. It is fine if we put it on employers; it is fine if they have to pay extra or if they have to do these things.

However, the only consistent pattern if you look at the coverage, this is not a patients' protection bill; this is an insurance industry protection bill.

I yield to the Senator for her comments.

Mrs. BOXER. It perplexes me that my friends on the other side have a bill that doesn't cover everyone.

It perplexes me it is called the Patients' Bill of Rights. As my friend points out, if you look at the differences, whether it is the appeals process—and my friend last week came to the floor and pointed out that under the Republican proposal it doesn't look as if there is an outside entity looking over the HMO decision but, rather, someone essentially selected by the HMO itself.

I thank my friend for yielding.

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the time from now until 4:15 shall be under the control of the majority leader or his designee.

The Senator from New Mexico is recognized.

NATIONAL CHARACTER COUNTS WEEK

Mr. DOMENICI. On behalf of the leader, I ask unanimous consent the Senate now proceed to the immediate consideration of Calendar No. 148, S. Res. 98.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 98) designating the week beginning October 17, 1999, and the