

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