

pieces fell into place to save the baby, including a dedicated and vigilant pediatrician willing to be an advocate for her patient and a pediatric specialist in the right place at the right time. This situation didn't turn into a horror story. But we simply cannot let these sorts of happy endings happen only by chance. We must enact meaningful patient protections, such as guaranteed access to pediatric specialists as contained in the Democratic Patients' Bill of Rights but lacking in the Republican bill, to ensure that people get the care that they need.

The patient protections we are talking about ought to be part of the deal when you enroll in health insurance. These are pretty basic concerns, Mr. President, concerns that I think may get obscured sometimes when we get into jargon like "prudent layperson," "point of service," and so on. So when we speak about protecting patients' rights, I want to be clear that we are talking about how to make sure that corporate cost-control concerns don't result in people being denied the care that they need.

I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PATIENTS' BILL OF RIGHTS ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1344, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1344) 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.

Pending:

Daschle amendment No. 1232, in the nature of a substitute.

Dodd amendment No. 1239 (to amendment No. 1232), to provide coverage for individuals participating in approved clinical trials and for approved drugs and medical devices.

The PRESIDING OFFICER. Who yields time on the pending amendment?

Mr. REID. Mr. President, I yield the Senator from California 7 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair, and I thank the Democratic whip for yielding me this time.

Mr. President, I rise in favor of the Dodd amendment, which deals with access to clinical trials and access to prescription drugs. I think this is a very important amendment, and I am very proud to speak in favor of it.

Yesterday, as I left the floor of the Senate, I realized what the score was

for the people: Zero. In very close votes in each case, this Republican majority voted, with rare exception, for the HMOs and against the patients of this country. It is stunning to me to see that, a most amazing thing.

As I discussed some of what happened yesterday with my Democratic friends, who happened to be women, we were all stunned at the vote against a very straightforward amendment by Senator ROBB which basically said, after a mastectomy, a doctor should determine the length of stay. It is stunning to me that that couldn't pass the Senate. The hold and the grip of the HMOs is extraordinary.

There is a cartoon in today's Washington Post that I find very interesting. It pictures huge campaign contributions. The Senator from Wisconsin talks about that all the time. I am not surprised people are cynical. All I hope is that they wake up and listen to this debate. This amendment on clinical trials is one they ought to listen to.

What is a clinical trial? A clinical trial occurs when there is a promising new therapy for a condition, a disease for which traditional therapies are not working for everyone. So what happens is people will enroll in these clinical trials; usually, they are pretty desperate at that point because their disease is not responding well to the traditional therapies. They want to get into this trial, and they want to see if they have a chance at surviving. The good news about this for society is not only will this individual have a chance of surviving, but we learn about the therapy, and, of course, it is the way we have seen therapies move into the mainstream of treatment.

Well, what is happening now with the HMOs—because they are so interested in their profits and paying their CEOs \$30 million, in one case, and \$50 million a year in another case—is they are cutting back on costs. So where they used to pay the costs associated with a clinical trial, not for the experimental therapy itself, because that is paid by the company that invented it, but by the associated costs, if there are reactions to the therapy, et cetera, they are cutting back on this treatment. So by their refusal to pay for the patient cost, many research institutions—particularly cancer centers—are cutting back on the clinical trials because there is a lack of payment by the HMOs, and we are running into a real serious problem.

When you continually put profit before patient care, when you continually put dollar signs ahead of vital signs, what happens is we are losing the opportunity to test these promising treatments for cancer, for Alzheimer's, for Parkinson's, for diabetes, for AIDS—you name the disease. By the way, if you ask the average American what they fear most, they will tell you

it is illness; it is cancer; it is heart disease; it is stroke; it is the loss of a loved one.

So what we have is a situation where HMOs are refusing to pay the patient costs in clinical trials, and clinical trials are being cut back at the very time when we are making tremendous strides in learning more about therapies. This is a sad day.

So what we do in this amendment is essentially say let's go back to the way it always was, where the HMOs pay for the costs associated with these clinical trials for their patients. If we don't pass this amendment and this trend continues, we will reverse the trend of finding better cures for disease.

The other thing this amendment does, which is really important, is it deals with access to prescription drugs. Nearly all the HMOs have developed what is called a formulary, which is a limited list of prescription drugs for which the HMO will pay. They do this to receive discounts from drug companies and to limit the number of medications for which they pay. This is a cost-saving measure. I don't have a problem with this—except when the formulary drug isn't right for the patient, except when a doctor says the drug his patient needs is not in the formulary. What this amendment says is that the HMO must pay for the drug that a doctor determines his patient needs, even if it isn't in the list that the HMO provided.

It also says in this amendment that HMOs cannot classify a drug that is approved by the FDA as experimental, which is one of the ways they get around having to pay for a drug. They say to a patient: Well, I know your doctor wants you to use this drug, but it is experimental.

Well, if a drug is approved by the FDA, the Food and Drug Administration, then it is clear that the drug has been approved and ought to be available.

So this is a very important measure. This will ensure we keep making progress on clinical trials. This will ensure people get access to the needed drugs. I hope we will stand up, not as we did yesterday, because this Senate sat down for the people and stood up for the big money interests in this society, the HMOs and their bottom line. Let's stand up for the people and let's support this Dodd amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, very quickly, let me state where we are, and then I will yield to the Senator from Florida.

We are presently considering an underlying amendment on clinical trials which was put forth by Senator DODD. It is an issue we have discussed a great deal in committee. It deserves discussion and it deserves a great deal of debate because it is important. As one