

who promotes information that the totalitarian regime considers to be counter-revolutionary.

This measure outlaws "the supply, search or gathering of information" and bans "the collaboration directly or through third parties, with radio and television stations, newspapers, magazines, and other mass media" that do not follow the lines of the Castro regime.

The new law is aimed at silencing the increasing number of dissidents, of independent journalists, and of human rights activists who are fighting day in and day out for freedom and democracy in my native homeland of Cuba.

These activists are a main source of information to the international community on the human rights violations that occur in Cuba. They literally put their lives on the line to let the world know of the repression imposed on the Cuban people. Because of their effectiveness, the regime has initiated an all-out crackdown against them.

According to the International Press Institute, "Cuban authorities routinely threaten, arrest and jail journalists, often attempting to persuade them to leave the country."

One persecuted independent journalist, Juan Tellez Rodriguez, recently said of the Castro regime that "The government in Havana continues to close itself off to the world, it is deaf to the cries of the international community and it insists on its closed, oppressive political system." He continues saying "It does not even open to its own people, who suffer and die slowly."

Castro himself has made it clear that he has no intention of implementing any type of democratic reform in Cuba.

Earlier this year, the Cuban tyrant reiterated his commitment to socialism or death and claimed "I still speak the same, dress the same and think the same." Oh, yes, we know this.

The last few weeks have been particularly busy for Castro and his thugs. For example, on January 5, pro human rights activist, Ernesto Colas Garcia, was detained, threatened, and beaten by Castro's thugs when returning home from a human rights organization meeting.

On January 14, five dissidents, among them, Rolando Munoz Yyobre and Ofelia Nardo, were detained while on their way to attend a peaceful march in honor of Martin Luther King, Jr.

On January 20, Cuban independent journalist, Jesus Diaz Hernandez, was sentenced to 4 years in jail for dangerous social behavior for his reporting of human rights abuses. Sadly, under the new law imposed by the dictator, the next independent journalist like Jesus Diaz Hernandez will not be sentenced to 4 years but rather at least 15 years in prison.

Just this morning, The Miami Herald reports that Dr. Oscar Eliaz Biscet, of the Lawton Foundation for Human

Rights, a leading dissident group on the island, was arrested after participating in an event to commemorate the third anniversary of the regime's massacre of the Brothers to the Rescue pilots. Dr. Biscet had been previously detained and arrested for pro-democracy activities.

Mr. Speaker, the Clinton administration should wake up and take notice before it continues weakening U.S. policy toward Castro, because the dictator has no intention of loosening up his grip on power. Flirting with the dictator through easing of sanctions will not work. And certainly no baseball game or rock musical concert will bring freedom to Cuba either.

The United States should not reward Castro for his repression. Doing so would be unconscionable.

Let us remember the four brave young men who were killed by Castro's thugs just 3 years ago, Pablo Morales, Carlos Costa, Armando Alejandro, and Mario de la Pena. In their names and in the names of so many others who are victims of Castro oppression, let us renew our commitment to help bring freedom and democracy to the enslaved people of Cuba.

HMO REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Washington (Mr. BAIRD) is recognized for 60 minutes as the designee of the minority leader.

Mr. BAIRD. Mr. Speaker, I rise today along with many Members of my fellow freshman Democrats to address an issue that is central for the citizens of our country and to our State.

As many of us have just finished long campaigns, we are firsthand in touch with the needs of the people of this country, and one of those crying needs is clearly the need for HMO reform.

We are here today to talk about that issue and to talk about what we can do to solve this critical problem. The distinguished colleagues who have joined me today will talk about their perspective from firsthand experience with their constituents with people needing health care who have been prevented from getting the health care they need unfortunately by the current status quo. I would like to thank my colleagues in advance for their remarks.

Several years ago, the health care industry launched a massive advertising campaign. There was a couple named Harry and Louise who threatened us that the sky was going to fall if the President's health care plan passed. Without commenting on the merits of that particular plan, I can comment on what Harry and Louise said.

Harry and Louise said that, if we followed the President's plan, disaster would strike in the following way: people would lose their right to choose

their own health care provider, they would have to wait for needed health care, that bureaucrats would make their health care decisions for them instead of their doctors.

I am sorry to say that Harry and Louise were exactly right about what would happen, but the cause was the people who sponsored the Harry and Louise ads to begin with.

The health insurance industry led consumers to believe they would have fewer choices of providers, that the type of care they receive would be decided by government bureaucrats and not their doctors.

But it is the health insurance industry that profits while people are sick that has been responsible for limiting one's choice of doctors, that has been responsible for impeding the care health care providers would wish to provide that has caused long waits and unfortunately has deprived American people of the health care they deserve and have come to expect.

But I am pleased to say that we now have an opportunity to correct many of those wrongs. With House bill 358, the Patients' Bill of Rights, this measure promotes common sense reforms, reforms that each and every consumer can understand and appreciate.

Under this bill, the Patients' Bill of Rights, patients will be allowed to make medical decisions with their doctors without the interference from insurance company bureaucracies and accountants. Let me say again because it has to be underscored, patients and their doctors will make health care decisions under this bill, not insurance company executives and their accountants.

As I travel through my district of southwest Washington, let me tell you that this is one of the things I hear most often.

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The other thing I hear is that people want to choose their provider. They want to decide which physician they will be able to see or which nurse practitioner or clinical psychologist. The patient should have that right, and under this bill, H.R. 358, the patient will have that right.

This measure also guarantees the patient the right to emergency treatment. The last challenge a patient should face, if they are facing an emergency medical decision, should be worrying about whether their insurance company will approve the procedure. And yet we have countless stories of precisely that happening.

In rural areas this is particularly important, where patients may not be able to travel long distances to meet with the approved provider and they want to see the provider they have come to know and trust with their family over the years.

So, Mr. Speaker, I urge this body, when the bill comes before us, to pass

this important Patients' Bill of Rights. It is common sense, it is the right thing to do, and it is in the best tradition of American values of choice and respect for autonomy.

With those initial comments, Mr. Speaker, I would like to yield to my good friend, the gentlewoman from Wisconsin (Ms. TAMMY BALDWIN).

Ms. BALDWIN. Mr. Speaker, families in Wisconsin are anxious about the state of health care in this country. They are increasingly concerned that medical decisions are being made by accountants, managers and other insurance company employees instead of doctors and patients. Too often profit takes priority over patient need. Patients are losing faith that they can count on their health insurance plans to provide the care that they were promised when they enrolled and faithfully paid their premiums.

I have heard from many of my constituents in Wisconsin on this issue. They do not want to see doctors spending hours filling out regulatory or administrative paperwork. They want them seeing patients. They do not want to pay for a layer of bureaucracy whose sole purpose it is to deny or reject payment for care already provided. They want their dollars paying for providing health care.

We do not want decisions on how to treat a sick child to be based on profit. We want them based on sound medicine. I do not want the issue of whether my 92 year-old grandmother gets needed physical therapy at her nursing home to be based on profit. I want it based on sound medicine. We do not want the decision of which hospital accepts an emergency patient to be based on that patient's wealth. We want it based on sound medicine. We want doctors and nurses and other health professionals making those decisions based on their training and their commitment to saving lives, healing wounds, and treating illnesses.

It is time for Congress and the health care industry to get their priorities straight. The Patients' Bill of Rights can head us in the right direction. For the millions of Americans who rely on health insurance to protect them and their loved ones when serious illness strikes, the Patients' Bill of Rights could be a matter of life and death. The Patients' Bill of Rights is a guarantee that medical decisions will be made by doctors and patients, not managed care accountants.

All too often people who pay their premiums for years are denied care when they become seriously ill. Health plans should not be allowed to place arbitrary limits on covered services.

We have all heard painful stories from our constituents who were denied care or services by managed care providers. I was deeply disturbed when I heard the account of one Wisconsin man in a hospital recovering from a se-

rious operation. He received a telephone call in his hospital room from a representative of his HMO telling him that if he stayed in the hospital past midnight the insurance would not cover it. This gentleman had just gotten out of intensive care, and it was all he could do to reach for the telephone to take the call.

How frightening an experience like that must be. This man filed a complaint with the State insurance regulator, accusing his HMO of playing doctor, but little was done. It is no wonder so many people feel anxious about their health care these days.

Having a recourse when something goes wrong is vital. Unfortunately, ERISA preempts individuals in employer-sponsored plans from holding health plans legally accountable for decisions to limit care that ultimately cause harm. Health plans should not be allowed to escape responsibility for their actions when their decisions kill or injure patients. In our new managed care environment we have to do a better job of focusing on patients and not the bottom line.

Six years ago we all in this country hoped for reform that would guarantee every American the health care they needed. That vision was never realized. In this time of economic prosperity, in this time of rapidly changing medicine, in this time of political opportunity it is time that we renew our commitment to health security for all. Many are still afraid to take on that task.

The Patients' Bill of Rights is an important first step in protecting people who already have health insurance. No one should fear that their insurance company will abandon them when they need it the most. This reform is an important step in renewing our commitment to health care security for everyone.

I urge my colleagues to support the Patients' Bill of Rights and I urge the leadership of this House to place a priority on real managed care reform that puts patients and doctors ahead of insurance company bureaucrats.

Mr. BAIRD. Mr. Speaker, I thank my colleague for those very poignant and accurate comments. I think she summarized remarkably well the situations we face today and the needed remedies.

Next I would like to yield to my good friend and colleague, the gentleman from the State of Pennsylvania (Mr. HOEFFEL).

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for yielding to me. I rise today to address an issue of critical importance to the people of this country and the 13th District of Pennsylvania.

Mr. Speaker, it is time to change the way HMOs do business in this country. Health care quality is suffering because HMOs continue to seek to drive the cost of health care lower and lower. They have succeeded in cutting the cost of health care, but the pendulum

has swung too far and we have to take action to protect the health of the American people.

When I go home to my district I hear the growing chorus of complaints. It is increasingly difficult for patients to get to see necessary specialists. Patients are being forced to leave hospitals only hours after having complex procedures performed. Prescription drug policies seem to change like the weather. Plan provider networks are small, spotty and too restrictive. Little or no coverage is offered for clinical trials and experimental benefits.

Last week in my district the League of Women Voters held a town meeting to discuss Medicare, but it turned into a session complaining about HMOs. The local newspaper, The Intelligencer-Record, covered the meeting the next day with a headline that says "Crowd Tells of Health Care Horror Stories". At the meeting Dr. Peter Lantos, of Erdenheim, Pennsylvania, described how he needed prostate surgery. His HMO was unwilling to provide any list of surgeons, making it very difficult for him to make an intelligent choice. He was also told he had to go to a specific hospital, not the one he preferred.

Now, Dr. Lantos fought the system. He fought it and he won. But he should not have had to fight, and he certainly lost critical time. And Dr. Lantos is a professional; a physician. He knows how to fight the system. What about average Americans? What kinds of protection do they have?

Something surely must be done, Mr. Speaker, for the children who are denied access to pediatric specialists; for the women who want to designate an obstetrician or gynecologist as their primary care provider; for all those suffering from cancer or serious heart disease who want to designate their oncologist or their cardiologist as their primary care provider; for all of those people and others who have been victims, not beneficiaries, of a managed care system that has lost its way. We must find an answer.

Yes, we must continue to control costs, but we must achieve four critical reforms.

First, we have to make sure that medical decisions are made by medical professionals, not by insurance company bureaucrats and accountants.

Secondly, we have to lift the gag rule that is placed on doctors by many insurance plans that prohibit those doctors from describing the full treatment options that their patients have.

Thirdly, we have to make sure that patients have the fullest possible choice of plans and providers.

And, lastly, we have to make sure that HMOs are held accountable. And, as a last resort, that means giving patients the right to sue their HMOs if an arbitrary coverage denial leads to a bad medical consequence.

Those are the steps we have to take. We have to make sure that we provide

for good medical care for Americans, and the answer certainly is passage of the Patients' Bill of Rights. It is a bipartisan bill. It has broad appeal. We must answer the call of the American people and pass this legislation.

Mr. Speaker, I am providing for insertion into the RECORD the article I referred to earlier from the Doylestown *Intelligencer-Record*.

CROWD TELLS OF HEALTH CARE HORROR
STORIES

(By Stephen Brady)

It's frightening to think that a doctor in this day and age would have to see 20 patients an hour to make ends meet. And how could this kind of schedule reasonably be called "care"?

Dr. Peter Lantos of Erdenheim told this story about a doctor friend. Lantos spoke during a public dialogue on the future of Medicare, held last week at Jenkintown Borough Hall and sponsored by the League of Women Voters of Abington-Cheltenham-Jenkintown.

It was just this sort of horror story that motivated Rochelle Sonnenfeld of Rydal, the league's chairwoman, to organize the meeting.

"This is a nationwide project. We want to inform the public about Medicare. We want to get legislation passed that is worthwhile. This is a very important issue to millions of people," Sonnenfeld said.

While Medicare was the announced subject, many in the audience vented about health insurance, especially managed-care providers, or health maintenance organizations.

Lantos told his own personal horror story. "I needed prostate surgery. The surgeon that was recommended by my HMO had a poor reputation, and they still wanted me to use him. I found out they don't give out lists of good surgeons. I had to go through several layers of management."

Dr. Todd Sagin, a family medicine and health-care policy specialist, was the guest speaker at the dialogue. He described Medicare, its history and development and explained why there is a crisis and what solutions may lie ahead.

"The Medicare program hasn't changed in close to 35 years. By today's standards, it's an inadequate packet," Sagin said, adding "Medicare is financed by employee payroll taxes, and it's going bankrupt."

Sagin explained why hospital bills may seem inordinately high and outlined the bills' hidden costs.

"Medicare only pays a certain percentage of the costs of a hospital stay. You have the high charges on hospital bills because the doctor is getting a percentage, and the hospital has to pay its own bills. They have to charge more so all their costs are covered."

In the matter of managed care, he tried to make sense of the maze of contradictions that exist in the field.

"The crux of the matter is who decides what is medically necessary. Medical necessity is in the eye of the beholder," he said, adding, "Most of us want the best technology, the best medical care, and we want access to that care with the least amount of red tape. And we want it at a low cost."

People who can least afford the medical bills are not the only ones being hurt. "Our government is being hurt by the high cost of care. We are paying 15 cents on the dollar.

"The companies we work for have to pay the cost, and it will eventually weaken them in the business world."

Elise Stern of Cheltenham had heard of another horror story. A woman in her 80s was sent home just two days after having a double mastectomy. "The health-care system should not be for-profit; it should be a social service," she said.

She also felt that the taxpayers' money could be spent more wisely. "We are taking money away from the patients and giving it to the stockholders."

Sagin agreed with her view. "What degree should Wall Street have in making decisions on health care?"

Lantos agreed, adding, "I was told I had the choice of one hospital for my operation. I told the HMO I wanted to go elsewhere and was told, 'No, you can't.' I got treatment, but I had to fight for it. You shouldn't have to fight for good care."

Mr. BAIRD. If I might, Mr. Speaker, I know the gentleman from Pennsylvania has shared with me a personal story about a patient who faced some of the challenges he just described, and why that is important is behind the legislation are real world real lives of people who hurt and suffer every day because of the lack of this needed legislation. Could the gentleman take a few moments and relate that story to us?

Mr. HOEFFEL. I would be delighted to. It is a sad story. I met with a woman from my district last year who reported to me that her husband had become very ill the year before with a head injury. He received care under his managed care plan. His primary care doctor wanted, once he was sent home from the hospital, to give him a very intensive course of therapy and the HMO would not pay for it, or would not authorize it. The family fought, the doctor fought, and they could not get approval. They gave him a lower level of therapy, not what the doctor ordered.

Unfortunately, the husband died, and the wife wanted to hold that HMO accountable. She believes that the failure to authorize the more intensive level of therapy led to her husband's death. Now, I do not know if that is true. She does not know. But she wanted to test that. She wanted to hold that health care plan accountable for what she thought was an arbitrary decision, and the law does not allow her to do that today.

Part of what the Patients' Bill of Rights would do is to make sure that people can go to court, if they have to, as a last resort, to hold their plans accountable. This bill would do it, and we ought to pass it.

Mr. BAIRD. Mr. Speaker, I thank the gentleman very much and appreciate those great remarks.

Mr. Speaker, I would like next to yield to my good friend, the gentleman from Colorado (Mr. MARK UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman from the State of Washington for yielding to me.

Mr. Speaker, at one time or another all Americans are faced with making tough choices about medical care for themselves and for their families. At

those times, the last thing anyone wants to think about is whether their health plan will be there for them. They should know that access to vital services and information is guaranteed to them.

Here is what is needed, I believe, to make sure that is in fact what we have in our medical care system.

Patients should know that if they have an emergency they can go to the nearest emergency room without worrying if their plan will cover it. No one with a serious emergency should have to call an 800 number for permission to seek the emergency care that is needed.

Patients also need access to clear and complete medical information. The reason for that is that informed decisions about health care options can only be made by patients who have full access to information about the options available to them. As a part of this, physicians should be able to advise patients of their options without restrictions from their health plan. Health care providers should know that they can give accurate medical advice without fear of retaliation by the health plan that is in order at that time.

Patients need to know they can appeal plan decisions of denial or delay of care when a doctor feels that the care prescribed is medically necessary.

□ 1645

Plans must put into place an internal review process to address these concerns. But if that process fails, patients need to know that internal decisions may be appealed to an independent third party. They must have the ability to bring their grievances to a panel free of the health plan's influence.

All patients also need to know that their medical plan has an adequate network of specialists available who can provide high quality care for those patients who need specialized treatments and, if necessary, patients need to have the right to seek specialists outside of their network.

Mr. Speaker, our health care system is not as good as it should be and Americans need to know that this is not as good as it gets. The Patients' Bill of Rights is an important step in the right direction toward making these needed improvements and helping ensure that all Americans have access to quality health care.

For those reasons, I am pleased to be a cosponsor of this important legislation. The Patients' Bill of Rights will put medical decisions back into the hands of doctors and patients, taking it out of the hands of the accountants and bureaucrats.

Mr. BAIRD. Mr. Speaker, I might like to follow up if I might once again.

I am sure that we can fill this room with people telling their stories, but they are important stories to hear. I

know that my colleague also has talked to one of his constituents who shared with him the frustrations they felt under the current system, and I wondered if he might expand on that.

Mr. UDALL of Colorado. Mr. Speaker, I have a constituent who was in the middle of chemotherapy for her breast cancer. Of course, this was a life-threatening situation. She was informed by her oncologist halfway through her chemotherapy treatment that she had to find another oncologist.

Now, my colleagues can imagine the kind of turmoil and stress that that added to her situation where she was literally battling for her life. Now, she fought back hard and was able to get that care but only after a great deal of time had passed.

My point in all of this is the Patients' Bill of Rights would make this a lot less likely to happen to the people who surround us in our communities, our families, our fellow citizens and our friends. I think it is important to remember the Patients' Bill of Rights is about people, it is not about regulations. It is about people. It is about providing the best possible health care for all Americans.

Again, I would remind all of the Members here that the Patients' Bill of Rights is about putting those medical decisions back into the hands of patients and doctors and not allowing those decisions to be made by somebody who is maybe sitting 2,000 miles away in front of a television or computer screen.

I urge adoption. This is a very, very important piece of legislation.

Mr. BAIRD. Mr. Speaker, that element of the deeply personal relationship between a patient and his or her health care provider cannot be underscored too greatly. It is not that we are dealing with interchangeable parts of some machine, unfeeling beings. We are dealing with human beings who build a relationship of trust and respect and confidence and, most importantly, of caring with their health care provider. We have lost that under current HMO practices, and this bill will go a long way toward restoring that relationship.

Next, Mr. Speaker, I would like to recognize my friend and colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding to me.

One of the real reasons that I wanted to come to this body as an elected Member of the House of Representatives and why I ran for office in my State legislature years ago is because I want to be able to provide accessible, affordable health care to people in my own family and to families around the State of Illinois and in this Nation.

It is really a disgrace that in this country 44 million Americans have no

health insurance at all. But even those that are insured, and that is what we are talking about today, cannot be certain that they are going to receive quality health care when they need it.

What we need to know, and everyone has said it, my colleagues have said it, is that patients will get the health care they need based on medical decisions and not on arbitrary rules set by bureaucrats that are part of insurance companies or HMOs. That is why I am so proud to be a cosponsor of H.R. 358, the Patients' Bill of Rights, which is sponsored by the gentleman from Michigan (Mr. DINGELL).

This bill, which failed by only five votes in the last Congress, would establish critical protections for patients and medical practitioners; and it adopts the recommendations that were made by the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

As a former State legislator, I sat on the Health Care Committee, and one day Ann Vaughn came to our committee to give testimony. Ann is a resident of the Springfield area in Illinois and came to tell us about what her experience was when she had a mastectomy. She said that it was really scary for herself and her family when she got that diagnosis. And my colleagues can imagine going to the hospital for the surgery.

She said, but what was really unbelievable to her was when she woke up in the recovery room she was told that she would have to go home that day. An outpatient mastectomy, we are not talking about a lumpectomy, we are talking about a full mastectomy, tubes, grogginess from the anesthetic, that she was going to have to go home, that her HMO was not going to cover the overnight stay.

Well, my colleagues can imagine, the members of the committee were outraged and decided we absolutely had to do something. So we did pass legislation that would say that doctors will decide how long someone stays in the hospital after a mastectomy, no discussion, no debate. It is not going to be whether the HMO says they are not going to cover it.

Well, this is good. We got that bill passed. But at the time I said, look, we cannot go body part by body part. We have to have a comprehensive approach and get to the heart of who is going to make those medical decisions.

Well, there is a lot of talk now about Patients' Bill of Rights, and everybody is for it. I really have not found anybody who is against it. But it is going to be very important as we get down to the nitty-gritty to look at what is in the legislation that is really going to guarantee that patients and doctors are going to be in the driver's seat.

What I really like about H.R. 358 is three provisions that I want to focus on. The first is the whistle-blower pro-

vision. That is, protection for health care workers who see some kind of danger for patients in this medical setting.

Recent surveys have reported alarming percentages of health care workers who believe that patient safety is in jeopardy. For example, a survey at a large Columbia HGA hospital found that 60 percent of workers reported dangerous delays in nursing response time relating to understaffing; 44 percent reported medication errors; and 37 percent reported lapses in infection control. However, only 13 percent were confident that they could honestly answer an inspector's question about the quality of care without risking reprisals. That is what they are afraid of.

A Peter Hart poll found that one out of every four health care professionals was afraid to speak out on the job even to superiors. Now, think about it. If my colleagues or their family member goes to a hospital, wouldn't they want their nurse or doctor to be able to raise quality problems? Wouldn't they like to know that those professionals who are on the front line every day, whose job it is to take care of them, have the ability to improve whatever health or safety problems that they see, that they are not going to be afraid to report it because they are afraid that they are going to be fired?

So protection for whistle-blowers, for people who want to raise legitimate concerns has to be in the legislation. It is in this bill.

Second is the question of their right to sue an HMO. Over 85 percent of those of us with private insurance are in some kind of managed care, where HMOs and insurance companies have the ability to deny, to limit or to terminate medical care in addition to denying payment. They have the ability to override medical decisions of medical professionals even though they have never laid eyes on the patient. And when they do so, they are exempt from accountability for their actions.

Now, again, we dealt with this issue in Illinois. And we had representatives of the HMO industry, and they sat before us in committee and they said, no, we do not make care decisions; we only make coverage decisions.

Well, I said, "Fellows, in the real world there is no difference here. If you are not going to pay for the care that I need, I cannot get the care that I need. I am not going to be able to afford to go out and buy it by myself. And so, if you said, I will not pay for it, that is as good as saying I am not going to allow you to have it." That is a medical decision.

We heard a story from an emergency physician who was telling us about a patient who had come in with symptoms, he thought, of a heart attack, pain in the chest, some pain in the arm. Went to the emergency room. Lo and behold, they found it was not a

heart attack. It was some kind of gastric distress. Home he went. The insurance company said, we are not going to pay for that; it was not a real emergency.

Well, this emergency physician was telling us, the next time this patient had the same symptoms, he said, heck, no, I am not going to be able to go to the emergency room because I am not going to get it paid for. This person had a heart attack, and this person is dead.

Well, come on, this is a care decision that is made by the HMO. If something goes wrong, we should have the ability to sue.

And, finally, we have to address the question of what we call medical necessity. Who decides what is a medical necessity? Is it going to be a doctor or is it going to be an HMO, a person who has never met them, and yet the person who is going to determine how they can stay in the hospital, whether a service is provided on an inpatient or outpatient basis, if home care will be available, what prescription drugs they get, whether they get a lab test or follow-up visit, and other key decisions.

Do they want someone who is hundreds of miles away from them, who does not know them, who may not be a qualified physician to be making decisions about their care? The answer is obvious. Medical necessity needs to be decided not by HMO bureaucrats but that they should be made based on generally accepted principles of good professional medical practice.

This bill says the health plan should not be allowed to place arbitrary limits on covered services. It says that doctors should be able to prescribe the drugs that their patients need. It gives patients the assurance that their doctors will not be helpless bystanders as a bureaucrat goes ahead and makes all the decisions.

So those are the three things that I would like to see that really are in H.R. 358. That is whistle-blower protections, HMO accountability, the right to sue, and medical decision-making by medical professionals.

Mr. BAIRD. Mr. Speaker, I want to thank my colleague particularly for raising some issues that we had not addressed before and also for raising the important point about how much it costs us in our efforts to constrain costs when people are forced to go home from the hospital, where they do not get the care they need, they develop infections and then are forced to come back, or when medication regimens are cut off in the middle of someone's prescribed treatment regimen and they worsen in their illness.

When physicians or other health care providers are forced to spend their days on the phone begging for the treatment that they know their patient needs, that costs. When hospitals are understaffed and when the staff that is there

it is not at the level of professional training, that costs.

When everybody talks about, those on the other side, on the Patients' Bill of Rights against it, they say it might raise costs. We need to counter, there are costs associated with the status quo and those costs are the cost in people's lives, the cost in the quality of care. The reason people oppose this is because the costs are borne by the providers and by the public while the profits are privatized. That is the problem with it.

Ms. SCHAKOWSKY. Mr. Speaker, if the gentleman will continue to yield, that is absolutely right. And my colleague is talking about dollars and cents cost, and I think we have to have a much broader view on how we calculate that.

My colleague also talks about the human cost. My father lived with me for 6 years before he died and was part of an HMO, and I cannot tell my colleagues the hours that I spent on the phone, the letters that I wrote, and I was writing as a State representative so it presumably was even easier for me, just trying to get him the care that he needed, getting them to cover what I thought that he needed that they eventually did and that anyone with common sense would see needed to be covered.

□ 1700

What if I was not there to advocate for him? How much shorter would his life have been? How much more difficult would his life have been? These all have to be part of our larger calculation.

Mr. BAIRD. I thank the gentlewoman very much for raising those issues.

Mr. Speaker, I yield to the gentlewoman from California (Mrs. NAPOLITANO).

Mrs. NAPOLITANO. Mr. Speaker, I am here because I am very concerned specifically on this issue of the Patients' Bill of Rights bill that is going to be coming before us. My constituency is a working-class constituency. I have been in that particular area for over 40 years, so I know that the people that I represent are people who have generally some coverage, not all of them have coverage, and it has become a great issue for all of the people that I represent. That includes some of my businesses, because they have no choice in some areas.

The gentlewoman from Illinois (Ms. SCHAKOWSKY) talked about some of the things that she would like to see included in the bill. I agree. The whistle-blowers is a very inherent part, an oversight, if you will, directly by either the providers or the people who see the abuse or are able to articulate where we need to make a change or how we can address it to make it better to provide the protection for the patients. The accountability has sort of

been overshadowed in the growth of the HMOs.

Consider some of the facts that we are now looking at currently and that is that HMOs have witnessed considerable growth through the 1990s. By 1996, 60 to 70 million people were enrolled in HMOs. That is about 20 percent of the U.S. population or, put another way, it is one of five Americans.

HMOs started off in my era back 30 some odd years ago to be a good thing, and I belonged to one of them for over 35 years. They have made the medical profession a must-do. And I will not name it, but they have been very receptive to the needs of my family and to other people around us, but there are very few who put the patients' needs ahead of profits.

Now, another statistic. The for-profit HMOs enroll 60 percent of all HMOs. That means the other 40 percent are the HMOs who are doing it because they want to provide a service for their community, and they much of the time are being bought out by the for-profit HMOs. So that means that my area alone I am seeing a lot of change and a lot of the closure to some of the access for some of my working-class folks.

Another statistic. Two-thirds of the persons under 65 are covered by employer-sponsored insurance. Of these two-thirds under 65, 73 percent are HMOs. That means most big companies or most employers are using HMOs. That means they have captured most of the constituency that has to have insurance.

Another statistic. A number of States have enacted various laws that regulate the practices to a varying extent. California was one of them, and specifically because of the outcry of the general populace of the need of reform in that particular area. They did not go far enough, as far as some of us were concerned, but at least it was a start to be able to bring some sanity to the addressing of the HMO's heavy-handed efforts to limit the amount and number of visits, the services of people who are in need of some very, very critical coverage.

Another statistic. There has been little national legislation to regulate HMOs and ensure that patients receive quality care. Now, we know that is a fact because even the press brings that out, that some of the HMOs are making exceedingly high profits. That is one of the areas that certainly they are entitled to make a profit but not at the expense of human life which as we have heard some of my colleagues point to that fact.

In 1998, Democrats fought for the enactment of the Patients' Bill of Rights that would have ensured medical decisions are made by doctors and patients and not by the insurance company bureaucrats, a person who has no credibility in the medical world to be able

to determine whether or not that patient should have that coverage or that care.

It would have also ensured direct access to specialists. Now, we might say, well, that is up to the HMO to determine, but where are the bureaucrats' credentials to say that they can determine what kind of service or what special service they need so that they would deny that to them?

It would also have ensured the continuity of care. I have just recently had a doctor tell me that he is leaving an HMO because the HMO has placed caps on the number of visits that he is allowed to see his patients. He refuses, because of this, the Hippocratic oath that he took, to not render care where it is needed, so he is going into private practice. That tells me something, what has happened to some of the HMOs that we are dealing with.

My Republican colleagues blocked those efforts in 1998. Hopefully, we will be able to ensure joint work together, our New Member Caucus and some of the other persons who are interested, because the Republican legislation does not ensure that we put medical decisions in the hands of the doctors and the patients. We want to put it in the hands of those doctors and patients, not in the bureaucrats. And we want to ensure that that weak legislation which did not ensure the direct access to specialists is changed so that anybody who has a requirement, a medical requirement, and medical need does get assurance that they will be referred to the specialist necessary.

And also that legislation that was passed did not give the patients the right to sue HMOs liable for making decisions leading to serious injury and/or death. To me, if my family member were affected, I would certainly want to hold the right to be able to sue an HMO if they did not do their best to take care of my family member or my friend or my colleague. I think all of us feel that way.

There is still a pressing and dire need for a meaningful Patients' Bill of Rights so that, for example, in emergencies, patients can go to the nearest emergency room and that the HMOs who feel that the emergency rooms do not pay off and close them, especially to urgent care, that we are able to have at least geographically accessible emergency rooms so that we can take care of that need.

We also would like to see in that Patients' Bill of Rights we will include that the patients are guaranteed continuity of care. When their employer switches plans or when their doctors are dropped or resign from that network, the need for that care does not go away. I think it is incumbent upon us to realize that more and more we are going to be faced with individuals in our own backyard who are going to come to us and request that we extend that.

It also should include that the patients can be part of approved clinical trials if no other treatment is available.

Mr. Speaker, our constituents await our leadership to ensure that all their needs are addressed in this 106th Congress. I plead that we need to work together and not let our American working class down.

Mr. BAIRD. I thank the gentlewoman very much. She raised two points that I think were absolutely critical.

First, and I commend her for it, distinguishing between the for-profit versus the not-for-profit HMOs. In our State, some of the pioneers of health maintenance organizations were not-for-profit organizations, voluntary co-operatives that have in fact voluntarily adopted many of the standards we are fighting to enact now through law, but they saw the need to do the right thing, to voluntarily allow patients to choose their providers, to create an appeal structure, and they have done the right thing. So I really think we need to emphasize that distinction between the for-profit and the not-for-profit.

The other thing I want to compliment you on is the observation of the toll this system takes on health care providers. The gentleman you spoke about, have you talked to any others who raised these kinds of issues, other providers who said the stress of the HMO, dealing with those is burning them out, so to speak?

Mrs. NAPOLITANO. Yes, very much so. As a matter of fact, recently one constituent told me, and he was a doctor, that they have been told that they must have something like 15 patient visits a day at 15, 20 minutes apiece. You really cannot provide the kind of care, especially in the specialist area like a heart doctor. To me it just indicates that these people are being put under pressure to move on to the next customer. It is like it is an assembly line.

We cannot treat human beings that way. We need to ensure that those doctors and those plans that are not for profit, that we provide them with the assistance that is necessary to be able to render a service and increase their ability to do it at a local level where there is no HMO, even a for-profit. Unfortunately, that is not happening. I think a lot of people are being disheartened.

Mr. BAIRD. I thank the gentlewoman very much for her comments.

Mrs. NAPOLITANO. I thank the gentleman for the opportunity.

Mr. BAIRD. Mr. Speaker, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, it is a delight to address this topic today. The reason is, when I think about the topics we sometimes talk about in this Chamber sometimes they are a bit ob-

tuse, a bit theological, a bit arcane, but this is one that cuts right to the heart of why we come here to serve, because this issue is one of justice for Americans in getting medical treatment.

This is not a matter of how many angels can dance on the head of a pin. It is not a matter of what is good or bad tax policy. It is a matter of whether you will live or whether you will die in the certain circumstances that people face in real life. For that reason, it is time for the U.S. Congress to get off the dime and act on this, to pass a strong Patients' Bill of Rights. It has dithered, it has dallied, it has debated for years and not acted, and it is time for action.

Mr. Speaker, what particularly motivated me on this subject, during this last campaign I met lots of folks but the one that perhaps sticks in my mind the most is a woman named Katy Slater. Katy is from Issaquah, Washington. I did not know her before the campaign. I happened to meet her on the campaign trail.

She told me her story. It was a story that, unfortunately, has become to maybe not be typical but not atypical. She got breast cancer. She had the trauma that would be associated with breast cancer.

She went to her physician. Her physician told her, this is a serious case; but her physician held out one branch and light of hope for her. That was to have a stem cell transport. They told Katy Slater that if she had a stem cell transport, there was a good chance that she would survive and that if she did not, she would die.

So she did what we would do, Mr. Speaker, in this case. She went to her insurance company to whom she had been paying premiums on a regular, timely basis for 30 years. She told them that the doctors had suggested she have her stem cell transport, and they said no. And she said, this can't be right. I have the physicians who have said I need this. But they said no.

When she asked them, why do you say no when my physicians have said this is medically necessary, there is a medical necessity for this, how can you tell me I can't have this procedure, her insurance company to whom she had been paying premiums for 30 years said, no, ma'am, you don't understand, we make the rules, we decide what is medically necessary.

When Katy Slater needed her transplant, she did not have an appeals tribunal to whom she could go to get a third party to resolve this. She did not have that. She did not have a legal right of recourse against her insurance company. She did not have that. She did not have the Congress of the United States saying to that insurance company that the physicians, the medical community should decide what is medically necessary, not the insurance

industry. She did not have that. And she should have had that.

Katy Slater, I will give the happy ending, Mr. Speaker, to this story. She, unlike many Americans, had a retirement plan. She had to cash it in, every single penny she had. She got her stem cell transplant 4 years ago, and she is alive today because of the stem cell transplant that her insurance company refused to provide for her. But, to her credit, she told me to come to this body and try to fight for the next Katy Slaters, the people who are going to have this problem in the future because she cares about them as much as she cared about herself.

We need to pass this bill, Mr. Speaker, to prevent physicians from being gagged by insurance companies. An important provision of this, and the gentleman from Washington may have touched on this already, this antigag provision where insurance companies now can gag physicians to prevent them from telling their patients about life-saving treatment, that is an abominable practice, that is an absurdly unjust practice, and this body and Chamber ought to say so dramatically, and they ought to say so soon.

And they ought to say it, too, Mr. Speaker, and I will make a particular entreaty. We are new Members. If I can, this ought to be a bipartisan effort, an effort where we work across the aisle together to make sure this gag rule is ended, to make sure that we have physicians decide medical necessity, not the insurance industry.

□ 1715

Mr. Speaker, the reason I say it should be bipartisan is we have just come through this political civil war, and this would be a really good place for us to start on a bipartisan basis to pass a bill that is meaningful to real Americans in their real life. And I would suggest we new Members work across the aisle to do that; and I say that when I address the insurance industry, too.

And I think it is a good point the gentleman from Washington (Mr. BAIRD) raised: Not all insurance companies are guilty of the same sin here. Many, many insurance companies have provided fully adequate and comprehensive and quality care paid for by their insureds, but some have not, and it is for those good insurance companies, those who act in a fair and just way, that this bill will protect so they do not have to compete with the outliers who refuse to respect honesty and decency. This bill protects good insurance companies as well as the insureds.

Mr. Speaker, I hope that we will work together to pass this bill.

Mr. BAIRD. Thank you very much, Congressman INSLEE. You know, I sometimes think we are here in this body for the Katie Slaters of the world.

Mr. INSLEE. She told me to say this piece, and I have.

Mr. BAIRD. I am grateful, and I am sure many other Americans are as well.

Mr. Speaker, next I would like to recognize my colleague from the State of Nevada, Congresswoman BERKLEY.

Ms. BERKLEY. Mr. Speaker, I rise today to tell you a story that explains why I am a passionate supporter of the Patients' Bill of Rights. This story, which is only one of many that I heard during my campaign, illustrates why health care plans must be held accountable if their financial decisions overrule the sound medical decisions of a doctor.

This story is about a constituent who lives in my Las Vegas district. The man is a dialysis patient. He was scheduled for dialysis treatments twice a week, but over time he became toxic in between treatments and was continually sent to the emergency room during treatments. A third session became critical for his very survival.

Rather than dealing with the ordeal of gradually becoming toxic and rushing to the emergency room because two treatments a week simply were not enough for him, the patient's doctor determined that without a third dialysis treatment the patient would be faced with a life-threatening situation.

But the patient was told by his insurance company that his diagnosis called for only two treatments per week. The patient was basically told: Tough luck, pal. Even though your doctor has diagnosed that there are three dialysis treatments necessary for your survival, we will only cover two of them.

So the doctor called the health plan; he explained the situation. He graphically described how the health of the patient was in serious jeopardy without another dialysis treatment. Over the phone the doctor told a health care plan manager that the quality of the patient's life, in fact the patient's very life itself, was at issue.

The HMO said no to the doctor's request. They said the diagnosis called for only two dialysis treatments and that that could not be changed.

The doctor said, "How can you say that? I am the diagnosing physician. The patient is standing right in front of me. My diagnosis calls for three dialysis treatments a week in order to save this patient's life."

In this case, the doctor prevailed. The patient got the necessary treatment, and the story had a happy ending. But there is a lesson to be learned here. A doctor should never have to argue to be allowed to provide critical care to his patient.

In too many cases the balance has swung too far in favor of the bottom line. It has been said that there is too much emphasis on dollar signs rather than vital signs. I agree. The Patients' Bill of Rights holds health plans accountable legally if they reject sound

medical diagnoses and treatment plans in order to boost profits. We owe this fundamental protection to our constituents, and I urge that we pass the Patients' Bill of Rights as soon as possible.

Mr. BAIRD. Thank you very much.

Mr. Speaker, I would like to finally recognize our final speaker for this afternoon, Congressman HOLT from the State of New Jersey.

Mr. HOLT. Mr. Speaker, I thank my colleague from the State of Washington. I am pleased to join today in the fight for passage of the Patients' Bill of Rights.

My colleagues, the gentleladies from Nevada and Illinois and California and the gentleman from Washington have ably presented arguments in favor of this bill. I would like to address one of the fundamental, one of the fundamental features of the issue here, that is, the doctor-patient relationship, something I have observed closely. Few things are more fundamental, Mr. Speaker, more fundamental or more personal, than the relationship between a patient and her or his doctor.

My wife is a physician, and the bond between her and her patients is something important, even sacred. It is a bond cemented by honesty and time and, importantly, by trust. The doctor-patient relationship is the bedrock of the entire health care system, and it is one of the main reasons that people choose to go into medicine in the first place. That relationship between doctors and their patients is under threat, and all too often in our Nation today, Mr. Speaker, the bond is being jeopardized by HMOs who are more interested in their profit statement than their mission statement.

Mr. Speaker, there are insurance companies that are trying to do a good job and many compassionate people working for those companies, but frankly the focus on profits taken by some HMOs makes you think they have more in common with Neiman Marcus than Marcus Welby.

All of us have heard the stories, all of us here have, all of us on both sides of the aisle, families who worry that an insurance company clerk rather than their doctor will decide what treatment they get, providers who are afraid to tell their patients all of the health care options available to them because some might cost more, doctors who are restricted in what medicines they can prescribe and families who have to go through endless appeals and mountains of paperwork just to get the care they deserve.

Just yesterday my colleague, FRANK PALLONE, and I met with constituents at Centrist State Medical Center in Monmouth County, New Jersey, to discuss this issue. We heard from people, a variety of people involved in health care: doctors, nurses, patients, hospital administrators and consumer advocates, men and women who serve every

day on the front lines of health care. They had one message for us here in Washington, Mr. Speaker: Pass a Federal Patients' Bill of Rights, legislation that will ensure that medical decisions are not held hostage to business decisions.

House Speaker HASTERT recently said that he is willing to bring single-issue patients' rights bills to the House floor, bills dealing with issues like gag rules, emergency room standards and direct access to specialists. There is no doubt that these are issues that we need to address, but we cannot, we must not use them as an excuse to avoid tackling comprehensive patients' rights or we should not use them to dodge the important questions, issues of accountability and liability.

As soon as we raise the question of liability, people say, oh, we should not let lawyers run this. Of course we do not want a health care system run by lawsuits, driven by lawsuits, but the question is: Who has the last word on medical decisions? That is what we have to protect.

HMO horror stories are not isolated incidents. They are happening to families every day in my district and in yours, people who work hard and thought they were protected, people who see their loved ones denied the care they need and are powerless to do anything about it.

We need to act in a bipartisan way to see that insurance companies are held accountable for their decisions, their medical decisions, and that they start to think twice before they deny payment for needed care and, in effect, deny the care. Mr. Speaker, we need to pass the Patients' Bill of Rights now.

Mr. BAIRD. Thank you very much, Congressman. I appreciate those remarks.

Mr. Speaker, I would like to conclude with just a few final comments. I, first of all, want to express my gratitude for my colleagues, particularly the fact that they are from the freshman class. These are folks who have just been on the front lines of often very difficult and challenging campaigns, but in the middle of those campaigns they listened to their constituents, they listened to their needs, and they carried those needs here to this body, and I hope this body will act on those needs.

So I am very proud to serve as president of our freshman class, and I want to thank again my colleagues. I want to also make just a couple of final remarks.

I asked to fill this role today because, in addition to being a Member of Congress, I am a health care provider myself. As a licensed clinical psychologist, I work with cancer patients, with head injury patients, with people dying of a number of terminal illnesses and with patients facing severe depression. I know firsthand the toll it takes on patients and the toll it takes on our

providers and on our families and, frankly, on this country as a whole to have the current system.

There is a common saying, and the saying is: If it ain't broke, don't fix it.

Mr. Speaker, I would assert to you and the people we represent would assert to you and to this body that this system is broke and it is incumbent upon us as their elected representatives to fix it. I believe the Patients' Bill of Rights that gives you the right to choose your provider, gives your provider the option, the responsibility to determine your health care needs and that holds HMOs and managed care firms accountable is the solution to this system which is broken.

Thank you very much.

WHOSE MONEY IS IT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. WELLER) is recognized for 5 minutes.

Mr. WELLER. Mr. Speaker, I rise for a few minutes to talk about some issues I heard about back home during the Presidents' Day recess.

You know, Mr. Speaker, I have the privilege of representing a very, very diverse district. I represent part of the City of Chicago, the south suburbs in Cook and Will Counties, farm communities and a lot of bedroom communities. When a district is so diverse, you really want to listen and learn the concerns of the people you have the privilege of representing. And I find that even though our district is so diverse, city, suburbs and country, that there is a pretty clear message, and that is that the folks back home want us in this Congress to work together to solve the challenges that we face. And I am pretty proud that this Congress over the last 4 years has responded by doing some things we were told we could not do: balancing the budget for the first time in 28 years, cutting taxes for the middle class for the first time in 16 years, reforming welfare for the first time in a generation and taming the tax collector by reforming the IRS. And those are real accomplishments, real accomplishments that I believe we should all be proud of.

And when I was back home over the last week listening to the folks back home, I asked, what do you want us to do next? And they tell me that they want good schools, they tell me that they want low taxes, they tell me that they want a secure retirement, and I am pleased to say that that is the majority's agenda here in this House of Representatives, to help our schools and put more dollars in the classroom and to give control of our schools back to parents and teachers and locally elected school boards. It is our agenda to lower the tax burden on the middle class because we believe that you can spend your hard-earned dollars better

back home than we can for you here in Washington, and we also want to ensure a secure retirement by saving Social Security and rewarding those who save for their own retirement.

But today we face an even bigger challenge probably as part of this whole process as we work on our agenda as both a challenge and it is an opportunity, and that is the balanced budget bonus, the overpayment, the extra tax revenue that came from 4 years of hard work of balancing the budget. Expect that this overpayment of tax revenues is going to total \$2.7 trillion over the next 10 years.

That is a lot of money, and it is extra money, and the debate is what are we going to do with it? Do we spend it? It is burning a hole in Congress' pocket. Or do we give it back to the folks back home?

Now the President said that we should take 62 percent of this surplus revenue and use it to save Social Security, and then he wants to spend the rest on new government programs. A lot of us here in the Congress say that we should agree with the President on that 62 percent and, rather than creating new government programs after we save social security, that we should give the rest back and pay down the national debt thereby lowering the tax burden.

And that is really a fundamental question: Whose money is it to start with?

□ 1730

Whose money is it to start with? We know that. It is the taxpayers. But who can better spend it? Folks back home. That is you. Or is it, of course, Washington? Can Washington spend it better than we can?

Now, we the Republican majority believe that you can spend it better than we can for you and that is really why this is such an important debate this year, because we have to look at the issue of taxes in general.

Some say why is a tax cut so important? Well, if you look at how it affects families back in Illinois, the tax burden today is at its highest level ever in peacetime. In fact, 40 percent of the average Illinois family's income now goes to local, State and Federal government in taxes. The tax-take totals 21 percent of our Gross Domestic Product, and since 1992 the total collection of income taxes from individuals has gone up 63 percent. Clearly, the tax burden is too high.

The question then is, how can we lower the tax burden for the middle class? How can we help middle class families? I believe that we should focus on tax simplification, because is not it time that we bring fairness to the Tax Code? Is not it time to end discrimination in the Tax Code? As we set priorities this year, to help the middle class by simplifying the Tax Code, I believe