do not end up at the end of the year with all this pressure and with nowhere to go but to get into a bidding war, where we continue to spend more and more and more of the American people’s money.

We need budget reform in this town more than just about anything else that I can think of. Watching the debate today reaffirmed in my mind how important it is that we deal with this issue now, we do it this year.

I urge all my colleagues to get on board and the American people to get on board with this issue.

CALLING ON LEADERSHIP TO BRING UP HMO REFORM LEGISLATION

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

Mr. PALLONE. Madam Speaker, it is very important that we keep up the pressure in this House to pass HMO reform.

Despite the overwhelming support among the American people for HMO or managed care reform, the Republican leadership continues to let the issue languish. We still have no indication when or even if they will allow the Patients’ Bill of Rights to come to the House floor for a vote.

The reason for this activity is the same as it was last year. The Republican leadership cannot figure out how they can pass a good managed care bill without alienating the insurance agency.

So instead of doing what is right and best for the American people, they are once again appeasing the insurance industry and hoping an answer to this problem will magically fall from out of the sky.

Unfortunately, Madam Speaker, as the leadership sits and waits and does nothing, the shortcomings of the system continue to forever change the lives of countless Americans. We need only to turn on the TV or open the newspaper to see this.

I would like to use one example here tonight, and that is the issue of emergency room care. Earlier this month, USA Today ran an editorial on this issue. It was called “Early Last Year!” starts the editorial.

It mentions that a Seattle woman began suffering chest pains and numbness while driving. The pain was so severe that she pulled into a fire station seeking help only to be whisked to the nearest hospital where she was promptly admitted.

To most, that would seem a prudent course of action, but not to her health plan. It denied payment because she did not call the plan first to get preauthorized, according to an investigation by the Washington State Insurance Commissioner.

I mentioned this editorial, Madam Speaker, as an example of the problems people have with their HMOs in terms of access and paying for emergency room care.

Let me just go on to talk about this editorial again. The editorial says that this incident is typical of the enumerable bureaucratic hassles patients confront as HMOs and other managed care companies attempt to control costs.

But denial of payment for emergency care presents a particularly dangerous double-whammy. Patients facing emergencies might feel they have to choose between putting their health at risk and paying a huge bill they may not be able to afford.

The editorial in USA Today goes on to suggest a solution to the problem, noting that a national prudent layperson standard law covering all health plans would help fill in the gaps left by the current patchwork of State and Federal laws.

Democrats have been basically making this point about managed care for a long time. We know that people have had problems with their HMOs if they need to use an emergency room either because they are told to go to a hospital emergency room a lot further away from where they live or where the accident occurred, or, as in this case that I just mentioned, the actual payment afterwards is denied because they did not seek preauthorization, which seems nonsensical certainly in the context of emergency room care.

One only goes to an emergency room if it is an emergency. If one has to get preauthorization for it, it really is not an emergency. That is the dilemma that more and more Americans face, that their HMO plan does not cover emergency room care.

The Democrats, in response to this, have introduced a bill called the Patients’ Bill of Rights. Basically what we do in the Patients’ Bill of Rights is say that the prudent layperson’s standard applies.

In other words, if the average person, the average, prudent person, if you will, who had chest pains or they had a problem that necessitated going to the local emergency room, then they can go to the emergency room that is closest by, and the HMO has to pay, has to compensate for that care, has to pay for that emergency room care.

In the last Congress, we, the Democrats, tried to bring up the Patients’ Bill of Rights. The Patients’ Bill of Rights provides a number of patient protections for emergency room care, but access to specialists.

It basically applies the principle that says, if particular care is necessary, medically necessary, and in the opinion of one’s doctor is medically necessary, then it is covered; and the HMO has to cover that particular type of care.

In the last Congress, the Republican leadership did not hold a single hearing on the Patients’ Bill of Rights or even on an alternative managed care bill that they had proposed.

What we had to basically, was to seek what we call a discharge petition. We had to have a number of our colleagues come down to the well here and sign a discharge petition that said that the Patients’ Bill of Rights should be allowed to come to the floor.

As we reached the magical number that was necessary in order to bring the Patients’ Bill of Rights to the floor, the Republican leadership finally decided that they would bring their own managed care reform bill to the floor.

That was necessary in order to bring up the Patients’ Bill of Rights.

I think we are going to have to be forced to do that again. Basically in this session of Congress, even though the Patients’ Bill of Rights have been reintroduced and even though there are some Republican managed care reform proposals, so far, the Republican leadership has refused to bring up HMO reform, either their bill, which is not as good, or the Patients’ Bill of Rights, the Democratic bill.

So what we have had to do again, and starting tomorrow, is to file a rule allowing for a discharge petition to be brought up and have as many Members of Congress come down to the well again in a couple of weeks and sign this discharge petition in order to force the Republican leadership to bring the Patients’ Bill of Rights to the floor.

It should not be that way. It should not be necessary that, in order to achieve HMO reform, that we have to sign a petition as Members of Congress to bring it up. It simply should be brought up in committee. There should be hearings. It should be voted on in committee to come to the floor. But so far, we have nothing but stalling tactics from the Republican leadership.

I mentioned the example of emergency room care. But there are a lot of other examples that we can mention about why we need patient protections. But in the context of that, we were allowed to bring up the Patients’ Bill of Rights.

Let me just give my colleagues another example, though. We have a Democratic Task Force on Health Care, which basically put together the Patients’ Bill of Rights. We had some hearings on the Patients’ Bill of Rights in the context of our Democratic Health Care Task Force because we could not get hearings in the regular committees of the House because of the opposition from the Republican leadership.

I just wanted to mention another example because I think it is one of the most egregious that came before us
when we had this hearing. We invited a Dr. Charlotte Yeh, who is a practicing emergency physician at the New England Medical Center in Boston. She told our task force about a boy whose leg was seriously injured in an auto accident. At a nearby hospital in Boston, emergency room doctors told the parents he would need vascular surgery to save his leg and that a surgeon was ready at that hospital to perform the operation.

Unfortunately for this young man, his insurer insisted he be transferred to an in-network hospital for the surgery. His parents were told, if they allowed the operation to be done anywhere else, they would be responsible to the bill. They agreed to the move. Surgery was performed 3 hours after the accident. By then, it was too late to save the boy’s leg.

Dr. Yeh went on to express her very strong support to making the prudent layperson’s standard the national standard for emergency room care. As I said before, basically the prudent layperson’s standard says, if one does go to the emergency room to seek treatment under conditions that would prompt any reasonable person to go there, one’s HMO would pay for it.

But in addition to the prudent layperson’s standard, Dr. Yeh also emphasized the need to eliminate restrictive prior authorization requirements and the establishment of post-stabilization services between emergency physicians and managed care plans.

The Patients’ Bill of Rights includes all of those provisions. If I could for a minute, Madam Speaker, just run through some of the protections that are included in the Patients’ Bill of Rights, it guarantees access to needed health care specialists, very important. It provides, as I said, access to emergency room services when and where the need arise. It provides continuity of care protections to assure patient care if a patient’s health care provider is dropped.

It gives access to a timely internal and external appeals process. Let me mention that for a minute. If one is denied care right now because one’s HMOs decide that they will not pay for it, one of the things that my constituents complain to me about is that they have no way to appeal that decision other than internally within the HMO.

So if the HMO decides, for example, that a particular type of treatment is not medically necessary or that one does not need it in the hospital, it can take up to a couple more days, even though one’s doctor thinks that one should be staying there, or a number of other things that they consider not medically nec-

ecessary, well, most of the times, under current law, there is no appeal other than to the HMO itself; and they could appeal to the Board of Review, but why not for them, it is largely a cost issue.

What we are saying in the Patients’ Bill of Rights is that that person should be able to go to an external appeal, someone outside the HMO, or a panel outside the HMO that would review the case and decide whether or not that care should be provided and paid for by the HMO.

In addition, what we say is that, if one has been damaged for some reason, God forbid, that one needed some kind of procedure or one needed to stay in the hospital a few more days and the HMO refused to allow that and, as a result, one suffered injury and damage, then there should be a right to bring suit in a court of law and recover for those damages.

Most people do not realize that option does not exist today for a lot of people who are in HMO plans because the Federal Government has said that, in the case of people covered by a Federal plan or where the Federal Government has usurped or preempted the State law for those who are mostly self-insured by their employer, that there is no recourse to seek damages in a court of law.

That is not right. It is not right. Someone should be able to sue for damages and sue the HMO if they have been denied care and if they have been hurt or damaged as a result of that.

Just to mention a couple more things, we also have in the Patients’ Bill of Rights, we assure that doctors and patients can openly discuss treatment options, because, oftentimes, HMOs tell the doctors they cannot tell about treatment options that are not covered, the so-called gag rule.

We assure that women have direct access to an OB/GYN. As I said, we provide an enforcement mechanism that ensures recourse for patients who have been maimed or die as a result of health plan actions.

There are a lot more things that we can go into, and we will tonight; but I yield to the gentlewoman from Texas (Ms. JACKSON-LEE), who has been outspoken on this issue and has often talked about how in her own State of Texas a lot of these protections exist. They exist in Texas. They should exist nationally.

Ms. JACKSON-LEE of Texas, Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for his persistent leadership on the issue.

He is very right. Some two sessions ago, the legislative team or the legislative body and houses of the State of Texas voted in a bipartisan Patients’ Bill of Rights and one that has been effective in assisting the individuals of my State in better health care. We can always do better, however.

I think to follow up on the gentleman’s line of reasoning about the discharge petition, I think it is important to note that the discharge petition is something that most Members would rather not have to procedurally utilize. It is really a cry of anguish and frustration as well as an emphasis on the national, if you will, priority that the discharge petition represents.

We have done it with campaign finance reform, which the American people over and over again have indicated that it is high time to get special interests out of politics. We are now doing it and have done it in the past with the Patients’ Bill of Rights because we have seen the response by the American people.

In fact, I just recently saw, about 2 weeks ago, a poll done that indicated the high level of frustration with HMOs by the American people, just an enormous amount of frustration, not with the physicians who have already said get the business or the insurance companies, but out of my mouth, well, if I have it correct in their phraseology, let me be a physician, a nurturer.

But the American people have spoken. So this discharge petition is a response to the fact that we have a crisis. We have a road of no return. We have no light at the end of the tunnel.

The American people are over and over speaking about the need to be able to make personal decisions about their health care with their physicians. We already understand the value of efficiency. We already under the value of making sure that we do not wastefully spend monies that are not necessary, unnecessary procedures, or unnecessary equipment, if you will. I can think of a box of tissues that showed up on a bill more than 10 times or so. We have already gone through that.

I think the American people, the Congress has addressed the question of waste. So waste is not the issue. The issue is what kind of care are we giving our patients and those who work every day and deserve health care.

I think that there is something so pivotal to the relationship and the confidence that people would have in their HMOs and their health care; and that is to be able to go somewhere and say, “Doctor, I have a pain”, to the emergency room, “I have a severe pain”, and being considered legitimate in one’s expression.

The Democrat’s Patients’ Bill of Rights allows for severe pain to be established as a legitimate reason to be able to go to the emergency room.

Why is this so very important? My colleague already evidenced where there was a situation where there was some tragic situation where a young man’s leg could have been saved if they only had not shipped him from one place to the other 3 hours later.
May 26, 1999

CONGRESSIONAL RECORD—HOUSE

The Republican bill does not require plans to collect data on quality. Our Patients' Bill of Rights does. And the Republican bill does not establish an ombudsman program to help consumers navigate their way through the confusing array of health options available to them.

The other thing that is so very important to many women who I have met in my district is that it does not, whereas ours does, the Republican bill does not allow women to choose their OB-GYN as their primary care provider. That is key in the private relationship between physician and patients.

Let me say, as well, in closing to my friend from New Jersey, I would like to again thank him for consistent and persistent leadership dealing with the issues that we have been raising. It is important to let the American people know that we do not bypass procedures.

I remember 2 or 3 or 4 years ago having hearings out on the lawn about Medicare. We were so serious about the issue that we could not get hearings here in the Congress, that we as Democrats would be out on the front lawn. We may be relegated to this.

I know there have been a number of hearings dealing with this particular issue. But we have been bogged down by the allegations that we have lifted up this right to sue and medical necessity and that these are issues that are maybe holding us back. And I think people should understand that this is not an issue of attack, this right to sue. This is not to encourage frivolous litigation.

But even the physicians who two-to-one have supported and are supporting the Democratic Patients' Bill of Rights have said, "We're sued. Sometimes we are blocked from giving good health care or providing a specialist because someone far away with a computer is saying 'you cannot do it.'"

Why should they be vulnerable and the actual decision was made by an HMO, an insurance company, or someone looking at the bottom line and not looking at good health care?

I think America deserves better. And I think we have heard, all the people who have suffered, the loved ones, because of countless deaths, my fear of an injury being in the United States Congress, why should I be in fear? Because it still happens to any one of us that would be confronted with the choices of an emergency room that would say they are not eligible to come in here. This is a fear that happens more to our constituents that have no other options.

Unfortunately, the Republican bill dealing with the Patients' Bill of Rights does not allow people with chronic conditions to obtain standing referrals. Our Patients' Bill of Rights does. The Republican bill purports to prohibit gag clauses but in reality does not do such things, and that is that they cannot have the ability of doctors talking to patients about their health care and, therefore, keeping information away from both the patients and another doctor about what is transpiring with their condition.
I am glad he reminds me. While he was in Philadelphia, as he well knows, we agreed, if you will, to not go just upon our position as our opinion and a lot of us were in our districts.

So I do want to share with my colleagues that I was at the Purview A&M School of Nursing; and two-to-one, the nursing staff professional staff, students, joined in signing on-line for the Patients' Bill of Rights. I understand that all over the country people joined voluntarily to say that we needed to pass this.

I think that was a very important point that my colleague made. So we are not just here speaking on our personal behalf or we are not trying to get a discharge petition because we are over anxious for personal legislation to pass.

But I tell my colleagues, everywhere I go in my district, and I have talked to my colleagues, people are talking about getting some fair treatment with HMOs and needing our assistance, and I think that is important to bring to the floor's attention.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from North Carolina (Mrs. CLAYTON), who is one of the co-chairs of our Health Care Task Force.

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding.

I want to thank him also for the leadership. And I like the word that the gentlewoman from Texas (Ms. JACKSON-LEE) used, his "persistent" leadership, his dogged persistent leadership, his patient leadership. It takes all of that to get an issue of this magnitude in the consciousness of us. So I want to thank him for that.

Madam Speaker, when a child suffers with a disease that can be cured, should that decision on whether to provide the needed treatment be made by a doctor or the child's parents or by a bureaucrat who is counting dollars and dimes?

When a wife and mother undergo surgery for a mastectomy and the anesthesia has yet to wear off, should she be forced to leave the hospital that very day because of a rigid routine that puts saving money and sparing pain and suffering?

When a husband and father forced to go to the emergency room is unable to get approval from his insurance provider, the very provider he pays for insurance, should he be required to pay the medical bill himself?

When a grandfather is stricken with a life-threatening stroke, should those transporting him to the hospital emergency care be forced to pass one hospital to go to one farther away because narrow thinking people are more interested in crunching numbers and saving lives?

These are not rhetorical questions. They are not even hypothetical situations. These are real-life examples of what can happen to anyone, in fact what is happening all too often across this country under the current Federal law.

So that is the reason we need the Patients' Bill of Rights. The Patients' Bill of Rights effectively provides basic and fundamental rights to patients. The Patients' Bill of Rights provides real choices because patients are entitled to choose their health care provider and treatment decisions are made by the patient's doctor and not the insurance company bureaucrat.

The Patients' Bill of Rights that we are talking about provides real access. Managed care plans are required to ensure timely and necessary care. Patients would also have the right to go to the emergency room when they need to without prior authorization.

The Patients' Bill of Rights actually provides open communication between their doctor and the patient. Physicians are free to discuss any and all aspects of their care with the patient. That is what we are trying to guarantee in the Patients' Bill of Rights. That is why we need health care now and we need health care protected by the Patients' Bill of Rights.

This is not an isolated issue. This is a national challenge. However, our national challenge does not stop here. We have an even deeper-rooted problem. Approximately 45 million Americans are uninsured. The numbers of Americans without health insurance has grown by nearly 10 million over the past decade.

A smaller share of Americans have health insurance today through their jobs than 10 years ago. And even more would be uninsured if it were not for the extension of eligibility under the Medicaid program.

In 1997, almost one-third of non-elderly adults were uninsured at times in a two-year period. Of these, over 40 percent were uninsured over 2 years.

Why are these persons without insurance? Because, simply, it is too expensive or their employers do not provide it. And even though the Medicaid expansion in the 1980s and the 1990s lowered the number of uninsured children, why does it remain almost one out of ten Americans are uninsured? Because job-based insurance coverage is decreasing. The number of working families is increasing. And, therefore, we have a real serious problem.

We heard reference to the April event when we were announcing our intentions about the Patients' Bill of Rights. I sponsored an April event in the First Congressional District at my community college where I engaged nurses. In fact, I had a town hall meeting through the information highway where we were in four locations.

In addition to that, we went out into the community and got people to sign up. All too often what I found, many of these individuals were not indeed insured by anyone. Therefore, the Patients' Bill of Rights petition that they signed, they wanted for themselves, they were not eligible. Too many of my constituents do not even have the opportunity of being insured. However, if they were insured, I think they would need the protection that the Democratic Patients' Bill of Rights would provide for them.

Therefore, Madam Speaker, we must focus on two issues in health care reform. First, to reform the Patients' Bill of Rights, and, second, we must protect the right of uninsured persons to get health insurance. Again, I want to say that when we are asked to find opportunities for the Patients' Bill of Rights to ensure that of us who are fortunate enough to have insurance, we cannot forget the millions of individuals and families who are not insured at all.

I thank the gentleman for providing the leadership on the Patients' Bill of Rights and just say that we are approaching tomorrow one phase of our national crisis but not the total phase of it. I am pleased that we will indeed do that. I agree with my colleague who said that the discharge procedure indeed is a radical method that we have to undertake simply because we are denied an opportunity to discuss it in the formal legislative processes that are available to us. We are using this process because that is the only way we can get it as a full debate. I think on tomorrow the American people will understand the difference between our commitment to health care and certain other commitments to have a Patients' Bill of Rights that protects those who are not insured.

But I want to say, I am further committed, our goal is even greater than just providing those who have insurance. Our goal must be to provide health coverage for all those who need health coverage.

Mr. PALLONE. I want to thank the gentlewoman, I think it is very important as she did to point out that as much as we support the Patients' Bill of Rights and we want to bring it up, that we also need to address the problems of the uninsured and the fact that the numbers are growing. Of course part of our Democratic platform that has been pushed, also, by President Clinton is to address some of the problems of the uninsured.

Of course, a few years ago, our health care task force worked on the Kennedy-Kassebaum bill which allows people to take their insurance with them if they lose their job or they go from one job to another, and then we moved on the kids health care initiative which is now insuring a lot of the children who were uninsured, and, of course, the President and the Democrats had the proposal for the near elderly where people who are between 55
and 65, depending on the circumstances, can buy into Medicare. But the gentlewoman is right. We are trying to address this larger issue of the uninsured also needs attention.

Mrs. CLAYTON. I would just say that the gentleman is absolutely correct. We try to address this large, pressing issue. I guess about 6 years ago. At that time we had 40 million who were uninsured, where it is reported now we may have 45 to 46 million who are uninsured. As we try to address this issue, the pool is getting larger and a larger number of individuals are falling through the cracks.

Now, I am very pleased the effort we indeed did make and were successful as it related to children. I am also very pleased that we were able to have portability, and remain existing conditions as a means of eligibility for coverage. All of those enabled us to expand the coverage in a meaningful way. But I would be remiss if I ignore the suffering, and we are talking about the working poor, who are just not able to buy into insurance and they need it desperately.

I just want to commend the gentleman for what he is doing on the Patients’ Bill of Rights. I think it will be a great first step tomorrow and we will push to make sure that this is successful, but we also have a higher goal, to make sure that those who are unfortunate enough to have no insurance whatsoever, indeed we are speaking for the poorest of the poor as well as for those who are fortunate enough to have insurance.

Mr. PALLONE. I agree and I appreciate the gentlewoman bringing it up. We can also continue to address and appreciate the gentlewoman bringing it up.

Mr. GREEN of Texas. I would like to say that for the Committee on Commerce, both Democrats and Republicans, we were able to deal with the bill. The last session we were not. The bill was actually drafted by a health care task force of the Republican majority and written in the Speaker’s office. It was placed here on the floor that we could not amend except we had one shot at it. We came pretty close, lost by six votes, it went to Senate and died which it should have because it actually was a step backward in reform.

I am glad you mentioned Texas, New Jersey and other States have passed managed care reform that affect the policies that are issued under State regulation. But in Texas, I think the percentage is about 60 percent of the insurance policies are interstate and is universal in scope, so they come under ERISA.

A little history. ERISA, I understand, was never intended to cover health insurance, it was really a pension protection effort. But be that as it may, that is why we have to deal with it in Congress to learn from what our States have done and to say, “Okay, let’s see what we can do to help the States in doing it.” The State of Texas now has had the law for 2 years. I know there is some concern about the additional cost, for example, that these protections would provide, emergency, without having to drive by an emergency room, to go to the closest emergency room, outside appeals process, accountability and eliminate the gag rules. In Texas it is very cheap. In fact there was only one lawsuit filed, and that was actually by an insurance company challenging the law that was passed. Now, maybe there have been other ones recently, but it is not this sort of panic. Whether we take it or whether we take it be employers or insurance companies or anything else. And so it has worked in a State the size of Texas, a large State, very diverse population, both ethnically and racially but also with a lot of rural areas and also some very urban areas.

In fact, my district in Houston, Houston and Harris County, is the fourth largest city in the country. So you can tell that it is a very urban area and it is providing some relief, but again only for about 40 percent of our folks. So we need to pass real managed care reform. And we need to deal with it in the committee process, not like we did last session. And the discharge petition that I hope would be available by the middle of June, and both Democrats and Republicans hopefully will sign that petition to have us a hearing on it and to have the bill here so we can debate, so we can benefit those folks.

The reason I was late tonight, I take the rule for a discharge petition, which is a major step in the legislative process. I am proud to serve on the Committee on Commerce. It took me a couple of terms to get there. I would like for the Committee on Commerce, both Democrats and Republicans, to be able to deal with this bill. The last session we were not. The bill was actually drafted by a health care task force of the Republican majority and written in the Speaker’s office. It was placed here on the floor that we could not amend except we had one shot at it. We came pretty close, lost by six votes, it went to Senate and died which it should have because it actually was a step backward in reform.

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A little history. ERISA, I understand, was never intended to cover health insurance, it was really a pension protection effort. But be that as it may, that is why we have to deal with it in Congress to learn from what our States have done and to say, “Okay, let’s see what we can do to help the States in doing it.” The State of Texas now has had the law for 2 years. I know there is some concern about the additional cost, for example, that these protections would provide, emergency, without having to drive by an emergency room, to go to the closest emergency room, outside appeals process, accountability and eliminate the gag rules. In Texas it is very cheap. In fact there was only one lawsuit filed, and that was actually by an insurance company challenging the law that was passed. Now, maybe there have been other ones recently, but it is not this sort of panic. Whether we take it or whether we take it be employers or insurance companies or anything else. And so it has worked in a State the size of Texas, a large State, very diverse population, both ethnically and racially but also with a lot of rural areas and also some very urban areas.

In fact, my district in Houston, Houston and Harris County, is the fourth largest city in the country. So you can tell that it is a very urban area and it is providing some relief, but again only for about 40 percent of our folks. So we need to pass real managed care reform. And we need to deal with it in the committee process, not like we did last session. And the discharge petition that I hope would be available by the middle of June, and both Democrats and Republicans hopefully will sign that petition to have us a hearing on it and to have the bill here so we can debate, so we can benefit those folks.

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mistake, they can go to the courthouse. And in Texas we have lots of different ways. You do not necessarily go to the courthouse. You can go to alternative means, instead of filing lawsuits, to have some type of resolution of the dispute. But accountability is so important, because if that physician calls someone who has less than a 2-week history in medical school that decision that that person makes, that doctor has to live with.

That doctor has to say, “Well, I can’t do that.” Or hopefully they would say that. But that accountability needs to go with the decision-making process. If that physician cannot say, “This is what I recommend for my patient who I see here, I’ve seen the tests, and I’m just calling you and you’re saying no, we can’t do that.”

We do not see cases in our office, and I think all Members of Congress do, where, for example, someone under managed care may have a prescription benefit but their doctor prescribed a certain prescription, but the HMO says, “No, we can’t do that, we’ll give you something else.” I supported as a State legislator generic drugs if they are the same component, but oftentimes we are seeing the managed care reform not agree to the latest prescription medication that has the most success rate. As long as the component of a pill is the same, we support that. But oftentimes we are seeing the managed care reform not agree to the latest prescription medication. That is what I mean. There are lots of cases in our office, and I think all Members of Congress do, where, for example, someone under managed care may have a prescription benefit but their doctor prescribed a certain prescription, but the HMO says, “No, we can’t do that, we’ll give you something else.” I supported as a State legislator if they are the same component, but oftentimes we are seeing the managed care reform not agree to the latest prescription medication. That is what I mean.

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Mr. Speaker, I hope this Congress will do it timely. When the gentleman mentioned a while ago that he heard our committee may conduct hearings all summer, that is great. I mean I would like to have hearings in our committee, but we got to go to mark up what we learn from our committee. We have to make the legislative process work. We will put our amendments up and see if they work, and maybe they are not good, and we can sit down with the Members of the other side.

But that is what this democracy and this legislative process about, and last session it was terminated, it was wrong, and we saw what happened. We delayed, and there was no bill passed. It did not even receive a hearing in the Senate because it actually was a step backward in changing State laws like in Texas.

So I would hope this session, maybe with the discharge rule being filed tomorrow, we will see that we are going down that road, but maybe we can actually see maybe hearings in June where we come back after celebrating Memorial Day, and with a short time we can, a lot of us have worked on this issue. So, sure, I would like to have some hearings, but maybe we could have a markup before the end of July or June or perhaps July, something like that, so we could set it on a time frame where we would vote maybe before the August recess on this floor of the House for a real managed care reform, and when we vote on the House floor, let us not just jut out with this bill and say, “Take it or leave it.” As my colleagues know, we have the legislative process work within reason and so we can come up with different ideas on how it works and the success.

So again, I thank the gentleman for taking the time tonight and my colleagues here, and particularly glad we had the first hour.

Mr. PALLONE. I want to thank the gentleman from Texas (Mr. GREEN). He brought up a number of really good points, if I could just, as my colleague knows, comment on them a little bit.

I mean first of all I think it is important to stress that with this discharge petition, we are not doing it out of spite or disrespect or anything like that. We just want this issue brought to the floor, and as my colleague said, as my colleagues know, having hearings all summer does not do the trick. So far we have not gotten any indication from the Republican leadership or the committee leadership that there is any date certain to mark up this bill in committee and to bring it to the floor, and that is why we need to go to the discharge petition way.

The other thing the gentleman said I think is so important is he talked about how the Texas law, which does apply to a significant number of people in Texas, even not everyone, that both the cost issue and the issue of the fear, I guess, of frivolous lawsuits has so far proven not to be the case. In other words, the, as my colleagues know, one of the criticisms of HMO reform or Patients’ Bill of Rights that the insurance companies raise unfairly is the fact that it is going to cost more, and in fact in Texas it has been found that the cost, there is practically no increased costs whatsoever. I think it was a couple of pennies or something like that I read about.

And in terms of this fear that there are going to be so many lawsuits and everybody is going to be suing, actually there have been very few suits filed, and the reason the trick is because when we put it in the law that people can sue the HMO, prevention starts to take place. They become a lot more careful about what they do, they take preventive measures, and the lawsuits do not become necessary because you do not have the damages that people sue for. So I think that is a very important point.

The other point the gentleman made that I think is really crucial is the suggestion that somehow because of the legislative process is about, and legislation that somehow because of the debate and because of the pressure that is coming from, as my colleagues know, the talk that is out there, that somehow many; some HMOs I should say; are starting to provide some of these patient protections, and the gentleman’s point is well taken, that even though some of them may be doing it, and there are not really that many that are, but even though some of them are doing it, that does not mean that the protections that are provided somehow somehow many; some HMOs I should say; are starting to provide some of these patient protections, and the gentleman’s point is well taken, that even though some of them may be doing it, and there are not really that many that are, but even though some of them are doing it, that does not mean that the protections that are provided somehow.

So I think that our time is up, but I just wanted to thank the gentleman from Texas. We are going to continue to push. Tomorrow the gentleman from Michigan (Mr. DINGELL) is going to file the rule for this discharge petition, and we are going to get people to sign it so we can bring up the Patient Bill of Rights.

RECESS

The SPEAKER pro tempore (Mrs. Wilson). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.