

just a few like are covered in the Senate bill. Every American ought to have access to patient protection so they are not abused by their HMO. That is one of the issues.

Another issue has to do with who determines medical necessity. Well, in the House-passed version, we passed a bill that said, you know, if there is a dispute you can go to an internal review, then an external review, an independent panel, and the panel can make a decision free of conflict of interest with the HMO and that that decision would be binding on the HMO, they would have to follow it. And if they did not follow that recommendation on a denial of care, then they could be subject to a fine. And if a patient was injured because of their not taking the advice of that panel, then they could be subject to liability.

Nothing like that in the Senate version, nothing has been dealt with on that issue in conference.

Now, some people are starting to think, well, maybe we ought to include some provisions from a substitute that was debated on this House floor and lost in regards to the liability. And that was the Goss-Coburn-Shadegg managed care liability provision. It is full of flaws and loopholes. I sincerely hope that the conference committee would correct these loopholes and flaws if they are looking at this. But more importantly, they just ought to adopt the provisions that were in the bill that passed the House.

But let me just read a couple of them. The Goss-Coburn-Shadegg HMO liability provision creates a Federal cause of action. Now, that is something we did not do. We simply said, if there is an injury, it goes back to be handled in the State, like all other insurance disputes do.

The Goss-Coburn-Shadegg says other related claims could be brought in State court but not at the same time. That would create a procedural nightmare. Patients would be forced to bring actions in both State and Federal related to the same wrong, wasting judicial resources and posing an undue burden on them.

The provision is unclear as to whether patients would be shut off from bringing related causes of action between various courts. The provision is vague whether a Federal court would have supplemental jurisdiction of State law claims, thereby taking a patient's State law claims away from a State jury.

That is one example. Here is another problem with it. There was a provision in that Goss-Coburn-Shadegg liability bill that required a certification of injury by an external review panel that could deny a patient's Seventh Amendment constitutional rights. A defendant HMO could apply to a second external review panel under the Goss-Coburn-Shadegg bill not involved in

the external review decision to determine issues of substantial harm and proximate cause. These are traditional jury issues.

If the external review panel, which could be completely devoid of any legal expertise, determined that either substantial harm has not occurred or that the HMO did not proximately cause the injury, then the patient's action would be dismissed unless the patient could overcome such a finding by clear and convincing evidence.

Further, if a patient fails that burden, he or she is responsible for the HMO's attorney's fees. The use of an external appeal entity to establish causation or harm is unconstitutional. A patient's Seventh Amendment right to a trial by jury cannot be superseded, and external review panels cannot make decisions about injury and causation, which are reserved for our judicial system.

There are many other problems with that substitute. But one of them is this, and that is that the Goss-Coburn-Shadegg bill would force a patient to exhaust internal and external review. To bring an action, a patient would have to exhaust current ERISA administrative remedies and all internal and external review processes, get this, even when he or she has already suffered an injury or even die due to the HMO's negligence.

Let us go back to Mrs. Utterback. Mrs. Utterback started her problem at 8:15 in the morning when she phoned, goes through the day, how many times did she phone the HMO to try to get some resolution, did not get any help, was not treated properly, finally ended up dying, being taken to surgery about 9 and dying the next day.

You know what? She would have no legal recourse under the Goss-Coburn-Shadegg liability provision because, well, you know what, she had not gone through internal or external review. It is just unfortunate for Mrs. Utterback, I guess, that she died before she could bring it to review. But that does not mean that that HMO should not be liable.

That is why the California Department of Corporations fined that HMO \$1 million because of their negligent actions.

We need to fix this problem. We need to address this. That is why we should have had a debate today on the Campbell Quality Health Care Coalition Act, which is one way to approach the problem; and that is why the conference committee on HMO reform really ought to get something done and soon.

If they cannot move to some real substantive decisions and agreements, then we need to start looking at other ways to move this legislation. This is just too important for us for this to languish.

There are millions of decisions being made every day on people's health care

that are being interpreted to the disadvantage of patients because of an HMO's ability to determine "medical necessity."

I hope it does not happen to a member of your family or to a loved one of yours or to you. Unfortunately, it could. All our constituents should be phoning and writing their congressman and they should say, please, enough is enough. Do not let this go anymore. Come to a resolution. Work with the President. Get a strong Patients' Bill of Rights passed this year, or we will hold you responsible at the voting booth.

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#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Members will be reminded that their remarks in debate should be directed to the chair and not to the gallery or the listening audience.

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#### POLICE BADGE PROTECTION ACT OF 1999

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

Mr. HORN. Mr. Speaker, I rise today to call attention to this morning's headlines in the National Press about the use of counterfeit badges in and undercover investigation conducted by the General Accounting Office at the request of our colleague the gentleman from Florida (Mr. MCCOLLUM).

The General Accounting Office is the arm of investigation on both financial matters and programmatic matters on behalf of the Congress. They are part of our legislative branch. Agents from the GAO's Office of Special Investigations used fake badges purchased over the Internet to get through security at two airports and 19 Government offices, including the Central Intelligence Agency, the Department of Justice, the Federal Bureau of Investigation, the State Department, and the Department of Defense.

The relative ease with which the General Accounting Office agents penetrated security shows the vulnerability not only of these Government offices but of the public.

The American public recognizes the authority of the badge. They know they can count on those men and women in law enforcement.

The American public needs law enforcement when they are in times of trouble and they are in need of help. However, misuse of the badge reduces public trust in law enforcement and endangers the public.

Although there are State statutes against impersonating law enforcement officers, the threat of counterfeit badges reaches across State lines. Criminals can purchase fraudulent

badges such as the ones used in this testing experiment by the agents of the General Accounting Office. The criminals can purchase the badges over the Internet and through mail order catalogues.

Disturbingly easy access to these official looking badges and the means to manufacture counterfeit badges calls for strong, prompt action to protect the public trust in those in law enforcement who carry badges.

I have introduced legislation, H.R. 2633, the Police Badge Fraud Prevention Act, to achieve that goal.

The Police Badge Fraud Prevention Act would ban the interstate or foreign trafficking of counterfeit badges and genuine badges among those that are not authorized to be possessed by a genuine badge. The legislation complements State statutes against impersonating a police officer, addressing in particular the problems posed by Internet and mail order badge sales.

With the endorsement of multiple law enforcement agencies, including the Fraternal Order of Police, as well as the bipartisan support of my colleagues, the Police Badge Fraud Prevention Act can help protect the public from criminals who use time honored symbols of law enforcement for illegal purposes.

In light of the General Accounting Office investigation and in response to the need to address the growing on-line sales of counterfeit police badges, I strongly urge the House to pass the Police Badge Fraud Prevention Act.

#### BROAD BAND DEPLOYMENT

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

Mr. TAUZIN. Mr. Speaker, today we held the second of a series of hearings on the issue of broad band deployment in the Subcommittee on Telecommunications. And in completing that hearing today, we arrived at a point where over 200 Members of this House, I think 207 by today's count, have endorsed and cosponsored H.R. 2420, which is a bill designed to prevent from happening in this country what so many people are talking about, something called the digital divide.

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It is a bill designed to ensure that all Americans have access to high-speed broad band Internet services that are being deployed in some parts of America. According to a study by Legg Mason, in the next 4 years about half of this country will have access to several, not one, but several different providers of high-speed broad band services. Now, for those of you who use the Internet, what we call the narrow band Internet, broad band Internet will be absolutely like day and night. It will

provide Americans with access to incredibly high-speed data including both audio and visual images, in other words, motion pictures, streamed over the Internet in full realtime.

It will open the door in short to incredible new opportunities in entertainment, information, long distance learning, and telemedicine and all the things that Americans look forward to in terms of this telecommunications revolution. It will indeed open the door to new opportunities in electronic commerce for small businesses across America. But the ugly truth is that this high-speed, fast-speed train that is about to arrive and provide all these wonderful services for about half of America will not arrive at all for about a quarter of Americans and will arrive only with one provider for another quarter of our great country. That means as far out as we can see, 4 years from now, fully half of our country will have only one provider of these new services or no provider at all.

Now, if you live in any part of America that is not connected to this wonderful high-speed broad band network, you are going to find out that not only are you missing great opportunities but you may have to move. If you are a small business not connected to some of these networks, and you cannot connect to the high-speed network in which your business should be connected because it is part of an integral e-commerce distribution system, you may find yourself having to leave a small town in rural America that you grew up in and relocate your business elsewhere, or you may find out you are losing an awful lot of business. The problem for Americans is that the quarter of Americans who will not have any services generally live in rural America or in urban center city portions of our country. So the urban poor and the rural poor of our country will be the last to receive the benefits from this high-speed digital revolution.

Now, something can happen to change that. Buried in the ground, connecting all the rural communities of America and much of the urban centers of our country are fiber optic cables that have been laid by the telephone companies, the Bell companies. But under Federal law, these cables, these fiber optics that could connect little towns across America to the high-speed trunk lines of this new broad band revolution cannot be used because the FCC literally will not allow the telephone companies to get into the broad band business across what is called LATA lines. They may be State boundaries or lines drawn on a map inside a State that currently separates local and long distance telephone calls.

You should ask me what does local and long distance telephone calls have to do with the Internet and this broad band revolution. I should tell you it has very little to do with it. It only has

to do with voice communication, telephone communications. But these old laws that restrict the local telephone company from crossing those lines and getting into long distance telephones also currently restrict the telephone companies from connecting all the small parts of America to the broad band Internet.

It is time we lift those restrictions. In 1996, we tried to deregulate communications in America. We did a pretty good job, but we left the regulations in place on the local monopoly telephone companies until there was enough competition for telephone service in those local markets. We certainly did not intend to stop the telephone companies from being a full-fledged competitor to connect rural parts of America, small town America, urban center city America to the great advantages of this new age of communications, the broad band digital high-speed network. So House bill 2420 will do just that, will lift those restrictions, will create competition, offer connection, connectivity for everyone in this country. That means ending the digital divide.

Mr. Speaker, House bill 2420 needs to be passed. We are rapidly approaching the point where over 218 Members of this House will have signed on urging its passage.

#### HOUSE VOTES TO REPEAL TELEPHONE EXCISE TAX

(Mr. TAUZIN asked and was given permission to address the House for 1 minute.)

Mr. TAUZIN. Mr. Speaker, I am very pleased that today while I was conducting a hearing in the House Committee on Commerce on broad band legislation, that the House is moving to pass an important piece of legislation to help the Internet community and all telephone consumers of America. That was a bill to repeal the 3 percent telephone tax that has been on the books as we know on and off since the Spanish American war. The telephone tax operates as a tax on the Internet because much of the Internet service flows over the telephone. As a result, this 3 percent tax collected originally to fund the Spanish American War and left on the books for 10 these many years had to go.

Today, the House joined in large numbers in repealing that tax. I want to congratulate the House in making that great decision today. In fact, a study done by the Progress and Freedom Foundation indicates that over the last 12 years, telephone taxes have gone up in this country 62 percent, that telephone taxes, that taxes on the business of talking to one another in this country have risen a remarkable 62 percent. That includes State, local and, of course, Federal taxes. When the combination of all these taxes mount up on a person's telephone bill, it