TRIBUTE TO LUCY CARLTON
HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 11, 2001

Ms. LOFGREN. Mr. Speaker, today I rise to congratulate Los Altos Police Chief Lucy Carlton, who will be retiring on September 28, 2001 after 32 years of service. Chief Carlton began her law enforcement career in 1969 with the Milpitas Police Department. Chief Carlton served in a variety of assignments, which included Patrol, Criminal Investigation and Community Relations.

Lucy Carlton was the first female in the organization to be assigned to patrol duty and during her tenure, promoted through the ranks to Police Captain in 1988. In 1991, Ms. Carlton was appointed Chief of Police for the City of Los Altos, becoming the second woman in the State of California to serve as a Chief of Police for a municipality. Chief Carlton has been a trailblazer throughout her career, breaking the "glass ceiling" for every one of her promotions. Lucy Carlton's efforts have paved the road, so that others might follow.

Police Chief Carlton holds a Bachelor of Arts Degree in Administration of Criminal Justice from San Jose State University and has completed graduate work in Public Administration at California State University, Hayward, also holds a lifetime Teaching Credential from the State of California and has taught classes at San Jose State University, and Evergreen, Gavilan, San Jose City and Chabot Colleges. Ms. Carlton has lectured throughout the United States in the field of adult and child sexual abuse investigation. During her assignment in the investigation bureau, she was certified as an expert witness in the area of child sexual abuse.

Lucy Carlton is the past chair of the Santa Clara County Domestic Violence Council, the Santa Clara County Police Chiefs Association and the Administration of Justice Foundation at San Jose State University. Ms. Carlton has served on the board of the California Peace Officers' Association and currently serves on the board of the California Police Chiefs' Association. During her career, Chief Carlton has worked on a number of Peace Officer Standards and Training (POST) projects, which resulted in the development of training guidelines for officers in the area of sexual assault and child abuse investigations. She also served on the Department of Justice task force, which developed State guidelines for the implementation of Megan's Law.

Lucy Carlton has mentored dozens of men and women preparing for entry into law enforcement, as well as those preparing for promotions exams. In 1998 she assisted in the development of a series of classes for both men and women on the subject of Women's Issues in Law Enforcement. Chief Carlton has taught in the program since its inception.

Lucy Carlton has volunteered hundreds of hours to the Milpitas-Berryessa YMCA and served on their board for eight years. In 1995 she was named their volunteer of the year. She also serves on the advisory boards of WATCH (a transitional housing program for battered women and their children) and the Support Network for Battered Women. In 1990, she was named "Woman of the Year" by former Assemblywoman Delaine Eastin and honored for her contributions and dedication to the people of the State of California. In 1996, the Women's Fund of Santa Clara County and the San Jose Mercury news honored her as a "Woman of Achievement" in the category of Public Service. In 1998 she was honored as a "Distinctive Alumni" from San Jose State University's Department of Administration of Justice. The Los Altos Kiwanis Club honored her last year as their 2000 "Kiwanian of the Year."

Police Chief Lucy Carlton has been a valuable asset to the State of California and to our district. Though her commitment and dedication will be sorely missed, I am grateful to her for her years of service and wish her the best in the next phase of her life.

BIPARTISAN PATIENT PROTECTION ACT

SPEECH OF
HON. W.J. "BILLY" TAUZIN
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, August 2, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2563) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage:

Mr. TAUZIN. Mr. Chairman, the Ganske-Dingell bill does not guarantee a right to sue for patients. Indeed, the bill makes it difficult for states to create or maintain a cause of action because such causes of action must meet pages of very complicated requirements. A State could, under the law, consistent with these many requirements. Until they did so, however, patients who were harmed may have no recourse for damages at all. The preemption language under Ganske-Dingell is so fraught with ambiguity that it may take decades to determine whether patients in certain states even have a cause of action and can hold HMO's responsible for negligence.

Professor Larry Alexander, Warren Distinquished Professor at the University of San Diego Law School, has reviewed the bill and concludes: "... state common law is quite unlikely to contain these specific features, and state judges are unlikely to possess the authority to read them without legislative assent ... Professor Alexander also states that the literal reading of the provisions of the bill appear to be the state common law..." without offering state governments a choice. Professor Alexander states such a reading would be a liability proposal.

These provisions will spawn significant constitutional litigation. He cites several courts and several reasons for these findings. The Ganske-Dingell approach also forces employers, plans and issuers to follow conflicting definitions, rules, and standards of conduct. The resulting uncertainty and litigation will not help patients, will drive costs, and will increase the number of uninsured.

As drafted, the Ganske-Dingell bill also preempts State law to reduce liability for negligent or reckless conduct by health professionals and treating hospitals. That means reducing the liability for health care professionals who issue faulty diagnoses, leave an instrument in during surgery, or inject the wrong medicine.

Indeed, virtually any medical error would be shielded from a state cause of action where employers or the plan seek recovery or contribution.

H.R. 2563 creates the Department of Justice (DOJ), Congressional Budget Office (CBO) and Congressional Research Service (CRS) all confirm this interpretation. A DOJ memorandum dated July 25, 2001 states: "... This provision is broadly drafted to apply to claims arising out of "any care provided" or "any treatment decision made."... as such, it would appear to foreclose, for example, a contribution or indemnity claim by a group health plan or health insurance issuer for negligent treatment by a physician or hospital which was the sole cause of a patient's injury." (emphasis added)

The Congressional Budget Office Cost Estimate of H.R. 2563 states: "... It would prevent any recovery by plans from doctors or hospitals resulting from medical malpractice..." (emphasis added). A memorandum from the Congressional Research Service further confirms this point. It says: "... This language appears to supersede all causes of action under state law, arising from state statutory or common law... Presumably, causes of action for recovery, indemnity or contribution arising from a contract between the health plan and the physician would also be superseded." (emphasis added)

The CRS memorandum continues: "... Based on this preemption, health plans or health insurance issuers providing health insurance coverage would not be able to seek contribution from a treating physician or hospital for damages incurred as a result of a cause of action brought against the plans pursuant to the provisions of this legislation or under common law based upon the quality of care received. Nor would they be able to recover costs incurred in the form of benefits paid due to the negligence of a treating health care professional or hospital..." (emphasis added)

It is for these and other policy reasons that I support the Norwood Amendment as a better liability proposal.
JOYCE MESKIS—A CHAMPION OF INTELLECTUAL FREEDOM

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 11, 2001

Mr. UDALL of Colorado, Mr. Speaker, I rise today to pay tribute to Joyce Meskis.

Owner of Denver’s famous Tattered Cover Bookstores, Joyce is an ardent supporter of reading and literacy and a strong defender of intellectual freedom. She has served as president of the Colorado Citizens Against Censorship, was a founder of the American Booksellers Foundation for Free Expression, and a leader in the National Coalition Against Censorship.

Her leadership in this area has been recognized by her receipt of the National Intellectual Freedom Award given by the National Council of Teachers of English. A strong supporter of the freedoms that are guaranteed to all of us by the Constitution’s First Amendment, Joyce recognizes how these freedoms make our democracy great. She is an outstanding American who has dedicated herself to ensuring that intellectual freedom and diversity will continue to enrich our lives and the lives of our children. Her contributions have been well summarized in the words of Carol Edmonds Sullivan, a professor at the Colorado Women’s College who nominated Joyce for the National Intellectual Freedom Award: “Bookseller Joyce Meskis is nurturing democracy’s vital need for access to books, even unpopular ones.”

Mr. Speaker, I am attaching an article on Joyce that recently ran in the Denver Post and ask my colleagues to join me in this tribute.

[From the Denver Post, September 2, 2001]

(By Carl Edmonds Sullivan)

Confronted a year ago by five police officers expecting to execute a search warrant to turn over her purchase records to law enforcement officials, Meskis appealed the ruling to the Colorado Supreme Court, where it is still pending. Meskis’ love of reading is rooted in her childhood, when, she says, “I read my way through the library.”

One reader picked out as Roald Dahl’s Matilda, particularly in the fourth grade when an adult (whom she declines to identify) told her she couldn’t read a particular book since it was for adults, not children.

“But my mother wouldn’t mind,” she protested.

That was among the earliest of Meskis’ indefatigable efforts to protest actions that would muzzle intellectual freedom. When she was a young woman working at the Littleton Public Library, a parent chastised her because Meskis recommended Margaret Mead’s “Coming of Age in Samoa” to a teenager. Meskis has organized or led various coalitions to assert intellectual freedom—including her service as president of the Colorado Citizens Against Censorship, a founder of the American Booksellers Foundation for Free Expression, and a leader in the National Coalition Against Censorship.

When the Tattered Cover offers controversial books, it loses customers. “Permanently,” Meskis emphasizes. Critics accuse her of seeking profit at the expense of morals. Meskis said she has found, “When we have a controversial author, there’s a far greater likelihood that offended customers will never return. Meskis also worries about the shrinking harbor for ideas outside the mainstream. In the closing of a “Dear Reader” letter to customers, Meskis makes this declaration: “I increasingly wonder how will we ever continue to be a viable bookstore presenting the variety of books and authors that, in their diversity, strengthen our democracy. I worry that all of these forces may interfere with our freedom to read, and faster than a lightning bolt, zap away the soul of our First Amendment, thereby diminishing our democratic society.”

MRS. JONES: Mr. Speaker, Whereas George W. Bush unveiled his principles for Medicare reform on July 12, 2001; and whereas, under the program, Medicare beneficiaries would be able to purchase Medicare-endorsed prescription drug discount cards with access to lower cost drugs at the point of sale; and whereas, Community pharmacies will bear the greatest financial burden for this Program to discount prescription drugs; and whereas, the Program was conceived by a select group of pharmacy benefit management companies without the deliberation of the larger pharmacy community; and whereas, Community pharmacies will bear the greatest financial burden for this Program to discount prescription drugs; and whereas, drug manufacturers account for nearly 80% of the cost of prescription drugs sold in the U.S. but will bear very little of the financial burden created by this Program; and whereas, The Program does not provide seniors with access to prescription drugs or the pharmacist’s professional services; and whereas, seniors take more prescription drugs than any other population group in the U.S. and need the accessibility and expertise of their community pharmacist; and