to specialists, access to emergency rooms, access to clinical trials, and having those rights be enforceable. It is so important that these rights we create in this bill have teeth in them, and the only way they have teeth in them is if the force of law is behind them and those rights are enforceable.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 1 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Nevada.

STATUS OF SENATOR BRYAN

Mr. REID. Mr. President, while we are talking about patients and a Patients' Bill of Rights, I want to report to my colleagues on Senator Bryan, who has been quite ill.

I talked with Senator Bryan last Friday. He was in St. Mary's Hospital in Reno when I spoke to him. He had for a couple of days a bad sore throat, for lack of a better description. Friday morning, he was in Reno and his throat was really sore. He has a son in Reno who is a cardiologist. He went to the emergency room. He was admitted to the hospital.

They did a CT scan and found an abscess in his throat area. Friday and Saturday they administered antibiotics, hoping he would get better soon. He got worse, and Sunday morning they operated. He has been on a ventilator since then in intensive care.

I spoke with the nurses taking care of him—by the way, he was back here last week with some junior high school students—and they said he was doing just fine. She had told him I was calling, and he gave the thumbs up. They expect him to be off the ventilator today.

They do not know the cause of the infection. They are still working on that. It is an unusual thing. I have had a couple people ask me about Senator Bryan today. He is doing just fine.

BIPARTISAN PATIENT PROTECTION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. I thank the Chair.

Before I get into the substance of my remarks on the Patients' Bill of Rights, I wish to salute my colleagues, the Senator from Massachusetts, the Senator from North Carolina, and the Senator from Arizona, for working so long and hard on a bipartisan compromise provision, one that I am proud to support.

Mr. President, we hear a lot about this Patients' Bill of Rights, and there are many discussions about legal issues, medical issues, et cetera, but what hits home with most of us is when we travel our States and we hear stories about what has happened under present law.

When there is a conflict, which constantly arises in these days of HMOs, between what a doctor believes is best for the patient and what the insurer believes is best for the health plan, who makes the final call? That is what this bill is all about. It is about decisionmaking, and not decisionmaking on a Saturday afternoon whether you go to the beach or go to the ball park. It is about decisionmaking when all of us are at our most strained, when a loved one is in a health care problem or with a health care crisis. That is when the decisionmaking really matters.

When a child becomes sick or a parent becomes ill, when a spouse discovers a lump on her breast, and a judgment call needs to be made about care, who has the deciding vote? Is it your doctor or is it an actuary somewhere hundreds of miles away who has not had one jot of medical training? That is what this boils down to.

Those six of us supporting the McCain-Edwards-Kennedy bill believe the decision should be made by the doctor; the decision should be made by someone who is trained to make medical decisions, not a managed care bureaucrat whose primary interests—do not blame these individuals, but their primary interest, what they are instructed to do, is look at cost, not health. Health may be in the equation but cost comes first. That is why that actuary is getting paid, whereas for the doctor who has taken the Hippocratic oath, health care comes first.

We want to pass this Patients' Bill of Rights to restore the pendulum. I am not against HMOs. They were brought in with a purpose. Medical costs were climbing out of control. Something had to be brought in to help. But the pendulum has clearly swung too far, away from the decision based on health made by the doctor in the hospital, and the nurse, towards a decision made on cost, made by an actuary, an insurance company, an HMO.

So we believe we must pass a Patients' Bill of Rights to provide real protection for patients, one that allows for the doctor to decide; one that allows the insurance company, the actuaries' decision to be challenged on a health-related basis. We must end the practice of health plans putting the bottom line before the Hippocratic oath. We must restore balance when every one of us is faced with the awful choice of what medical decision to make for ourselves or for a loved one.

As this debate gets underway, I hope to bring up the cases of some families I come across as I travel the State of New York. These are not unique cases. These are not isolated cases. They happen, unfortunately, every day.

Let me talk about Tracey Shea, from Long Island, in my State. Tracey complained to her doctor about chronic headaches. The tests discovered a tumor in her brain. It was unclear what that tumor was and her doctors ordered further tests. But the HMO refused to pay for them, arguing that the tumor was not malignant and further tests were unnecessary. Four months later, Tracey died. She was 28. She was engaged to be married.

She is gone and her parents and her fiance ask every day: Why wasn't her doctor allowed to give Tracey what she needed? Even if it was 50–50, or 25–75, why didn't she get what she wanted?

For those who think McCain-Edwards-Kennedy is some kind of abstract debate, the difference this bill, this proposal would have made to Tracey Shea, under McCain-Edwards-Kennedy, is Tracey would have had a hearing and an answer in a few days. Under the Frist-Breaux-Jeffords proposal, Tracey may not have lived long enough to get an answer.

A case in Binghamton: Rene Muldoon-Murray's little boy Logan was born hydrocephalic, a condition that many of us have seen. It is when the spinal fluid builds up and puts pressure on the brain. It is terribly painful. The Muldoon-Murray's health plan contained no pediatric neurosurgeons, the very people who should have looked at little Logan. The one adult neurosurgeon, one who did not have experience with children—the brain of a child is quite different than the brain of an adult—the one adult neurosurgeon available in the plan could only work under supervision because his license was suspended.

Imagine, the only person you can go to when your child is in agony, the only one the HMO will let you go to, is someone whose license was suspended. That is the only one the HMO in Binghamton provided as 3-year-old Logan was in pain, pain, pain.

What did Miss Muldoon-Murray do? She was not a wealthy woman but she refused treatment. She wasn't going to let her son be operated on by someone whose license was suspended. When a medical crisis required an emergency room, a lifesaving spinal surgery, the place they found was New Jersey. It cost them $27,000. The HMO refused to pay the bill.

Again, the huge difference between the two pieces of legislation: Under McCain-Edwards-Kennedy, Rene would have had the right to take little Logan to a pediatric neurosurgeon, even though her plan did not include one, and the plan would be required to cover the treatment just as if it had been administered by a plan doctor.

Under Frist-Breaux-Jeffords, the health plan would decide whether or