

“(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

“(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

“(B) LIMITATION ON PUNITIVE DAMAGES.—

“(i) IN GENERAL.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subparagraph (A) if—

“(I) it relates to an externally appealable decision (as defined in subsection (a)(2) of section 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999);

“(II) an external appeal with respect to such decision was completed under such section 103;

“(III) in the case such external appeal was initiated by the plan or issuer filing the request for the external appeal, the request was filed on a timely basis before the date the action was brought or, if later, within 30 days after the date the externally appealable decision was made; and

“(IV) the plan or issuer complied with the determination of the external appeal entity upon receipt of the determination of the external appeal entity.

The provisions of this clause supersede any State law or common law to the contrary.

“(ii) EXCEPTION.—Clause (i) shall not apply with respect to damages in the case of a cause of action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such a cause of action which are only punitive or exemplary in nature.

“(C) PERSONAL INJURY DEFINED.—For purposes of this subsection, the term ‘personal injury’ means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

“(2) EXCEPTION FOR GROUP HEALTH PLANS, EMPLOYERS, AND OTHER PLAN SPONSORS.—

“(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

“(i) any cause of action against a group health plan or an employer or other plan sponsor maintaining the plan (or against an employee of such a plan, employer, or sponsor acting within the scope of employment), or

“(ii) a right of recovery, indemnity, or contribution by a person against a group health plan or an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

“(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against group health plan or an employer or other plan sponsor (or against an employee of such a plan, employer, or sponsor acting within the scope of employment) if—

“(i) such action is based on the exercise by the plan, employer, or sponsor (or employee) of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

“(ii) the exercise by the plan, employer, or sponsor (or employee) of such authority resulted in personal injury or wrongful death.

“(C) EXCEPTION.—The exercise of discretionary authority described in subparagraph (B)(i) shall not be construed to include—

“(i) the decision to include or exclude from the plan any specific benefit;

“(ii) any decision to provide extra-contractual benefits; or

“(iii) any decision not to consider the provision of a benefit while internal or external review is being conducted.

“(3) FUTILITY OF EXHAUSTION.—An individual bringing an action under this sub-

section is required to exhaust administrative processes under sections 102 and 103 of the Bipartisan Consensus Managed Care Improvement Act of 1999, unless the injury to or death of such individual has occurred before the completion of such processes.

“(4) CONSTRUCTION.—Nothing in this subsection shall be construed as—

“(A) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

“(B) as preempting a State law which requires an affidavit or certificate of merit in a civil action; or

“(C) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

“(f) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

“(1) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(40)), or

“(2) affecting any State law which regulates the practice of medicine or provision of medical care, or affecting any action based upon such a State law.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

SEC. 303. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

“(n)(1) Except as provided in this subsection, no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as incorporated under section 714).

“(2) An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 119, or 118(3) of the Bipartisan Consensus Managed Care Improvement Act of 1999 (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

“(A) such an action may not be brought or maintained as a class action; and

“(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney’s fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

“(3) Nothing in this subsection shall be construed as affecting any action brought by the Secretary.”.

Page 102, line 20, and page 103, line 10, insert “303,” after “301.”.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, viva voce, Will the House pass said bill?

The SPEAKER pro tempore, Mr. PEASE, announced that the yeas had it.

Mr. BOEHNER demanded a recorded vote on passage of said bill, which de-

mand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 275 affirmative Nays 151

¶110.13

[Roll No. 490]

AYES—275

Abercrombie	Frost	Minge
Ackerman	Gallegly	Mink
Allen	Ganske	Moakley
Andrews	Gejdenson	Mollohan
Bachus	Gephardt	Moore
Baird	Gibbons	Moran (KS)
Baldacci	Gilchrest	Moran (VA)
Baldwin	Gilman	Morella
Barcia	Gonzalez	Murtha
Barr	Gordon	Nadler
Barrett (WI)	Graham	Napolitano
Bateman	Green (TX)	Neal
Becerra	Greenwood	Norwood
Bentsen	Gutierrez	Oberstar
Berkley	Hall (OH)	Obey
Berman	Hall (TX)	Olver
Berry	Hastings (FL)	Ortiz
Bilbray	Hefley	Owens
Bilirakis	Hill (IN)	Pallone
Bishop	Hilliard	Pascrell
Blagojevich	Hinche	Pastor
Blumenauer	Hinojosa	Payne
Boehler	Hoeffel	Pelosi
Bonior	Holden	Phelps
Bono	Holt	Pickett
Borski	Hooley	Pomeroy
Boswell	Horn	Porter
Boucher	Hoyer	Price (NC)
Boyd	Hunter	Quinn
Brady (PA)	Hyde	Rahall
Brady (TX)	Insee	Rangel
Brown (FL)	Jackson (IL)	Reyes
Brown (OH)	Jackson-Lee	Reynolds
Callahan	(TX)	Rivers
Canady	Jefferson	Rodriguez
Cannon	Jenkins	Roemer
Capps	John	Ros-Lehtinen
Capuano	Johnson, E. B.	Rothman
Cardin	Jones (NC)	Roukema
Carson	Jones (OH)	Roybal-Allard
Castle	Kanjorski	Rush
Chambliss	Kelly	Sanchez
Clay	Kennedy	Sanders
Clayton	Kildee	Sandlin
Clement	Kilpatrick	Sawyer
Coble	Kind (WI)	Saxton
Coburn	King (NY)	Schakowsky
Condit	Kleczka	Scott
Conyers	Klink	Serrano
Cook	Kucinich	Sessions
Cooksey	LaFalce	Shaw
Costello	Lampson	Shays
Coyne	Lantos	Sherman
Cramer	Larson	Sherwood
Crowley	LaTourette	Shows
Cummings	Leach	Sisisky
Danner	Lee	Skelton
Davis (FL)	Levin	Slaughter
Davis (IL)	Lewis (GA)	Smith (NJ)
Davis (VA)	Lipinski	Smith (WA)
DeFazio	LoBiondo	Snyder
DeGette	Lofgren	Spence
Delahunt	Lowe	Spratt
DeLauro	Lucas (KY)	Stabenow
Deutsch	Luther	Stark
Diaz-Balart	Maloney (CT)	Stenholm
Dicks	Maloney (NY)	Strickland
Dingell	Markey	Stupak
Dixon	Martinez	Sweeney
Doggett	Mascara	Tanner
Dooley	Matsui	Tauscher
Doyle	McCarthy (MO)	Taylor (MS)
Duncan	McCarthy (NY)	Thompson (CA)
Edwards	McCollum	Thompson (MS)
Engel	McDermott	Thornberry
Eshoo	McGovern	Thurman
Etheridge	McHugh	Tierney
Evans	McIntyre	Towns
Farr	McKinney	Trafficant
Fattah	McNulty	Turner
Filner	Meehan	Udall (CO)
Foley	Meek (FL)	Udall (NM)
Forbes	Meeks (NY)	Velazquez
Ford	Menendez	Vento
Frank (MA)	Millender-	Visclosky
Franks (NJ)	McDonald	Vitter
Frelinghuysen	Miller, George	Walsh

Wamp	Weldon (PA)	Woolsey
Waters	Wexler	Wu
Watt (NC)	Weygand	Wynn
Waxman	Wilson	Young (FL)
Weiner	Wise	
Weldon (FL)	Wolf	

NOES—151

Aderholt	Goss	Pease
Archer	Green (WI)	Peterson (MN)
Armey	Gutknecht	Peterson (PA)
Baker	Hansen	Petri
Ballenger	Hastert	Pickering
Barrett (NE)	Hastings (WA)	Pitts
Bartlett	Hayes	Pombo
Barton	Hayworth	Pryce (OH)
Bass	Henger	Radanovich
Bereuter	Hill (MT)	Ramstad
Biggert	Hilleary	Regula
Bliley	Hobson	Riley
Blunt	Hoekstra	Rogan
Boehner	Hostettler	Rogers
Bonilla	Houghton	Rohrabacher
Bryant	Hutchinson	Royce
Burr	Isakson	Ryan (WI)
Burton	Istook	Ryun (KS)
Buyer	Johnson (CT)	Salmon
Calvert	Johnson, Sam	Sanford
Camp	Kasich	Schaffer
Campbell	Kingston	Sensenbrenner
Chabot	Knollenberg	Shadegg
Chenoweth-Hage	Kolbe	Shimkus
Collins	Kuykendall	Simpson
Combest	LaHood	Skeen
Cox	Largent	Smith (MI)
Crane	Latham	Smith (TX)
Cubin	Lazio	Souder
Cunningham	Lewis (CA)	Stearns
Deal	Lewis (KY)	Stump
DeLay	Linder	Sununu
DeMint	Lucas (OK)	Talent
Dickey	Manzullo	Tancredo
Doolittle	McCrery	Tauzin
Dreier	McInnis	Taylor (NC)
Dunn	McIntosh	Terry
Ehlers	McKeon	Thomas
Ehrlich	Metcaif	Thune
Emerson	Mica	Tiahrt
English	Miller (FL)	Toomey
Everett	Miller, Gary	Upton
Ewing	Myrick	Walden
Fletcher	Nethercutt	Watkins
Fossella	Ney	Watts (OK)
Fowler	Northup	Weller
Gekas	Nussle	Whitfield
Gillmor	Ose	Wicker
Goode	Oxley	Young (AK)
Goodlatte	Packard	
Goodling	Paul	

NOT VOTING—8

Clyburn	Kaptur	Scarborough
Granger	Portman	Shuster
Hulshof	Sabo	

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Pursuant to House Resolution 323, the text of H.R. 2723 was added to the engrossment of H.R. 2990 and H.R. 2723 was laid on the table.

¶110.14 PERMISSION TO FILE
CONFERENCE REPORT

On motion of Mr. LEWIS of California, by unanimous consent, the managers on the part of the House were granted permission until midnight Friday, October 8, 1999, to file a conference report on the bill (H.R. 2561) making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes; together with a statement thereon, for printing in the Record under the rule.

¶110.15 HOUR OF MEETING

On motion of Mr. LAZIO, by unanimous consent,

Ordered, That when the House adjourns today, it adjourn to meet at 10 o'clock a.m. on Friday, October 8, 1999.

¶110.16 ADJOURNMENT OVER

On motion of Mr. LAZIO, by unanimous consent,

Ordered, That when the House adjourns on Friday, October 8, 1999, it adjourn to meet on Tuesday, October 12, 1999, at 12:30 p.m. for "morning-hour debate".

¶110.17 CALENDAR WEDNESDAY BUSINESS
DISPENSED WITH

On motion of Mr. LAZIO, by unanimous consent,

Ordered, That business in order for consideration on Wednesday, October 13, 1999, under clause 7, rule XV, the Calendar Wednesday rule, be dispensed with.

¶110.18 LABOR, HHS, AND EDUCATION
APPROPRIATIONS

Mr. YOUNG of Florida submitted a privileged report (Rept. No. 106-370) on the bill (H.R. 3037) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

When said bill and report were referred to the Union Calendar and ordered printed.

Pursuant to clause 1 of rule XXI, all points of order were reserved.

¶110.19 LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted—

To Ms. KAPTUR, for today; and

To Ms. GRANGER, for today after 3 p.m.

And then,

¶110.20 ADJOURNMENT

On motion of Mr. TAUZIN, pursuant to the special order heretofore agreed to, at 5 o'clock and 52 minutes p.m., the House adjourned until 10 o'clock a.m. on Friday, October 8, 1999.

¶110.21 REPORTS OF COMMITTEES ON
PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 748. A bill to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Parks Advisory Commission; with amendments (Rept. No. 106-367). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1615. A bill to amend the Wild and Scenic Rivers Act to extend the designation of a portion of the Lamprey River in New Hampshire as a recreational river to include an additional river segment (Rept. No. 106-368). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2140. A bill to improve protection and management of the Chattahoochee

River National Recreation Area in the State of Georgia; with an amendment (Rept. No. 106-369). Referred to the Committee of the Whole House on the State of the Union.

Mr. PORTER: Committee on Appropriations. H.R. 3037. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106-370). Referred to the Committee of the Whole House on the State of the Union.

¶110.22 PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HANSEN:

H.R. 3035. A bill to designate certain lands in the State of Utah as wilderness, and for other purposes; to the Committee on Resources.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H.R. 3036. A bill to provide for interim continuation of administration of motor carrier functions by the Federal Highway Administration; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS (for himself, Mr. GRAHAM, and Mr. OWENS):

H.R. 3038. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain computer professionals; to the Committee on Education and the Workforce.

By Mr. BATEMAN:

H.R. 3039. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. CHENOWETH-HAGE (for herself, Mr. YOUNG of Alaska, Mr. DUNCAN, Mr. DOOLITTLE, Mr. PETERSON of Pennsylvania, Mr. HILL of Montana, Mr. SCHAFER, Mr. SHERWOOD, and Mr. HAYES):

H.R. 3040. A bill to require the appointment of the Chief of the Forest Service by the President, by and with the advice and consent of the Senate; to the Committee on Agriculture.

By Mr. DEUTSCH:

H.R. 3041. A bill to provide for a demonstration project to allow certain organizations that provide care under Medicare to purchase home-care services from self-employed caregivers through home-care referral agencies; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE:

H.R. 3042. A bill to designate the facility of the United States Postal Service located at 1031 Volens Road in Nathalie, Virginia, as the "Susie A. Davis Post Office"; to the Committee on Government Reform.

By Mr. GREEN of Wisconsin:

H.R. 3043. A bill to amend title 10, United States Code, to direct the Secretary of the Army to establish a combat artillery medal; to the Committee on Armed Services.

By Mr. HILL of Indiana (for himself, Mr. DINGELL, Mr. FROST, Mr. DUNCAN, Mr. CRAMER, Mr. PASTOR, Mr. ROEMER, Mr. SCOTT, Mr. STUPAK, Mr. ETHERIDGE, Mr. BARRETT of Wisconsin, Mr. SANDLIN, Ms. HOOLEY of Oregon, Ms. CARSON, Mrs. TAUSCHER, Mr. LARSON, Mrs. JONES of Ohio, Mr. BAIRD, Mr. HOFFEL, Mr. PHELPS, Mr.