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 promotional 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 outstanding service 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 ''Distinguished 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, in the future, pass a 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 Distinguished 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 ''. . . an attempt to directly impose Federal conditions on state law . . .'' without offering state governments a choice. Professor Alexander states such a reading would be a Constitutional problem.

Professor A.J. Bellia of Notre Dame Law School in a letter dated August 1, 2001 reviewed the Ganske-Dingell approach and stated: ''. . . H.R. 2563 raises substantial constitutional issues. I anticipate, that if enacted, 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.

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.

THE SOLIDARITY FLAG RESOLUTION

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 2001

Mrs. EMERSON. Mr. Speaker, today, the men and women of the United States are facing a tragic loss. But in that adversity we see men, women, and children who possess an unbreakable, unwavering, and unshakable spirit and a commitment to preserving freedom and democracy, said Emerson. So, in a unified show of support, Congress is asking that for the next 30 days everyone, in every community across America, fly their American flags. Whether it is at home, work, in public buildings, schools, or places of worship, this is a symbolic gesture to remember those individuals who have been lost and to show the solidarity, resolve, and strength of the greatest nation on earth—the United States of America.

JOYCE MESKIS—A CHAMPION OF INTELLECTUAL FREEDOM

HON. MARK UDALL

OF COLORDAO

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