

perc—is set at 5 parts per billion. Unfortunately, while that level might be appropriate for drinking water, it can hardly be considered necessary for protection from perchlorethylene in dirt.

As a result of the arbitrary, illogical situation of applying the drinking water standard in other cases, dry cleaners increasingly face clean-ups requiring staggering sums of money. In many cases, the dry cleaner may simply be forced to declare bankruptcy and walk away penniless. In such cases, the soil is not remediated, the environment is not improved, and the community is weakened.

Last fall, the House Commerce Committee, Subcommittee on Oversight and Investigations, which I chair, held hearings on this issue. We heard witnesses who testified that they had lost businesses built over a lifetime, suffered terrible emotional distress, spent millions of dollars chasing illusory risks, and been prevented from expanding their businesses because of this mismatched regulatory approach. Most disturbing, we repeatedly heard that many dry cleaners fear to pass their business along to their children, all because of the possibility of being caught in this bureaucratic web. This is not healthy for our communities or our environment.

To remedy this problem, the Small Business Remediation Act would like the soil remediation standard for perc to the Occupational Safety and Health Administration standard, which is currently set at 100 parts per million. This is the standard which OSHA has found to be protective of workers who are exposed to perc in the workplace everyday for their entire working lives.

The bill I am introducing today would set the remediation standard 10 times stricter than the OSHA standard. If OSHA strengthened its standard in the future, the soil remediation standard would be strengthened automatically. Therefore, it does not freeze science, and allows changes in new evidence dictates.

The bill does not change the Federal drinking water standard and does not prevent States or EPA from cleaning up dry cleaning sites.

Our approach will provide certainty to dry cleaners, their neighbors, surrounding businesses, banks, and the entire community. At the same time, by setting an achievable goal, the Small Business Remediation Act will lead to more efficient and timely improvements of the environment. By providing certainty, it will help focus resources on clean-ups, not lawyers.

Mr. Speaker, I encourage all Members to join us in this commonsense approach to a problem that affects all American communities. By supporting the Small Business Remediation Act, Members can help improve the environment, strengthen small business, and promote the prosperity of our neighborhoods and towns.

THE MANAGED CARE PLAN
ACCOUNTABILITY ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 22, 1997

Mr. STARK. Mr. Speaker, together with Mr. KILDEE, Mrs. LOWEY, Mr. MILLER of California,

Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. SANDERS, Mr. TIERNEY, Mr. FROST, Mr. DELUMS, Ms. CHRISTIAN-GREEN, Mr. LEWIS of Georgia, Mr. DEFazio, Mr. WAXMAN, Mr. RANGEL, Mr. KLECZKA, Mr. BERMAN, Mr. KENNEDY of Rhode Island, Ms. RIVERS, Mr. MCGOVERN, Mr. KUCINICH, and Ms. TAUSCHER, I am proud to introduce the Managed Care Plan Accountability Act of 1997, a bill which amends ERISA to provide equality and fairness to the millions of Americans whose health benefits are regulated by the Federal Government.

ERISA was enacted in 1974 to uniformly govern employee benefit plans. To this end, ERISA includes a wide-ranging preemption provision that supersedes any and all State laws insofar as they relate to an employee benefit plan, including health insurance.

Under current law, ERISA managed care plans are often completely exempt from liability for any medical decision made as a result of plan policy. If a patient is injured as a direct result of a plan's cost-containment policy, for example, the patient is entitled to sue only for the value of the denied treatment. Patients in ERISA plans are not entitled to other compensation, such as lost wages or pain and suffering, as is currently available to patients in non-ERISA plans.

For example, Newsweek magazine recently reported a case in which a managed care plan denied a heart attack victim's request for surgery because the only hospital qualified to perform the needed procedure was located outside of the plan's service area. By the time the patient appealed the decision and received the necessary approval, it was too late. The patient's heart was damaged beyond repair, and he died shortly thereafter while awaiting a heart transplant. In this case, the patient's health insurance was part of an employer-sponsored benefits package and therefore, regulated by ERISA.

Under current law, the family was entitled only to the cost of the denied procedure. In other words, the most damaging thing that could happen to the HMO responsible for the loss of their loved one is the cost of the procedure that could have saved the person's life.

While a price tag should never be put on a human life, there should be some reasonable compensation paid to patients and their families who are victims of medical malpractice. This is especially true when victims suffer life-altering, if not fatal injuries due directly to the negligence of a plan executive attempting to save money.

Imagine if your child died of leukemia because your HMO would not authorize an early blood test. The twisted irony is that you could recover no more than approximately \$130—the cost of the test. A child's life is surely worth more than \$130. This is a travesty.

This bill would create a new cause of action under ERISA which would allow consumers to seek additional damages from employer-sponsored health plans. The new cause of action would have concurrent jurisdiction, allowing the action to be brought either in Federal or State court. Additionally, this legislation would protect physicians from unfair lawsuits by making the health plan responsible for constraints they place on providers.

Our legislation is fair and long overdue. Plans that actively manage the care of their enrollees must be held accountable for their decisions. Employees of ERISA-regulated health plans deserve the same rights and protections as people in non-ERISA plans.

HONORING DEWITT CLINTON HIGH SCHOOL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 22, 1997

Mr. ENGEL. Mr. Speaker, DeWitt Clinton High School, in my congressional district, opened its doors for the first time in 1897 with about 500 boys and 21 faculty assembled to hear from the principal. Since that time the school has moved several times and its enrollment has grown to 3,850.

The school has also grown in stature and this year it was named one of the five most improved high schools in the United States. DeWitt Clinton was also praised because of its outstanding peer mediation and negotiation program.

The school meets or exceeds all of the chancellor's standards. Its college admission rate was 91.1 percent last June while its dropout rate was only 2.8 percent. Its attendance rate is 90.8 percent. The students have also shown consistent improvement in the State regents exams over the past 4 years. Perhaps most significantly, it is one of only 11 New York City high schools, out of 136, given the highest 5-star rating by the New York Times.

A measure of a school's success is a list of its graduates and DeWitt Clinton's is most impressive with such alumni as James Baldwin, Burt Lancaster, Richard Rodgers, Neil Simon, A.M. Rosenthal, Paddy Chayefsky, Daniel Schorr, Arthur Gelb, Fats Waller, Jan Peerce, Nate Archibald, Bernard Kalb, and Stan Lee. These are people who have given to the country and to the world. The students at DeWitt Clinton have a strong tradition to uphold and show every indication of doing it.

I join my colleagues in congratulating the school, its faculty, its students, and their parents as representatives of a century of higher education.

TRIBUTE TO AARON HENRY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 22, 1997

Mr. LEVIN. Mr. Speaker, on May 19 a wonderful human being and a truly great American passed away in Clarksdale, MS—Aaron Henry.

I mention first his human qualities because of the unusual warmth of his personality and capacity for friendship. Had he only been a friend, as he was for so many of us from many walks of life, he would remain indelibly etched in our thoughts and memories. Of course, his life went far beyond private relationships and friendships. He dedicated so much of his time to the public arena, pursuing the American Dream of equal opportunity for all Americans.

He started in this pursuit, in the Army during World War II where he fought for integration and next as he obtained a degree in pharmacy under the GI bill. He then set up shop on Fourth Street in Clarksdale, which became his source of livelihood and a major hub for those working with him to bring equal opportunity and justice to Mississippi. I first saw