

beauty. It is not enough just to have technological advances.

So by requiring the companies to work with Vermont towns, acceptable alternatives can be found. My bill, again, affirms where the burden of proof should be: with the applicant, not the community. I trust Vermonters to do what is right to protect our State's beautiful scenery. All I am saying, Mr. President, is let Vermonters decide what to do with our scenery. The FCC rules should not stand.

The PRESIDING OFFICER. Who seeks the time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, under the order, I believe we had 30 minutes reserved.

The PRESIDING OFFICER. That is correct.

Mr. THOMAS. Several of my associates and I want to take that time to talk about the Medicare Beneficiaries Freedom to Contract Act, which we think is very important to Medicare recipients and to the system. We want to talk about that. However, before we begin, and we will then share our time, I yield to the Senator from Kansas for several minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you, Mr. President. I thank my colleague from Wyoming for yielding a couple minutes. I will be very brief about this and pointed.

(The remarks of Mr. BROWNBACK pertaining to the introduction of S. 1334 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BROWNBACK. Mr. President, I, again, thank my colleague from Wyoming and others for allowing me this opportunity to introduce this bill. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

MEDICARE BENEFICIARIES FREEDOM TO CONTRACT ACT

Mr. THOMAS. Mr. President, we would like to scoot back now on to this focus on Medicare, the idea that Medicare patients certainly have an opportunity to choose, that we are able to strengthen the Medicare Program through this function. I will first yield to the sponsor of the bill and, frankly, the person who has carried the weight and continues to, the Senator from Arizona.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, will you please advise me when I have spoken for 7 minutes?

The PRESIDING OFFICER. We shall grant the Senator 7 minutes.

Mr. KYL. I appreciate that.

Mr. President, I appreciate the Senator from Wyoming taking this time to

discuss what we think is one of the most important matters yet to be decided before the end of this legislative session. I know we have some appropriations bills to pass to ensure that the Federal Government is funded for next year, and perhaps a couple of other items, like the fast-track legislation. But in terms of important principles, I can't think of anything more important than ensuring that the American people have the right to go to the doctor of their choice.

You heard me right. I said to ensure that the American people have the right to go to the doctor of their choice. You mean they don't have that right? Well, Mr. President, unless we fix a part of the balanced budget bill that we passed earlier in this session, as of January 1, senior citizens in this country will not be guaranteed the right to go to the physician of their choice. Here is the problem.

The Clinton administration interprets the Medicare law to require that a Medicare patient be treated under Medicare; that that person cannot go to a doctor who may see some Medicare patients but is not taking anymore Medicare patients and, therefore, is unwilling to treat the patient as a Medicare patient. Here is the exact situation, a real-life story that happened to one of my constituents in the small town of Prescott, AZ.

She just turned 65. She is diabetic. She was having complications. She wanted to see a physician who could take care of her, and there weren't very many specialists in that small town. She found one who could take care of her. She went to him and he said, "Now, you are 65."

She said, "Yes."

He said, "Then I don't think I can take care of you."

She said, "Why not?"

He said, "I'm not taking anymore Medicare patients, you're Medicare eligible."

She said, "That is all right, send me the bill, I will pay you. We will save Medicare money."

He checked with HCFA, the entity that runs Medicare, and sure enough, he could be prosecuted for a Federal crime if he entered into what is called a private contract with her.

That is the way the Clinton administration interprets the law and, in fact, Mr. President, that is the way they want the law to read because they don't want any competition for Medicare. Once you turn 65, it is their view that everybody should have Medicare and only Medicare. One of my colleagues said it is Medicare or no care.

That is an unacceptable choice for senior citizens in this country. Why should you become second class when you turn 65 and not be able to contract privately with a physician of your choice?

I am on a Federal health care plan. I happen to like Blue Cross, so I signed up with the Blue Cross plan. But I still go to a doctor that is outside of that

plan and pay for it myself. I have that right. Why shouldn't a senior citizen have the same right that I do under my Federal health care plan? Why should someone, merely because they turn 65, be denied the right to privately contract with the physician of their choice? Maybe they have been seeing the same doctor for 40 years and they want to continue seeing that doctor but he is not taking anymore Medicare patients, why shouldn't they be able to go to him and why shouldn't he be able to contract directly with them?

We passed it 64-35 in the Senate. It went into the balanced budget bill, but the administration said, no, they would veto the balanced budget bill unless we took that provision out or unless we changed it. How did they insist it be changed, without my approval by the way? They said, OK, the patient can have the choice but no doctor can serve such a patient unless in advance he opts out of Medicare for 2 years.

Let's be realistic, only 4 percent of the nonpediatricians don't serve any Medicare patients. Most doctors have some Medicare patients. Do we want to literally force those doctors to dump all of their Medicare patients just so they can privately contract? That is not the way to encourage more doctors to see more Medicare patients. Why shouldn't a physician be able to both treat patients under Medicare and not treat patients under Medicare?

There is only one argument, other than the fact this presents some competition to Medicare. In that regard, I don't see how it hurts Medicare, because to the extent that anybody would choose not to take advantage of Medicare, they are saving Medicare money. It doesn't hurt Medicare. It actually helps Medicare, they don't have to pay as much.

There is some concern that some unscrupulous doctor somewhere might take advantage of a Medicare patient. "I'm not going to treat you under Medicare; you have to enter into a private contract with me, and I am going to gouge you." I don't think that is going to happen.

Just to be sure, we built into the bill which I introduced a provision against fraud. It requires a written contract, and the patient can get out of it at any time. HCFA gets information from the doctor which tells them exactly what is going on. So if there is any fraud, that doctor can be prosecuted. So we have taken care of the major problem that has been raised.

I don't think there is any reason why our bill should not pass. I don't think this Congress should go on record as standing for the principle that when you turn 65 in the United States of America, you don't have the choice to go to the doctor of your choice, and that doctor doesn't have the choice to care for you if he wants to do that. It is wrong, it is un-American, it is a violation of fundamental rights, and before this Congress adjourns, Mr. President, we need to fix the law so that

senior citizens in this country have a fundamental right to the medical care that they deserve.

Again, I thank the Senator from Wyoming for his sponsorship of this time for us to discuss this issue. I hope we have a chance before this legislative session is over to act upon this bill to get it passed and that the President will sign it. Thank you, Mr. President.

Mr. ALLARD. Mr. President, I understand that the Senator from Wyoming controls the time, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLARD. I request 5 minutes.

Mr. THOMAS. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLARD. Mr. President, it is a pleasure to be here with my colleagues from Arizona and Wyoming, because I share in their concern that this is a fundamental issue of our freedom and that is the right of the seniors to privately contract their own health care.

Quite frankly, I am surprised we are having to debate this issue on the Senate floor. It is amazing to me how far we have strayed from this principle of some fundamental freedoms that the individual should enjoy.

Again, I compliment particularly my colleague from Arizona for his leadership on this particular issue and also my colleague from Wyoming.

The notion that in America we have a group of citizens who would be effectively prohibited by law from paying for their own health care is absurd.

In order to fully understand the issue, I think it is important to review a bit of the history about this particular issue.

The Health Care Financing Administration has interpreted current law to restrict voluntary, private contracts between physicians and Medicare-eligible beneficiaries. HCFA has issued threats of fines and exclusion against doctors who violate this arrangement and enter into private agreements. HCFA has created a situation where doctors must comply with regulations stipulated by Medicare if they accept even one Medicare beneficiary as their patient. Medicare, as we all know, is the only federally funded health care program that prohibits private contracting by the participants.

During the balanced budget debate, Senator KYL offered an amendment that would have allowed for seniors to use their own money for their health costs. Unfortunately, through deliberations in conference, this provision was stricken and a new law that takes effect in January requires physicians who enter into private contracts to forego Medicare reimbursement for a period of 2 years. It has been reported that currently only 9 percent of physicians do not have any Medicare patients. This provision effectively restricts the choice and the quality of health care services provided to senior

citizens. This would tend to prohibit doctors from treating elderly patients and would deny seniors the choice of seeking treatment outside of the Medicare system. According to the amended law, any doctor who is found to be treating Medicare patients and privately contracting will be subject to fines and even imprisonment. In all practicality, the language makes private contracting impossible.

It is imperative that Congress revisit this issue and resolve this shortsighted legislation. I am proud to support Senator KYL's bill, the Medicare Beneficiaries Freedom to Contract Act, which would allow seniors the ability to use their own discretion and money for their health care needs. This legislation is crucial for the elderly individuals who rely on our Medicare system. By allowing senior citizens the ability to retain the doctors of their choice, they are able to receive the care that they want and require. This legislation is essential to senior citizens' rights to use their own discretion for their health care needs.

Although it is true that the deficit in January has declined, the portion of these revenues claimed by entitlement spending continues to rise as entitlement spending rises. I agree with my colleague from Arizona when he says this is also something that will help us balance the budget. Why wouldn't Medicare accept the idea that a private individual can pay for his own health care services out there? It means they don't have to pay for it. It means less expenditures on entitlement spending. It means we can do more to reduce deficit spending. Particularly at a time when Medicare is in dire need of reform, how can Congress simply deny seniors the right and ability to use their own money for health services?

This is not a "Washington one-size-fits-all" situation. We are talking about the health care of our Nation's elderly. Medicare beneficiaries should be given the right to pay out of pocket and to choose their own health care provider. It is their freedom we are infringing upon, and it is imperative we act now to rectify this wrong.

Congress must create a more efficient and effective health coverage program for seniors. Senator KYL's bill is one essential step to complete that goal. More choice and competition must be implemented in the Medicare Program, thereby facilitating proper health care coverage that fits different individuals' needs and desires. Congress must act now to rectify this problem.

I yield the remainder of my time.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, we have been joined by our associate from Minnesota. Let me first say that this Medicare issue, of course, is one of the most important issues that we deal with. I think it is one of the most important issues to America. Certainly it is the most important issue to seniors. The

idea is to keep it available over time so people who are now paying into part A and will pay into part A will have the benefits of it when they are eligible, to keep choice in it so that seniors will have some choice as they enter into this kind of health care; to keep it financially strong, which is the difficulty, of course—their costs have gone up in Medicare; they have finally narrowed down some, largely through the involvement of managed care, and there will be a committee or a commission appointed in December to take a look at the future of it—and to make it available in all parts of the country. My friend from Colorado just talked about that. We have small towns, we have towns in which there are only one or two physicians. So this choice thing is so important, that it be there.

Let me now yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I rise today to join my colleagues in expressing my support for Senator KYL's Medicare Beneficiary Freedom to Contract Act, of which I am a cosponsor. As I explained on the floor in a statement last Monday, the thought that we have to debate in the U.S. Senate whether or not we are going to allow seniors the very basic right to use their money as they see fit is really just testimony to how far this administration is willing to go in trying to impose its will and its vision of socialized medicine on the American people. Socialized medicine, what Americans rejected in 1993, the administration is trying to, in incremental steps, reimpose on the American public.

Over the past few weeks I have received many letters, many phone calls and e-mails on this very subject. I would like to share one of these letters with my colleagues today. This comment came from a constituent of mine in Saint Paul, MN. The constituent wrote:

By what right do you arrogate to yourself the right to determine the length of my life? Medicare could easily fall short of the necessary medical steps to preserve health and life. Remember, this will apply to you, too.

My fellow Minnesotan could not be more correct in the assessment of this provision which was tucked into the Balanced Budget act. It was tucked in there in the dark of the night, without debate and with little regard for the consequences and with the demand by the administration that it be included no matter what. It is unconscionable that the United States, the world's model of freedom and liberty, has now decided that senior citizens are somehow second-class citizens, that they are incapable of making their own choices when it comes to health care.

Opponents of the Freedom to Contract Act claim that this bill now will make it easier for doctors to force seniors to give up their Medicare rights and be charged "the sky's the limit." They say that without this protection,

seniors will be overpaying for their medical care.

I give our Nation's physicians and our Nation's seniors a lot more credit than that. This bill does absolutely nothing to force seniors to opt out of the Medicare Program, nor does it implicitly encourage them to do so. It simply will give our seniors an additional choice in how they receive their health care services—an additional choice on how they receive their services. In fact, I believe increasing choices for seniors in the Medicare Program was probably one of the best things that came out of this year's Balanced Budget Act. The Medicare Beneficiary Freedom to Contract Act is just a logical extension of the Medicare Plus Choice Program that was created in the Balanced Budget Act.

I urge my colleagues to set aside the demagoguery and restore the rights of our senior citizens. They deserve our respect and they deserve the right to make their own choices. If we don't act on this bill before this session of this Congress ends, it will go into effect and then it will be very hard to restore this right to our seniors. So I am asking my colleagues, urging them, to join with us to make sure that we preserve the rights of our senior citizens to have an additional choice in how they decide on their health care.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I appreciate very much the time. I appreciate being joined by my friends in support of this Medicare Beneficiaries Freedom to Contract Act. Let me just review how we got where we are.

During the consideration of the balanced budget, Senator KYL put in a very simple amendment which simply said that you could have this choice that did allow for physicians to treat under a private contract in addition to Medicare. Unfortunately, the administration became adamant about it. I think they followed, as the Senator from Minnesota said, the idea of turning this back into a one-size-fits-all kind of federally controlled program. The President threatened to veto the entire budget package because of this, if this 2-year prohibition was not included. So, today I am still disappointed with the administration, with HCFA, with the President's opposition to this proposition.

We are going to continue to push for consideration of this issue before this Congress adjourns so we can eliminate this bottleneck, this thing which takes away the choice of senior citizens in their health care.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KEMPTHORNE. Mr. President, I am pleased to rise this morning in support of S. 1194, the Medicare Beneficiary Freedom to Contract Act. This legislation is another step in our con-

tinuing effort to give the Nation's senior citizens something they have lacked for far too long—real choice in health care.

I believe we are fortunate that a provision added to this year's Balanced Budget Act has served to focus our attention on a very important and basic freedom. I'm talking about the freedom of individuals, regardless of age, to choose how they are going to spend their health care dollars. When the Senate first debated this issue, I wholeheartedly supported the idea of "private contracting" for two reasons. First, I heard from numerous Idahoans who feel they are losing their choice of doctors because of Medicare's overly bureaucratic method of operation. As more and more health care providers refuse to accept Medicare, senior citizens are finding they no longer have access to the providers they wish to see. Allowing private contracting will provide seniors the chance to maintain the patient-provider relationships which are so important to them.

Second, I support S. 1194 for an even more fundamental reason. I do not believe a nation, for which so many have sacrificed so much in the name of freedom, should tell senior citizens that they do not have the freedom to provide for themselves, even if they are perfectly able to do so. Many of our senior citizens are people who worked, and fought, during some of this century's most difficult times, yet current Medicare rules tell them we don't think they are capable of determining, for themselves, how to best meet their own health care needs. Mr. President, this implies that government bureaucrats don't feel those who survived the Great Depression and World War II, and helped make this Nation what it is today, are capable of understanding and meeting their own needs. What a ridiculous concept.

Would we tell food stamp recipients that they could not use their own money to buy food, even if they worked hard to gather the financial resources needed to feed themselves? Would we tell someone in subsidized housing that they may not use their own resources to move into a home which they could call their own? The answer to both these question is, of course, no. In fact, I would be willing to guess that anyone suggesting such an idea would be laughed right out of this Chamber. Yet, there are those who don't believe senior citizens should be allowed to provide, voluntarily, for their own health care needs.

Mr. President, the bill we are discussing this morning simply says that if you have the ability to take care of your own health care needs, and you wish to do so, you should be legally allowed to do so. Supporting it should simply be a matter of common sense.

I have heard from numerous Idahoans who tell me they want the freedom to decide whether or not to use Medicare to pay for health care services. I have heard from numerous health care pro-

viders in my State who sincerely want their patients to have that choice. I trust the senior citizens of Idaho. I believe they are more than capable of making a decision about how to pay for health care services, and should be given the option to make that choice for themselves.

The American people are intelligent. If you give them choices, they are certainly able to decide which option is in their best interest. During my tenure in the Senate, I have consistently worked to give Americans more choice, while reducing government intrusion in their lives. The Medicare Beneficiary Freedom to Contract Act accomplishes both of these goals, and I urge all of my colleagues to support it.

Mr. CAMPBELL. Mr. President, today I join my colleagues in supporting the Kyl-Archer "Medicare Beneficiaries Freedom To Contract Act."

When I first discovered that the version of this summer's Balanced Budget Act that was signed into law included such a drastic deviation from Congress' intent, which was to allow Medicare beneficiaries the choice to go outside the Medicare system for care, I was outraged. We agreed to ensure this freedom, not strangle it by kicking doctors out of the Medicare system for seeing Medicare patients on a private contract basis. By excluding physicians from Medicare for 2 years as a punishment for entering into a private contract, the law offers seniors a choice in one breath and takes it away in the next.

If beneficiaries choose to pay for care out of their own pocket, that is their right. In no way does that constitute a criminal act. It is not an appropriate role for the Federal Government to be telling people how they can spend the money in their wallet—we already do enough of that with their tax dollars.

The claims made for instituting such a restrictive law are unfounded. The assertion that seniors of significant means will be siphoned out of the system, creating an increased burden on the Medicare trust fund, makes several false assumptions. First, income and population statistics produced by the Social Security Administration indicate that nearly two-thirds of this country's over-65 population live at or near the poverty level, with less than 20 percent seniors earning more than \$75,000 a year. Given that, it is doubtful that we'll see a wave of seniors rushing to contract privately and disrupting the Medicare system. Those same statistics also deflate the argument that droves of doctors will begin denying care unless patients agree to privately contract at a higher rate. The patients aren't there, leaving physicians strongly dependent—as they are now—on Medicare clients. Therefore, there is no threat of a two-tiered system of care, with only the wealthy having access to the best care. It is just not economically sound or feasible for a significant number of doctors to establish a "new tier" of medicine.