

So for California, these protections are critical.

Due in part to the high penetration of managed care, California's health care system is on the verge of collapse. Resources are stretched to the limit and patients, as a result, are not getting the services they need.

For example, California's capitation rate, the rate paid to doctors for treatment, is one of the lowest in the Nation. The average capitation rate in California reached its peak in 1993 at \$45 per month. Last year, the rate dropped to \$29 (PriceWaterhouse Coopers).

These low reimbursement rates undoubtedly impact quality of care and access to services.

Many California hospitals and other health care providers have been forced to limit hours of operation and discontinue services. The burden to provide care is put on those that have remained open, and many of these facilities are now facing financial problems of their own.

I know that California's health care system is not unlike other systems across the country. The bottom line is that patients should not be the one's made to suffer at the hands of a failing health care system.

People pay monthly premiums. They expect their health insurance to be there when they need it. That is what insurance is. It insures against loss from an unforeseen illness or injury.

But with HMOs today, the certainty of good health care is being seriously eroded. Many people feel that every time they need care, it is a tremendous hassle.

The bottom line is that people feel they have to fight to get the quality care they have paid for. Americans are tired of jumping through hoops to get good care.

People should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

I would like to close with a very tragic story about a young, 16 year old girl from Irvine, California who did not get the care she needed from her HMO in a timely manner. I think her story provides a poignant summary of the problem with managed care providers. Unfortunately, her story does not have a happy ending.

Serenity Silen was diagnosed with acute myeloid leukemia, or AML, in late February 1998. She had gone to her HMO four times, to four different HMO doctors, since the beginning of 1998. Each time she complained of the exact same symptoms, all of which could indicate leukemia.

Over the course of the four visits, Serenity's condition was never diagnosed. Finally, in the middle of February 1998, Serenity was taken to the emergency room of an out-of-network hospital because her mother was so frustrated with the care at their HMO.

The emergency room doctor was the first doctor, in the five weeks since the

symptoms arose, to order a complete blood count test. The blood count test indicated a dangerously high white blood cell count that was symptomatic of leukemia. With a much delayed diagnosis, Serenity's leukemia was now going to be much more difficult to treat.

Fed up with the HMO, Serenity's parents sought a second opinion from a highly recognized oncologist at an out-of-network hospital. Serenity was transferred to that hospital to be under the oncologist's care. After being at the new hospital only a few days, Serenity explained to her parents that she did not realize how much pain she was in until the new hospital helped to take it away. After 2½ months at the new hospital, Serenity died. The disease had not been diagnosed in time.

I urge my colleagues to support this bill. Support this bill for the children like Serenity in your State. The constituents who battle with their HMOs daily to get the quality care they need and deserve. Many of these patients are too sick to fight with their HMOs to get access to the services necessary to treat their illnesses. How many more lives are we going to have to lose to the HMO battle before Congress wises up and passes a Patients' Bill of Rights that protects the patient?

This bill has been a long time in the making. Let's get it done this session.

ADJOURNMENT OF THE TWO HOUSES OVER THE FOURTH OF JULY HOLIDAY

Mr. REID. Mr. President, I have a unanimous consent request that the Senate proceed to H. Con. Res. 176, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 176) providing for conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 176) was agreed to, as follows:

H. CON. RES. 176

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 10, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 28, 2001, Friday, June 29, 2001, Saturday, June 30, 2001, Monday, July 2, 2001, Tuesday,

July 3, 2001, Thursday, July 5, 2001, Friday, July 6, 2001, or Saturday, July 7, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 9, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. REID. Mr. President, for the edification of Members, the resolution allows the House to go out today or tomorrow and allows the Senate to go out any day up until July 7.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING NEW YORK FIREFIGHTERS—JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE LINE OF DUTY

Mrs. CLINTON. Mr. President, let me state for the RECORD that the request I am about to make has been cleared on the Republican side.

I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 117 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 117) honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. CLINTON. Mr. President, I rise today to introduce a resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who gave their lives this past Father's Day while protecting the lives of others. Together, these brave men left behind three widows and eight children whom we also honor today for their sacrifice.

On June 17, as a treacherous five-alarm fire raged at the Long Island General Supply Company in Queens, NY, without hesitation, as they have done countless times before, nearly 350 firefighters and numerous police officers responded to the call for help. Two civilians and dozens of firefighters and police officers were injured. And three courageous fathers lost their lives. It

was the last time their children would be able to spend Father's Day with them.

John Downing was 40 years old, an 11-year veteran of the New York Fire Department when he responded to the five-alarm blaze. He was a valiant public servant who had been recognized for his bravery. John left behind his wife Anne, his 7-year-old daughter Joanne, and his three-year-old son Michael.

Brian Fahey, 46 years old, and a 14-year veteran of the department from East Rockaway, NY, was also a husband and father of three. His years of service to his community were made proud by his courage. He is survived by his wife Mary and their three sons: Brendan, 8; and twins, Patrick and James, 3½ years old.

Harry Ford, age 50, gave nearly three decades of service to the New York City Fire Department. During his exemplary career, he received nine bravery citations. He is survived by his wife Denise; his daughter Janna O'Brien, age 24; and two sons, Harry, 12, and Gerard, 10.

Mr. President, I paid a call on the two firehouses early Sunday morning who had lost these brave compatriots, and I spent time talking to the men who go to work every day not knowing what is going to be asked of them, who sometimes go for, thankfully, days, or weeks, or months, and even years without ever having to put themselves in danger. But when the call comes, they are ready. And whether it is a call to respond to an emergency need because of an illness, an accident, or a huge raging fire that is about to get out of control, they represent the very best we have in our society.

We live in a society that seems to be in perpetual search for heroes, whether in the form of sports figures or screen idols. But to find true heroes, sometimes we don't have to look so very far from home. We certainly don't have to look any farther than the brave men we are honoring today.

The unmistakable courage and the incalculable sacrifices that they and their families have made for the good of their neighbors and their community are the kinds of virtues and values that should be held up to our children and ourselves as something we should all aspire to.

Finally, in so honoring these men, we honor the hundreds of thousands of public safety officers across this country that, every single day, risk their lives and put them and their families at risk to keep us safe from harm. Their strong tradition of bravery and sacrifice keeps our communities safe and fills our hearts with pride for their selfless acts of courage for others.

I hope that next year when Father's Day comes around, the children who have lost their fathers in this fire and those who have lost fathers and mothers because they were serving us will know how grateful we are for their sacrifice. I hope all of my colleagues will join me in supporting this resolution.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I rise in support of Senator CLINTON's resolution honoring the fallen firefighters of New York and to join with her in acknowledging the bravery and commitment of Harry Ford, Brian Fahey, and John Downing. These men were firefighters—firefighters who risked their lives and gave their lives to protect the public. These men died on Sunday, June 17th, while fighting a fire in Queens, New York. The price they paid on our behalf was as great a price as any citizen can pay. We owe these men our deepest appreciation and respect.

On Sunday, the 17th—Father's Day—Firefighters Ford, Fahey and Downing worked quickly to fight a fire in a local hardware store. Thirty minutes after leaving the fire station, responding to what they thought was a routine call, an explosion buried the men under a pile of rubble. Dozens of firefighters worked to rescue the men, but they could not be reached in time.

These men were husbands and fathers. Harry Ford leaves behind his wife, Denise and two sons, Harry, age 12, and Gerard, age 10. Brian Fahey leaves us with his wife, Mary and three sons: Brendan, who is 8 years old, and 3-year-old twins, Patrick and James. John Downing is survived by his wife Anne, his daughter Joanne, age 7, and his son Michael, who is 3. My thoughts and prayers are with these families.

I am humbled by their devotion to public service. Their deaths represent the ultimate sacrifice a person can make for his or her fellow human beings. They died while fighting a fire and it is not hyperbole to say that they died while making America a safer place to live.

I am always saddened to realize that it takes a tragedy like this to bring attention to the needs of fire departments and firefighters nationwide. I hope that the memory of these three men will help Americans realize the impact of firefighters on our daily lives.

Firefighters are almost always the first in a community to respond to a call for help. They are on the scene of traffic accidents and construction accidents. When a natural or man-made calamity strikes—from hurricanes to school shootings to bombings—firefighters are there without fail, restoring order and saving lives.

Unfortunately, fire departments across the Nation struggle to find resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and magnitude, the ability of local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

For these reasons I have strongly supported helping localities meet their critical objectives. Communities need

more firefighters and community firefighters need the resources to ensure that they have the training and equipment to protect themselves and the public.

Last year we passed an important piece of legislation called the Firefighter Investment and Response Enhancement Act which authorized the Federal Emergency Management Agency to provide grants to local firefighters so they could purchase the equipment they need. Congress appropriated \$100 for the program last year and the FEMA has just completed the first grant competition under the program. The demand is extraordinary. FEMA received nearly \$3 billion worth of grant applications—that's 30 times more in requests that is currently available.

No amount of funding can bring back Firefighters Ford, Fahey, and Downing. New fire trucks or better training programs or even more firefighters cannot even begin to compensate for the loss suffered by the people of Queens and the families of these brave men. For their lives, we are forever indebted. But for their cause, we can dedicate ourselves to help ensure that no firefighter ever enters a burning building without the best possible training and equipment.

So I stand here before you, Mr. President, and the members of this chamber to say that these men and their families shall not be forgotten. They have sacrificed their lives for us, and for this they deserve no less than the highest degree of honor and respect. We here today cannot compare our own deeds to those of Harry Ford, Brian Fahey, and John Downing, but we can bring honor to ourselves and justice to their memories by keeping them and the needs of the fire service in mind as we perform our own duties.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 117) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 117

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York;

Whereas a fire and an explosion in a 2-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass;

Whereas all those who responded to the scene served without reservation and with their personal safety on the line;

Whereas 2 civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured;

Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of 2, lost his life in the fire;

Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and

Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire: Now, therefore, be it

Resolved, That the Senate—

(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;

(2) extends its deepest sympathies to the families of these 3 brave heroes; and

(3) pledges its support and to continue to work on behalf of all of the Nation's firefighters who risk their lives every day to ensure the safety of all Americans.

A CALL FOR ACTION

Mr. LEVIN. Mr. President, a new poll conducted by the Opinion Research Corporation International and released by the Brady Campaign to Prevent Gun Violence confirms once again that the American people support sensible gun safety legislation. Eighty-three percent of those polled said they support criminal background checks on all gun purchases at gun shows. Nearly four out of five respondents voiced support for preventing gun dealers from selling guns to anyone who has not passed a background check, even if it takes more than 3 days to complete the check. And more than 8 out of every 10 people polled believe that all guns should be sold with childproof safety locks.

The message here is clear. People are fed up with the reports of gun violence that dominate the front page and the evening news. America wants action.

The Brady Campaign's poll and countless other studies demonstrate our mandate. The incidents of gun violence that plague our neighborhoods and endanger our children confirm our moral obligation.

We should ignore neither. We cannot let another Congress go by without action. Let's close the loopholes in our gun laws and remember the 107th Congress as a time when we made America a safer place for our children and our grandchildren.

GENERAL ACCOUNTING OFFICE REPORT ON DISADVANTAGED BUSINESS ENTERPRISES PRO- GRAM

Mr. MCCONNELL. Mr. President, when the 105th Congress passed the Transportation Equity Act for the 21st Century, TEA-21, there was a vigorous and close debate about whether to convert the Disadvantaged Business Enterprise Program into a race neutral program helping all small disadvantaged businesses. It troubled many members of both Houses that we lacked basic information about the characteristics of DBEs and non-DBEs and about alleged discrimination in the transportation industry. Consequently, I introduced, with widespread bi-partisan support, an amendment to TEA-21, requiring the

GAO to gather the information Congress was missing that is essential to understanding the DBE program. As Congressman SHUSTER, Chair of the House Committee on Transportation and Infrastructure and the floor manager for the transportation bill, emphasized during the House debate, the Act "also requires a GAO study that would examine whether there is continued evidence of discrimination against small business owned and controlled by socially and economically disadvantaged individuals. I believe such a study will lay the groundwork for future reform."

Three years later, the GAO has produced a comprehensive report on the questions Congress asked it to investigate. This objective, impartial report entitled, "Disadvantaged Business Enterprises: Critical Information is needed to Understand Program Impact," GAO Report GAO-01-586, June 2001, is highly significant to the continuing legislative and judicial debate over the DBE program. Professor George R. La Noue, one of the distinguished scholars in this field, has analyzed the GAO's report. He notes that the "DBE program has been continuously subject to litigation during its almost two decades of existence." Professor La Noue concludes that "the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs." I am pleased to provide Professor La Noue's analysis of the GAO report, and I request that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN ANALYSIS OF "DISADVANTAGED BUSINESS ENTERPRISES: CRITICAL INFORMATION IS NEEDED TO UNDERSTAND PROGRAM IMPACT"

GAO Report [GAO-01-586 June 2001]

(By George R. La Noue, Professor of Political Science)

DIRECTOR, PROJECT ON CIVIL RIGHTS AND PUBLIC CONTRACTS, UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

During the 1998 consideration of the Transportation Equity Act for the 21st Century (TEA-21), there was extensive debate in both Houses about whether to make the DBE program race-neutral. In the end, a compromise was reached to retain a race conscious DBE program, while requiring the General Accounting Office to make a three year study of the characteristics of the DBEs and non-DBEs participating in federal transportation programs and to gather existing evidence of discrimination against DBEs. Such information was intended to provide a solid basis of facts for courts, legislators, and others grappling with the complex issues of the constitutionality of the DBE program.

The GAO study now has been released and its conclusions are highly significant. GAO performed its three year study by obtaining data from 52 state DOT recipients (including the District of Columbia and Puerto Rico) and 31 of the largest (accounting for two-thirds of transit grant funds obligated in 1999) transportation districts in the country. In addition GAO staff interviewed representatives of interest groups on both sides of the

DBE question and analyzed the results of 14 transportation related disparity studies.

Following are GAO's major conclusions.

1. DISCRIMINATION COMPLAINTS

GAO conducted a survey of discrimination complaints received by USDOT and recipients. GAO found that, while USDOT sometimes receives written complaints of discrimination, the agency does not compile or analyze the information in those complaints. GAO could not supply information on the number of complaints filed, investigations launched, or their outcomes. (p. 33) GAO also asked state and local transit recipients about complaints they received and they had better data. During 1999 and 2000, 81 percent of the recipients had no complaints, while a total of 31 complaints were received by the other recipients. Of these, 29 were investigated and findings of discrimination were made only 4 times across the nation.

The report concluded: Other factors may also limit the ability of DBEs to compete for USDOT-state assisted contracts. The majority of states and transit districts we surveyed had not conducted any kind of analysis to identify these factors. Using anecdotal information, we identified a number of factors, or barriers, such as a lack of working capital and limited access to bonding, that may limit DBEs' ability to compete for contracts. However, there was little agreement among the officials we contacted on whether these factors were attributable to discrimination. (p.7)

In fact GAO reported there were few if any studies by government agencies or industry groups regarding barriers to DBE contracting. "USDOT officials, however, stated that they believe contract bundling is one of the largest barriers for DBEs in competing for transportation contracts." (p. 35) That, of course, is not a problem caused by discrimination.

2. DISPARITY STUDIES

GAO also reviewed 14 transportation-specific disparity studies completed between 1996 and 2000. GAO examined these studies because they might be a source of evidence about discrimination against DBEs and because USDOT permits recipients to use disparity studies to set annual goals and to determine the level of discrimination these goals purportedly are remedying. GAO found that about 30 percent of the recipients surveyed used disparity studies to set their fy 2000 goals. (p. 29).

GAO found that: the limited data used to calculate disparities, compounded by the methodological weaknesses, create uncertainties about the studies findings. . . . While not all studies suffered from every problem, each suffered enough problems to make its findings questionable. We recognize there are difficulties inherent in conducting disparity studies and that such limitations are common to social science research; however, the studies we reviewed did not sufficiently address such problems or disclose their limitations. (p.29)

GAO then detailed disparity study problems, particularly in calculating DBE availability. These problems are important not only because they undermine the validity of the disparity studies involved, but because these same problems exist in the regulations USDOT issued regarding annual goal setting. USDOT as a practical matter permits recipients to use a wide variety of sources to measure availability on which goals are then based.

GAO made other specific criticisms of the studies. For example, the studies did not have information on firm qualifications or capacities; they failed to analyze both the dollars and contracts awarded and sometimes did not have subcontracting data. This