

Congress of the United States

Washington, DC 20515

JOIN US IN FIGHTING FOR PATIENTS !!!

*by cosponsoring our new patients' bill of rights,
H.R. 526, the Bipartisan Patient Protection Act of 2001.*

This week, we introduced H.R. 526, the Bipartisan Patient Protection Act of 2001, with Senators McCain, Edwards, Chafee, Kennedy, and Specter introducing the companion bill in the Senate. This bill represents a meaningful bipartisan compromise on contentious patients' rights issues such as scope, plan accountability, and employer liability.

In more detail, H.R. 526 includes the basic protections that need to be addressed, including the right to choose your own doctor, protections against gag clauses, access to specialists such as pediatricians and obstetricians-gynecologists, access to emergency care, and access to plan information.

H.R. 526 covers all 190 million Americans in private insurance, including ERISA plans, non-federal governmental plans, and plans in the individual market. The Bipartisan Patient Protection Act addresses the concerns of those who want to protect states' rights by allowing states to demonstrate their insurance laws are at least "substantially equivalent" to the new federal standards, thereby leaving equivalent or stronger state laws in effect. States can continue to enforce their state patient protection laws.

Under this bipartisan compromise, patients will be assured that doctors will make medical decisions involving their medical care. When a plan denies coverage, the patient will have the ability to pursue an independent review of the plan's decision by a panel of medical experts independent of the health plan. This decision is then binding on the plan.

H.R. 526 outlines a new compromise on liability that provides meaningful accountability for injured patients. Taking the lead of the Supreme Court in *Pegram v. Herdrich* and addressing the desire of multi-state employer plans for uniformity in benefit decisions, the new bill creates a bifurcated federal and state liability system. Injured patients can hold health plans accountable in state court for disputes over the quality of medical care – those involving medical necessity decisions. However, patients who were injured by a plan's administrative non-medical decision to deny benefits or coverage would proceed to federal court. Additionally, punitive damages are prohibited in state court unless the plan shows willful or wanton disregard for a patient's rights or safety.

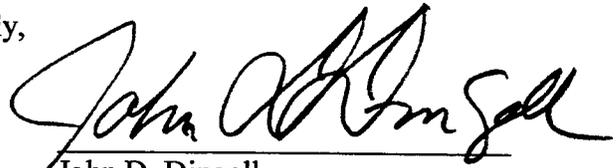
H.R. 526 also addresses other concerns raised by the House-passed Norwood-Dingell-Ganske-Berry bill. For instance, the new bill says employers may not be held liable unless they "directly participate" in a decision to deny benefits that results in injury or death. This strikes the proper balance between employer, plan and patient, and prevents the creation of a massive loophole undoing all the protections in the bill.

This bill has bipartisan support in both the House and Senate. Please contact Adam Chrisney (Ganske – 54426) or Bridgett Taylor or Amy Droskoski (Dingell – 63400) to cosponsor H.R. 526, the Bipartisan Patient Protection Act of 2001, or if we may be of any assistance regarding this issue. We hope you will join us as a cosponsor of this legislation and work to ensure effective and enforceable patient protections are signed into law this year.

Sincerely,



Greg Ganske
Member of Congress
Committee on Energy & Commerce



John D. Dingell
Ranking Member
Committee on Energy & Commerce