Letter personalized and sent to entire Senate
June 26, 2001

The Honorable Daniel K. Akaka
United States Senate
141 Hart Senate Office Building

Washington, DC 20510

Dear Senator Akaka:

The insurance industry is trying to argue that the debate in the Senate over the Bipartisan Patient Protection Act is over the so-called "right to sue". They are gambling that they can win the fight against the patient bill of rights if the debate can be shifted toward a discussion of lawyers and lawsuits, rather than doctors and patients. The real issue though is not the right to sue, but the right of patients to get the right care, at the right time, without having to fight an entrenched insurance bureaucracy.

I am President of the American College of Physicians-American Society of Internal Medicine (ACP-ASIM), the largest medical specialty society in the United States, with a membership of over 115,000 physicians and medical students. Our members practice in an environment where managed care plans too often impose barriers to patients getting the care that they need.

The Bipartisan Patient Protection Act of 2001, S. 1052, is a common sense bill that would put the patient back in the driver's seat when it comes to their medical care. It guarantees choice of physician and access to appropriate specialty care. It would prohibit insurers from denying coverage for emergency room visits for symptoms, such as chest pains, that a reasonable non-medical person would view as life threatening. It requires insurers to make determinations in a timely manner. It guarantees access to a truly independent review of health care denials by outside medical experts, based on the treating physician's professional judgment *and* expert opinion and published studies, rather than on the insurers' own criteria for payment.

Although competing legislative proposals address many of these protections, the reality is that they fall short of the protections in S. 1052 in several key areas. For instance, the external review in the proposal that the administration favors would allow the insurers to pick the review body—a clear conflict of interest. States with weaker protections could also "opt-out" if they could make a claim that their laws were consistent—but not equivalent or greater—than the federal protections. These and other differences in approach are as, and in some ways more important, than the much-publicized debate over the conflicting liability provisions.

It is true that S. 1052 would also allow the patient to hold the MCO accountable in a court of law, but only if the MCO has acted in a way that has caused irreparable harm to the patient. Quality HMOs, of course, will put in place measures to make sure that patients aren't harmed in the first place, rather than having to end up in court.

America's internists believe that the Bipartisan Patient Protection Act of 2001, S. 1052, is the best bill for patients. Not just because it offers appropriate redress in court when a patient has been irreparably harmed, but because it is the only bill that will truly level the playing field between patients and an entrenched insurance bureaucracy.

Sincerely,

William J. Hall, MD
President