

March 15, 1999
Honorable Jim Jeffords
Chairman
United States Senate
Health, Education, Labor & Pensions Committee
SD 428
Washington, DC 20510

Dear Mr. Chairman:

The American College of Physicians–American Society of Internal Medicine (ACP–ASIM), representing more than 110,000 physician-members who specialize in internal medicine, is pleased to comment on S. 326, the Patients’ Bill of Rights Act. While the proposal includes several patient protections we believe should be mandated by law, in other respects it falls short. We are particularly concerned that your bill only covers those individuals who are insured by large employers under ERISA, leaving tens of millions of Americans without the federal protections included in the bill. ACP-ASIM strongly believes that the rights of all Americans must be protected by federal law.

The proposal omits several other important rights and protections as well. For example, missing from your bill is a provision making health plans, including those exempt from state regulation under ERISA, accountable in a court of law for medical decisions that may result in death or injury to a patient. In addition, your bill does not provide participating physicians in a health plan a central role in the development of utilization review and quality improvement protocols. ACP-ASIM is also concerned that your bill does not contain provisions to ensure that physicians will make decisions regarding the medical necessity and appropriateness of treatments.

Moreover, to ensure that patients receive high quality care, plans should be required to maintain an ongoing internal quality improvement program and participate in an external program as well. ACP-ASIM is particularly disappointed that these critical requirements do not appear in your proposal since they were included in the Healthcare Quality, Education, Security and Trust Act, the bill you introduced last year.

S. 326 also does not adequately address the need to ensure access to affordable health insurance coverage. Patient protections are meaningless if patients lack health insurance coverage. ACP–ASIM calls on the Congress to guarantee the most basic right of all Americans--the right to insurance coverage--by crafting legislative solutions that will reduce, with a goal of eventually eliminating, the growing numbers of uninsured citizens.

Your bill contains some necessary protections, however. Specifically, the College supports the following provisions in your bill:

- requiring that all enrollees in managed care plans be offered a point-of-service option, which will enable them to obtain care from physicians outside the health plan’s network of participating health professionals;

- requiring a prudent layperson standard for emergency room coverage determinations;
- providing enrollees and prospective enrollees with the information they need to compare health plans, including quality indicators and measures;
- prohibiting “gag rules” that restrict communication between physicians and patients;
- establishing safeguards to protect the confidentiality of personal health data;
- prohibiting health plans from using genetic testing to discriminate against patients; and
- requiring health plans to provide access to a timely review process with an opportunity for independent review by an independent physician when a service is denied.

When the Committee marks up this bill, the College hopes to maintain these provisions, while adding language to provide the guarantees needed to truly protect patients. We stand ready to work with you and your colleagues to develop such legislation.

Thank you for your consideration of these important issues.

Sincerely,

Alan R. Nelson, MD, FACP
Associate Executive Vice President