

PROVIDING FOR THE CONSIDERATION OF H.R. 1304, THE
QUALITY HEALTH-CARE COALITION ACT OF 2000

JUNE 28, 2000.—Referred to the House Calendar and ordered to be printed

Mr. GOSS, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 542]

The Committee on Rules, having had under consideration House Resolution 542, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 1304, the Quality Health-Care Coalition Act of 2000, under a structured rule. The rule provides one hour of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill. The rule makes in order the committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment, which shall be considered as read. The rule also waives all points of order against the amendment in the nature of a substitute.

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order are waived against the amendments printed in this report.

The Chairman of the Committee of the Whole may postpone votes during consideration of the bill, and reduce voting time to five minutes on a postponed question if the vote follows a fifteen

minute vote. Finally, the rule provides one motion to recommit with or without instructions.

SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. Ballenger: Provides that the exemption included in the bill not apply to: (1) negotiations between health professionals and health plans relating to fees, payments, reimbursements, or other compensation arrangements; or (2) negotiations with a health plan that would allow health professionals to balance bill patients of a health plan. The exemption would also not apply to a health professional if they had not submitted and received approval from the Sec. of HHS on a plan to reduce medical errors. Health professionals availing themselves of the exemption would also be required to notify patients and prospective patients of their participation in exempt negotiations. The exemption would not apply to health professional who engaged in boycotts of health plans. (20 minutes)

2. Stearns: Exempts groups of health care professionals engaged in negotiations with health plans from federal antitrust laws if the FTC or the Department of Justice has certified that such negotiations would promote competition and enhance the quality of patient care. Groups representing fewer than 20% of the health care professionals in a specialty in a market area would get an antitrust exemption without having to obtain approval from the FTC or DOJ. Finally, the amendment clarifies that the bill does not create any legal right for such groups of health care professionals to engage in boycotts, coercive behavior or engage in a collective cessation of service to patients. (10 minutes)

3. Cox: Provides that a physician may not be forced to join a union as a condition of employment by a health plan. (10 minutes)

4. Terry: Prevents doctors, or any health care professional covered in the bill, from using the bill language to negotiate fees. (10 minutes)

5. Coburn: Exempts discussions regarding requiring abortion coverage from collective bargaining negotiations. (20 minutes)

6. Davis (IL): Sense of Congress that medical decisions regarding treatment should be made by the physician or health care professional and the patient. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BALLENGER OF NORTH CAROLINA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 3, line 9, strike “Any” and insert “Except as provided in paragraph (3) of subsection (c), any”.

Page 4, after line 20 insert the following:

(3) APPLICATION.—The exemption provided in subsection (a) shall not apply to the following:

(A) Any negotiations with a health plan regarding or relating to fees, payments, or reimbursement, including the methodology of such fees, payments, or reimbursement between health care professionals and health plans.

(B) Any negotiations with a health plan to permit health care professionals to balance bill patients.

(C) Any health care professional who has not submitted to and received approval from the Secretary of Health and Human Services for a plan that specifies policies and procedures to identify and reduce the incidence of medical errors.

(D) Any health care professional who has not disclosed to patients and prospective patients information regarding the professional's participation in such negotiations.

(E) Any acts by health care professionals to engage in boycotts.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STEARNS OF FLORIDA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, insert before the period the following: “, but only if such health care professionals have received prior approval for such negotiations from the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (i).”.

Page 6, after line 21, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(i) PRIOR APPROVAL.—

(1) IN GENERAL.—Health care professionals who seek to engage in negotiations with a health plan as provided in subsection (a) must obtain approval from the Commission or the Assistant Attorney General prior to commencing such negotiations. The Commission or the Assistant Attorney General shall grant such approval if the Commission or Assistant Attorney General has determined that recognition under subsection (a) of the group of health care professionals for the purpose of engaging in collective negotiations with the health plan will promote competition and enhance the quality of patient care. The approval that is granted under this subsection may be limited in time or scope to ensure that these criteria are met. The Commission and the Assistant Attorney General shall make a determination regarding a request for approval under this paragraph within 30 days after the date it is received, if the request contains the information specified in regulations issued under paragraph (2). Failure by the Commission or Assistant Attorney General to make such determination within such 30-day period will be deemed to be an approval of the request by the Commission or the Assistant Attorney General.

(2) REGULATIONS.—The Commission, in consultation with the Assistant Attorney General, shall publish regulations implementing this subsection within six months of the effective date of this Act. Such regulations shall include the following:

(A) A description of the information that must be submitted by health care professionals who seek to obtain approval to engage in collective negotiations.

(B) Provisions for the opportunity for the public to submit comments to the Commission or the Assistant Attorney General for consideration in reviewing any request for approval by health care professionals to engage in collective negotiations under this section.

(C) Provision for a filing fee in an amount reasonable and necessary to cover the costs of the Commission and

the Assistant Attorney General to implement this subsection. On an annual basis, this fee shall be updated to reflect any increases or decreases determined to be necessary to cover such costs.

(3) COORDINATION.—The Commission and the Assistant Attorney General shall coordinate so that an application is reviewed under this subsection by either the Commission or the Assistant Attorney General, but not both.

(4) EXEMPTION FOR SMALL GROUPS.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection (other than subparagraph (B)), no prior approval is required under this subsection in the case of a group of health care professionals who are acting collectively with respect to a negotiation if such group constitutes less than 20 percent of the health care professionals in a specialty (or subspecialty) in the market area involved, as determined under regulations of the Commission.

(B) OVERSIGHT.—The Commission shall establish a process under which, if it receives a bona fide request that alleges that the negotiations of a group described in subparagraph (A) has not promoted competition or has not enhanced the quality of patient care, the Commission will review the request and may take such action as the Commission determines to be appropriate. Such action may include ordering that the results of the negotiations be vitiated and that the exemption under subparagraph (A) not apply to such group for such period as the Commission may specify.

Page 8, after line 8, insert the following:

(4) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(5) ASSISTANT ATTORNEY GENERAL.—The term “Assistant Attorney General” means the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COX OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 20, insert the following new paragraph:

(3) PHYSICIANS’ RIGHT TO CHOOSE WHETHER TO JOIN A LABOR ORGANIZATION.—Nothing in this Act shall impair the right of any health care professional to refrain from self-organizing, from forming, joining or assisting a labor organization (including an organization of other health care professionals), from bargaining collectively, or from engaging in concerted activities, and no agreement with a health care plan may require membership by a health care professional (who under existing law prior to the enactment of this Act would not have been treated as an employee) in a labor organization, including any organization of other health care professionals, as a condition of employment.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TERRY OF NEBRASKA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 20, insert the following:

(3) NO NEGOTIATION OVER FEES.—The exemption provided in subsection (a) shall not apply to negotiations over fees.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COBURN OF OKLAHOMA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 6, after line 10, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(h) EXEMPTION OF ABORTION AND ABORTION SERVICES.—Nothing in this section shall apply to negotiations specifically relating to requiring a health plan to cover abortion or abortion services.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DAVIS OF ILLINOIS, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following new subsection:

(j) SENSE OF CONGRESS.—It is the sense of Congress that decisions regarding medical care and treatment should be made by the physician or health care professional in consultation with the patient.