

# iiiIssues

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of the American health care system

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Kennedy-McCain version of the Patients' Bill of  
Rights

*If redress through litigation* is enacted,

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*Small business employers* will  
struggle to provide health coverage for their  
employees.

## Employers Expect Higher Healthcare Costs

According to the 2001 Health Care Cost Survey by Towers Perrin, 2000 saw a 12% increase in health care costs to employers, with a further 13% expected in 2001

The survey of 221 large U.S. corporations also revealed that employers expect overall health plan costs to grow in 2002, with an expected 16% increase in Medicare HMO expenses. This is far greater than the 11% expected increases in PPOs and HMOs.

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## Patients' Right to Healthcare or Lawyers' Right to Sue

by Khalid Kader, Ph.D.

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In the health care debate now raging in the United States Congress and around water coolers throughout the country, there are a number of players vying for the best possible outcomes for themselves. Muslim Americans, as an integral part of the American health care system (comprising a larger percentage of researchers, physicians, and other health care specialists than the average in the nation) have a personal stake in the way this debate resolves itself. There are also the rank-and-file physicians and their ostensible representatives, groups such as the American Medical Association (AMA), the Health Maintenance Organizations (HMOs), the American Bar Association (ABA) representing the trial lawyers, patients' groups, drug and device companies, and the research community. While trial lawyers, drug companies, and the HMOs are usually classified with used car salesmen and the tobacco industry, physicians and researchers are usually seen in a positive light. This is reflected in recent congressional action by increasing the budget for the National Institutes of Health and in protecting the biomaterials industry with the Biomaterials Access Act of 1998.

What are the parameters that the American people require for a Patients' Bill of Rights? While the Republican and Democratic versions in both the House and the Senate agree for the most part regarding access, portability, and protecting the patient/physician relationship, the major point of

contention is to remedy inadequate and inappropriate health care. Out of the players identified above, the AMA and the HMOs have been the most vocal in responding to the legislative initiatives. Not surprisingly, the AMA has endorsed the Kennedy-McCain bill (AMA press release, July 2, 2001) supported mainly by the Democrats, while the American Association of Health Plans has come out strongly against the Democrats' approach (AAHP press release, June 26, 2001). Why such a difference? In the 1980s, physicians responded to patient concerns about the increasing cost of health care by agreeing to be managed by non-physician groups. These groups would regulate the cost by deciding on a group basis either to cover or not to cover certain procedures in certain instances. While this did reduce the cost of health care for the average American, it produced flat physician salaries (in real dollars, *Managed Care*, 1998) without reducing the cost of malpractice insurance. The Democratic bill would allow for more of the burden of malpractice to be placed on the HMO by taking more of the decision to reduce care out of the physicians' hands and placing it into a market driven HMO.

The trial lawyers have also strongly endorsed the Kennedy-McCain version of health care reform. In a June 15, 2001 press release, the ABA suggested that since the periods of time allowed to file requests for external review were longer and that there were no minimum claims set and no maximums on filing fees stipulated, the bill was more conducive to patients' rights. This is likely the most cynical and self-serving stance within the whole debate. The trial lawyers stand to gain the most from the Kennedy-McCain approach and they stand to lose the most under the Frist-Breaux-Jeffords approach, with its set limits.

If the right to unlimited external review and redress through litigation are enacted, and if no limits are set on compensation, the real losers will be patients and research. With increased litigation, HMOs will be forced to pass on the costs to their customers. Patients will be forced into more restrictive plans that limit the pool of physicians they may consult. There will be limits on procedures, with treatments

that are now considered routine being classified as elective. These procedures include device based and experimental therapies. This will result in a reduction of research funding through drug and device design companies. With this reduction of funding resources from the marketplace, both the drug development and biomedical device development research communities will suffer, as will patients for whom new interventions will not be designed.

The HMOs will be forced to cut down on research funding to cut costs. The HMOs presently fund a plethora of research for decreasing the incidence of simple illnesses such as the flu and preventative medicine as well as epidemiological and outcomes studies.

Finally, patients will find that the HMOs need to increase revenue to remain viable and will increase the cost of coverage leading many employers to eliminate coverage. This will be a problem most encountered by small businesses that struggle to provide health care coverage for their employees. Will this increase the number of uninsured people in the nation? Will this decrease congressional funding of research through the National Institutes of Health so that the Congress can assist those without health care insurance? The health care road that Congress now travels is forked. To one side is increased funding for health care through real reform that benefits the patient, the physician, and the research community. The other side provides relief only for the trial lawyers. We pray that Congress makes the right choice.

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