

up partly because of expensive and sometimes unnecessary procedures. Most members of Congress aren't scientists or health care researchers, so a panel of experts would be better suited to use the best research to recommend reforms. I will vote against a bill to repeal IPAB that doesn't put a better system in its place.

Unfortunately, this week the House Majority released a budget plan (the Ryan Budget) that would end the Medicare guarantee for our seniors. The Ryan Budget would again turn Medicare into a voucher system where seniors would have to purchase private plans. Private plans could deny and delay coverage, without Medicare's consumer protections our seniors get today. Last year's House budget tried this same plan, and the Congressional Budget Office said it would increase costs to people on Medicare by \$6,000 per person starting in 2022.

The bill we're voting on today, H.R. 5, also recycles an old misguided proposal for medical negligence reform. Someone who is harmed by misconduct by a health professional should not be barred from appropriate compensation for a permanent disability or loss of a loved one.

The reality is that most medical providers are doing the right thing. A small percentage of doctors are responsible for over half the medical malpractice cases. We shouldn't be protecting this minority of providers over the rights of patients injured through these providers' negligence. Today's bill would deny justice to those who have been harmed by a small number of medical providers.

Today's bill, H.R. 5, would also hurt states' rights by preempting state medical malpractice laws. A cap on damages for physical impairment, pain, suffering, and even death could not exceed \$250,000, regardless of individual states' existing limits.

Today's bill also extends far beyond medical malpractice. It would also apply to limit patients' rights in all "health care lawsuits," which could include cases against pharmaceutical and medical device manufacturers, nursing homes, HMOs, insurance companies, and hospitals.

While proponents of medical malpractice reform argue that frivolous lawsuits are driving up insurance premiums, the fact is, economic studies have shown that medical malpractice payouts are not the cause of higher premiums for consumers. Instead, premium increases are caused by other factors, such as too little competition in the private insurance market.

I urge my colleagues to reject H.R. 5.

On the second anniversary of the Affordable Care Act, we should be fighting to make healthcare more accessible for our people, not less.

Mahalo nui loa (thank you very much).

CELEBRATING THE SERVICE OF  
MS. SYLVIA WHEELING OF THE  
BALDWIN CENTER

**HON. GARY C. PETERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 22, 2012*

Mr. PETERS. Mr. Speaker, I rise today to salute Ms. Sylvia Wheeling, Baldwin Center Director of Food Services, on the occasion of

her retirement from the human service agency, located in the great city of Pontiac, Michigan.

A 30-year volunteer at Baldwin Center, Sylvia Wheeling truly epitomizes what it means to be a dedicated servant to the community. In 1981, as a member of the former Baldwin Avenue United Methodist Church, Sylvia was the first person to respond to her pastor's appeal to the church that it reach out to the surrounding community and be a good friend and neighbor. She started by cooking a few meals. Now, some 30 years later, Sylvia manages a kitchen that served more than 65,000 meals to men, women and children.

Baldwin Center has grown significantly during Sylvia Wheeling's tenure there and she has been an integral volunteer dutifully supporting its many programs and services.

As testament to her impact on the lives of many neighbors in the Pontiac community, one person recalled how a man, who was trying on a pair of pants at the center's Clothes Closet, had his size 13 pair of boots stolen from him. Within a half hour, a compassionate Sylvia had driven to a store and purchased a new pair for him.

Another person remembered how Sylvia stayed in the Intensive Care Unit with a homeless woman until her father could be found.

Similarly, others can recite many times when her influential presence defused conflicts, and how even when she had to be stern, Sylvia nonetheless showed grace under fire.

In a December 31, 2009 Oakland Press feature story titled, "Soup kitchen volunteer feels 'blessed'" Sylvia Wheeling said the following: "I am very grateful I could be a part of that. I have been very blessed."

We are very grateful and blessed that she has shared her time, her talent and her treasure with Pontiac, Michigan's Baldwin Center for 30 wonderful years.

Mr. Speaker, I ask my colleagues join me today in saluting and congratulating, Ms. Sylvia Wheeling, Director of Food Services at Baldwin Center of Pontiac Michigan. We wish her all the best in her well-deserved retirement.

HONORING DANIEL CASAS

**HON. PETE OLSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 22, 2012*

Mr. OLSON. Mr. Speaker, I am privileged to interact with some of the brightest students in the 22nd Congressional District who serve on my Congressional Youth Advisory Council. I have gained much by listening to the high school students who are the future of this great nation. They provide important insight into the concerns of our younger constituents and hopefully get a better sense of the importance of being an active participant in the political process. Many of the students have written short essays on a variety of topics and I am pleased to share these with my House colleagues.

Daniel Casas is a freshman at Clear Brook High School in Galveston County, Texas. His essay topic is: Select an important event that has occurred in the past 50 years and explain how that event has changed our country. Daniel chose September 11th, 2001.

An important event that has occurred in the last 50 years was September 11, 2001. September 11, 2001, was a big disaster for the United States of America. Thousands of people died from this tragic event, people were scared when they boarded airplanes, which were the vehicle by which this much of this destruction was brought on the United States of America. Islamic terrorists that were linked to Osama bin Laden and Al Qaeda, hijacked four American airliners. The terrorists crashed all four planes into different locations on the east coast of America, two crashed into the World Trade Center towers located in financial district of New York City, one into the Pentagon in Arlington, Virginia, and the final one crashed into a rural field in Pennsylvania. The passengers on flight 93 fought to regain control of the aircraft from the hijackers but did not succeed. More than 3,000 people in total were killed during these attacks. Most of the people killed were located in the World Trade Center. New York Army National Guard units were quickly called up to restore order and provide disaster relief in the wake of this tragedy. At the pentagon, 74 military and civilian personnel were killed. President Bush called approximately 10,000 soldiers up to active duty in Iran. Due to this terrorists act which occurred many American's were enraged and then enlisted in the military to retaliate for what the terrorists had done to our country. In December 2001, more than 17,000 soldiers from reserve components from various home land security functions were called to service. The Department of Defense called this effort "Operation Noble Eagle". Because of what these terrorists did a lot of Americans now refer to all Muslims as terrorists. Due to these events the United States has created more effective metal detectors and improved the security around our airports, ports and other points of entry into the country. The United States was bought together as a nation in this great time of despair.

RECOGNITION OF LYNCH  
SYNDROME AWARENESS DAY

**HON. EDOLPHUS TOWNS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 22, 2012*

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute and to honor Lynch Syndrome Awareness Day. Lynch Syndrome is a hereditary condition that exposes families to a higher risk of contracting aggressive cancers at a younger than average age.

First identified in 1966 by Dr. Henry T. Lynch, Lynch syndrome is a genetic disorder caused by a mutation in mismatch repair genes MLH1, MSH2, MSH6, EPCAM, and PMS2. Mismatch genes typically protect the body from cancers by repairing the errors in DNA replication, but due to the mutation, those mismatch genes have stopped functioning properly. Consequently, the defective gene causes individuals affected by Lynch Syndrome to sustain a lifetime risk of up to eighty-two percent of developing Colorectal Cancer, sixty-five percent of contracting Endometrial Cancer, nineteen percent Gastric Cancer and a much higher than average risk of contracting many other cancers, most often at a younger than average age.

The only accurate method of diagnosing Lynch Syndrome is through genetic testing and a comprehensive assessment of the family's medical history. To be diagnosed with

Lynch Syndrome, a patient must meet the Amsterdam Criteria II—three relatives must have Lynch Syndrome associated cancers, two must be directly related to the third, and one must be under the age of 50.

In the U.S. alone, there are approximately 600,000 people who are carriers of Lynch Syndrome mutation, yet only five percent of those carriers have been diagnosed. In comparison to the general population, in a lifetime, people affected by Lynch Syndrome are up to eighty-two percent more susceptible to Colon Cancer, up to sixty percent more prone to Endometrial Cancer, eleven to nineteen percent more disposed to Stomach Cancer, nine to twelve percent more vulnerable to Ovarian Cancer, and the list continues.

While researchers have not been able to determine a cure for Lynch Syndrome, there are still various ways to manage and treat this condition. Through screenings and medical management programs, polyps and growths can be detected and removed before becoming life-threatening. In addition to annual colonoscopies, EGDs, endometrial samplings, urinalyses, dermatological examinations, pathological testing of all colorectal tumors in accordance with NCCN guidelines, and abdominal hysterectomies, Lynch Syndrome can be effectively managed.

Mr. Speaker, I urge my colleagues to join me in recognizing today as Lynch Syndrome Awareness Day. Although researchers have yet to find a cure, hopefully, through our support and recognition more people will become educated about this extremely life-threatening disease and a cure will shortly be on its way.

## PROTECTING ACCESS TO HEALTHCARE ACT

SPEECH OF

**HON. SHEILA JACKSON LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 21, 2012*

The House in Committee of the Whole House on the state of the Union had under consideration the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system:

Ms. JACKSON LEE of Texas. Mr. Chair, today we again are considering H.R. 5, the "Help Accessible, Efficient, Low-cost, Timely Healthcare (HEALTH) Act." This bill is intended to change what some of my colleagues on the right believe to be a broken medical malpractice liability system.

Quite paradoxically, many supporters of H.R. 5 are vocal opponents of the recently passed health-related federal law, the Affordable Care Act, whose anniversary we celebrate here tonight. It must be stated that many Americans celebrate with us and dine in good health—thankful that this Congress came together to pass health care 2 years ago.

Foes of healthcare reform claim that the Commerce Clause of the U.S. Constitution, which gives the Federal Government some authority over states, was abused to pass the healthcare law. Under the rules of this Congress, House sponsors of any bill must explain Congress' constitutional authority to pass it.

Rather ironically, H.R. 5's sponsor, Representative PHIL GINGREY (R-GA), cites the

Commerce Clause as he tries to enact sweeping legislation that would completely overhaul State tort law and undermine hundreds of years of precedent.

Yet, for my colleague, Mr. GINGREY, his statement represents a complete reversal from his position on the Affordable Care Act, which he has called "the government takeover of our healthcare system."

Which might explain why my colleague Mr. WOODALL from Georgia submitted an 11th hour amendment during the Rules Committee Hearing on the rule for H.R. 5, striking the Commerce Clause mention from this bill.

The Woodall Amendment struck almost two pages from their bill—and reading it I can see why. It reads:

**EFFECT ON INTERSTATE COMMERCE.**—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

This sounds strikingly similar to the arguments being advanced against the Affordable Healthcare Act. You cannot have your cake and eat it too. Either health care affects interstate commerce or it doesn't. Which is of course the impetus for the amendment offered by my colleague from Georgia. What a dilemma to find oneself in? Trying to gut the Affordable Healthcare Act, but using the precise argument supporting Congress' power to regulate.

While the U.S. Constitution and Supreme Court interpretations do not identify a constitutional right to health care for those who cannot afford it, Congress has enacted numerous statutes, such as Medicare, Medicaid, and the Children's Health Insurance Program, that establish and define specific statutory rights of individuals to receive health care services from the government.

As a major component of many health care entitlement statutes, Congress has provided funding to pay for the health services provided under law.

The Commerce Clause of the U.S. Constitution empowers Congress "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." The Supreme Court developed an expansive view of the Commerce Clause relatively early in the history of judicial review.

This power has been cited as the constitutional basis for a significant portion of the laws passed by the Congress over the last 50 years, and it currently represents one of the broadest bases for the exercise of congressional powers.

The Supreme Court accords considerable deference to a legislative decision by Congress that a particular health care spending program provides for the general welfare.

If enacted, H.R. 5 would, among other things, cap the noneconomic damages that a plaintiff in a health care lawsuit could recover. It would also preempt existing State laws on proportionate liability, allow courts to reduce contingent fees, and abolish the collateral source rule.

Studies and empirical research have shown that caps diminish access to the courts for low wage earners, like the elderly, children and women. In fact, the American Bar Association has studied this issue for over 30 years.

If economic damages are minor and noneconomic damages are capped, attorneys are less likely to represent these potential plaintiffs. And frankly Mr. Speaker, many of these plaintiffs are not very likely to be able to afford access to legal services. The equal scales of justice would be tipped.

Those affected by caps on damages are the patients who have been most severely injured by the negligence of others. These patients should not be told that, due to an arbitrary limit, they will be deprived of the compensation determined by a fair and impartial jury.

The courts already possess and exercise their powers of remittitur to set aside excessive verdicts, and that is the appropriate solution rather than an arbitrary cap. Let the courts and judges do their jobs and judge.

While the system may need some tweaks to help control ballooning medical malpractice insurance premiums paid by doctors, it is imperative that as we make changes, we are careful not to remove incentive for doctors to perform their duties at the highest standard. We must not leave victims of malpractice without viable recourse.

The bill before us today is not new; in fact, it was first introduced in 2005. As written, the HEALTH Act would severely limit the ability of injured patients and their families to hold health care and medical products providers accountable.

The bill is so broadly drafted that it would also limit remedies against the for-profit nursing home, insurance and pharmaceutical industries, and even against doctors who commit intentional torts, such as sexual abuse.

Let's take a look at the collateral source rule which is the common-law rule that allows an injured party to recover damages from the defendant even if he is also entitled to receive them from a third party. Common third parties, that is, collateral sources, include a health insurance company, an employer, or the government.

To abolish the collateral source rule would be to allow or require courts to reduce damages by amounts a plaintiff receives or is entitled to receive from collateral sources.

But there is a reason that the common law adopted it: it is preferable for the victim rather than the wrongdoer to profit from the victim's prudence, for example buying health insurance or the good fortune in having some other collateral source available.

One commentator has also noted that, when the collateral source is the government, and the benefit it provides are future services, such as physical therapy, there is no guarantee that it will provide such services for as long as they are needed, as government programs may be cut back.

Moreover, I don't many people willing to literally give an arm or leg for cash, but accidents happen due to negligence. Awards serve to educate the public but also serve the added purpose of providing a disincentive for bad actors.

There are a number of reasons why this bill is flawed though, and not just the collateral source rule. Its scope is extremely broad and encompasses much more than necessary to simply protect doctors from high insurance premiums. It contains a sweeping preemption of state law. It reduces the statute of limitations on malpractice claims.

It severely restricts contingency fees, discouraging lawyers from taking on malpractices