

**NLWJC - KAGAN**

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**[08/07/1998 - 08/09/1998]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phone No. (Partial) (1 page)	08/07/1998	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
OPD ([Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[08/07/1998 - 08/09/1998]

2009-1006-F  
ke753

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah Rosen ( CN=Sarah Rosen/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-AUG-1998 19:27:13.00

SUBJECT: Biomaterials Signing

TO: Jonathan A. Kaplan ( CN=Jonathan A. Kaplan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Patricia E. Romani ( CN=Patricia E. Romani/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Michael Deich ( CN=Michael Deich/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Daniel N. Mendelson ( CN=Daniel N. Mendelson/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Ingrid M. Schroeder ( CN=Ingrid M. Schroeder/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Melissa M. Murray ( CN=Melissa M. Murray/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Shannon Mason ( CN=Shannon Mason/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Peter G. Jacoby ( CN=Peter G. Jacoby/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: John Podesta ( CN=John Podesta/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: David W. Beier ( CN=David W. Beier/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Phillip Caplan ( CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Theodore Wartell ( CN=Theodore Wartell/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Barbara Chow ( CN=Barbara Chow/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP @ EOP [ OMB ] )

# Withdrawal/Redaction Marker

## Clinton Library

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001. email	Phone No. (Partial) (1 page)	08/07/1998	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
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OPD ([Kagan])  
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READ:UNKNOWN

TO: Jake Siewert ( CN=Jake Siewert/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Jeanne Lambrew ( CN=Jeanne Lambrew/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Dawn L. Smalls ( CN=Dawn L. Smalls/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Melissa G. Green ( CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Sally Katzen ( CN=Sally Katzen/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Bruce R. Lindsey ( CN=Bruce R. Lindsey/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Charles W. Burson ( CN=Charles W. Burson/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Gene B. Sperling ( CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

I do not know when the President will sign this bill next week (deadline is Aug. 15th), but I will be out of the office on Monday and Tuesday, so I wanted to circulate this draft signing statement and provide the background attached in case this comes up then. If you have comments, please email to both me and Jake Siewert, who will incorporate comments if necessary while I am out.

If you need to reach me, I should be page-able through signal or at 1-800-sky-page, pin #216-8036 or reachable at [redacted] P6/(b)(6). If I can't [007] be reached and you have a legal question, you also can call Fran Allegra who is helping out family in Cleveland at [redacted] P6/(b)(6) or page him through the DoJ command center at 514--5000.

STATEMENT OF THE PRESIDENT  
August XX, 1998

I am pleased to sign today the Biomaterials Access Assurance Act of 1998, which should help to ensure the continued availability of life-saving and life-enhancing medical devices. The bill protects certain raw materials and parts suppliers from liability for harm caused by a medical implant. Congress heard significant evidence that these biomaterials suppliers are increasingly unwilling to sell their goods to implant manufacturers. Although these suppliers have never been found liable, they fear that the ir costs to defend themselves, if dragged into litigation over the medical device, would far outweigh the profits they would earn from supplying the raw materials. But without those materials, Americans would have to live without the heart valves, jaw implants, artificial hips, and other medical devices (including many not yet imagined) that can help the victims of disease and injury stay alive or improve the quality of their lives. This bill is an appropriate limitation on tort liability, because there has been a showing of an important need -- maintaining the supply of

biomaterials -- and the law is narrowly crafted to accomplish that objective. This bill addresses concerns that I raised, when I vetoed the product liability bill in 1996, about that bill's biomaterials provision. Changes made in this bill ensure that no plaintiff will be unable to recover the full amount of the damages she was awarded, because a supplier, whose negligence or intentionally tortious behavior was a cause of the plaintiff's harm, was protected from liability under this bill. As narrowed in this way, this bill represents a limited and balanced response to a demonstrated need and merits signature.

===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D91]MAIL42272142I.226 to ASCII,  
The following is a HEX DUMP:

FF575043CC040000010A020100000002050000001124000000020000485BC09371EA5F4A17127B  
91BE61DOC73528658E3B4E37A523E209A8FF1843DD71F01AC58B7A92A7F5533CBC8D3021D67270  
8090F5003D2E381281C4CC187B07ED575AC527D296E608CD7BD7283EDEBA4CFE1AAF0C77D71F65

## **BACKGROUND ON BIOMATERIALS**

August 7, 1998

### **What are biomaterials?**

“Biomaterials” are raw materials or component parts used in the manufacture of an implant -- a device placed in the body or in contact with bodily fluids or internal human tissue (e.g., joint replacements, pacemakers). Examples of biomaterials include the resin used in artificial heart valves and Teflon once used in jaw implants.

### **What is the problem?**

Suppliers of raw materials and component parts are increasingly unwilling to sell their goods to implant manufacturers out of fear of being dragged into costly litigation over the medical devices. Under current law, the suppliers have rarely if ever been found liable; however, they can be brought into the litigation. Some suppliers have spent considerable sums defending themselves. The suppliers argue that the potential litigation costs faced so dwarf the profits from these sales that the suppliers are better off refusing to sell to the manufacturers of these goods, since sales of the materials for use in medical devices are generally only a small portion of the overall market for these materials.

During Congressional hearings, industry representatives gave as an example the total global revenues in 1992 for polyacetol resin (used in artificial heart valves) for all medical applications was only \$214.50. In another story, a supplier alleged that a nickel's worth of Teflon in a jaw implant caused the supplier to incur \$40 million in court costs. Several studies suggest that these problems are not isolated. Suppliers argue that without protection from liability, biomaterials would be unavailable leading to the unavailability of lifesaving and life-enhancing medical devices.

### **What does the Biomaterials bill do?**

Under the biomaterials title of the bill, raw material and component part suppliers could not be liable for harm and could obtain an expeditious ruling on a motion to dismiss or for summary judgement if the generic raw material or component part supplied met contractual specifications and if the supplier could not be classified as either a manufacturer or a seller of the implant. The provision would immunize most biomaterials suppliers from suits for deficiencies in the design or testing of a medical device or for inadequate warnings with respect to that device.

### **What was the Administration's position on biomaterials?**

On May 2, 1996, the President vetoed product liability legislation that contained an early version of the biomaterial provisions. While generally supportive of the legislation's purpose, the President said that he could not support provisions that protected suppliers when they knew or should have known that the material they were supplying was unsuitable for the purpose intended. Amendments were added to address our concerns. Under a new impleader section in

this bill, once a final judgment had been rendered in a claimant's action against a manufacturer, a court could bring back into the case a supplier whose negligence or intentionally tortious conduct was a cause of the harm, if the manufacturer's liability should be reduced because of that negligence or intentionally tortious conduct or the manufacturer is insolvent. The White House remained concerned that the impleader rule was still too restrictive. However, Senator Lieberman agreed to drop the most limiting provision -- a requirement for "clear and convincing" evidence demonstrating that the supplier's negligence caused the claimant's injuries.

### **What was the "Baxter amendment"?**

*The Baxter amendment is not included in this bill.* It was incorporated in a version of the biomaterials title of the broader product liability bill when it came to the Senate Floor early this summer. However, when the stand-alone biomaterials bill moved this year, Baxter was not added.

The Baxter amendment would have broadened the definition of "implant" to include IVS and catheters.

Specifically, implant would include: "containers and their related products to be used to collect fluids or tissue from the body or to infuse or otherwise introduce fluids or tissue into the body in conjunction with a medical device [that is intended by the manufacturer of the device (1) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or (2) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for any period of time]."

By broadening the definition of implant, the amendment would broaden the protection from liability to those who supply raw materials or component parts for use in the manufacture of such IVS and catheters.

The Administration has been told that the goal of the Baxter amendment is to address concern of the Baxter Healthcare Corporation that their regular supplier of raw materials was purchased by a larger company which is concerned about potential liability, will no longer enter into long-term contracts to supply the plastics materials, and may eventually be unwilling to supply the material at all. If so, the company would need to retool and reengineer its plants at great expense to use the other materials available that might be adapted for this use. **The Administration expressly asked whether there had been any litigation involving the biomaterials that would be covered by the bill and was told that there had been none.**

### **What has the Administration said on the Baxter amendment?**

On May 1, 1998, in a private letter to Senators Gorton and Rockefeller, which does not appear to be in the public domain, Gene Sperling and Bruce Lindsey wrote:

“We are not prepared to expand the biomaterials provision to cover raw materials and component parts of IVS (intervenous apparatuses) and catheters, which are unlike the medical implants covered by the provisions where only a few hundred are used each year, materials suppliers face a demonstrated litigation threat, and there is a current danger of product unavailability.”

Thereafter, when the product liability bill came to the Senate floor in a version that incorporated the Baxter amendment, the White House confirmed publicly that Senator Lott had been told that the President would not veto that bill over the inclusion of the Baxter amendment.



August 7, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

RE: DPC Weekly Report

**Health Care -- Home Care Reimbursement Controversy Update:** Home care providers across the nation are pushing Congress to modify the Medicare reimbursement change included in last year's Balanced Budget Act. As you will recall, these changes (a phased in prospective payment system similar to the one that has effectively constrained hospital payments) were made to address the unprecedented increases in home health expenditures -- from \$4.7 billion in 1990 to \$17.2 billion in 1997. Less than a year into implementation of these changes, home care providers are advising Members that these cuts are too severe, penalize efficient providers, and are unfair to providers who serve a disproportionate numbers of sicker patients. There appears to be some validity to these concerns in certain areas. Your letter to Val Halamandaris of the National Association for Home Care, advising him of your commitment to develop an administratively feasible, budget neutral fix was well-received. Congress also wants to respond, but has been unable to develop a politically and economically acceptable alternative. It appears that a budget neutral policy cannot receive sufficient political support because it ends up being more of a "re-arranging the deck chairs" approach that alienates as many Members as it pleases. However, putting more money on the table would require extremely unpopular Medicare offsets. On Thursday, in frustration, Rep. Thomas and some other Members of the Ways and Means Committee criticized HCFA for its lack of response. We will continue to look at all options, but it now appears that the only way to pass an acceptable alternative will be to find some more Medicare savings. However, it is highly likely that the Congress will push hard for us to deliver on some political cover and savings to mitigate the payment problems now being experienced by the home care providers.

**Health Care -- Patients' Bill of Rights Event:** On Monday, you are scheduled to attend a large patients' bill of rights event in Kentucky. Consistent with your discussion with the Democratic caucus, you will use this event to highlight the numerous shortcomings of the Republican Leadership bills. The President of the Kentucky Medical Association, a lifelong Republican, is currently scheduled to participate in this event and discuss the AMA's disappointment with the Republican bills. Other major provider and consumer organizations will also validate this message and praise your leadership for putting progress ahead of partisanship. We have been working with the House Democratic Leadership and the Departments on how best to differentiate these bills, and Secretary Shalala has submitted an op-ed highlighting the important differences. Finally, at this event, you will announce that

the Federal Employees Health Benefits Program (FEHBP) is implementing anti-gag regulation as part of your continuing efforts to bring all Federal health programs in compliance with the patients' bill of rights, even as Congress delays passing legislation.

**Health Care -- Elder Abuse:** We are working on an initiative that you could potentially unveil in an event late next week that responds to continuing reports of problems of elder abuse. HHS and NIH have been working on reports that document emotional, physical, psychological, and financial abuses of older Americans, often by family members. This initiative would include: announcing new Justice Department grants to help identify and prevent elder abuse; creating a new center on elder abuse, and renewing the call on Congress to reauthorize the Older Americans' Act, which includes services to help elders at risk for abuse. We will also work with aging advocates and others to help highlight some of the best practices in the states to crack down on elder abuse. This initiative compliments your recent initiative to ensure that patients' in nursing homes are provided with the highest quality services possible.

**Education -- National Board for Professional Teaching Standards:** Mr. Goodling has agreed to drop his provision in HEA prohibiting funding for the National Board for Professional Teaching Standards, in exchange for the Administration's agreement to resolve differences in OMB and C.O. scoring of the student loan program. Goodling also agreed not to offer amendments to end federal support to NBPTS to other legislation this year, such as the Labor-HHS-Education appropriations bill. While this deal protects the Board for this year, we expect Goodling to pursue his agenda against the Board in next year's reauthorization of the Elementary and Secondary Education Act. Our efforts over the last few weeks have demonstrated that while the Board enjoys broad bipartisan there is little deep support for the Board in the House, and that even Senate supporters of the Board have questions about its operation. We will continue to work closely with Gov. Hunt and the NBPTS on a strategy to shore up support for the Board in both the House and Senate.

**Education -- Bilingual Education:** Rep. Riggs bilingual education bill was scheduled for a floor vote Thursday evening. However, the Republican leadership pulled the bill before it could come to a vote. The Democratic whip counts indicated strong Democratic unity and the Hispanic Caucuses believes there would have been Republican opposition to Riggs from some in the New Mexico, Texas and Florida delegations. The bill could still come up after the recess, though Riggs is likely to have difficulty getting floor time in September.

**[ELENA: THE FOLLOWING IS USEFUL PRIMARILY TO SEE IF HE'S GOT ANY REACTION OR GUIDANCE FOR US. IF YOU DON'T WANT THAT NOW, I'D PROBABLY DROP IT]**

**Education -- National Education Goals Panel:** The National Education Goals Panel met last week to begin discussing the future of the National Education Goals and the NEGP. The Panel is scheduled to complete its deliberations on this issue in early

**December. Governor Hunt has asked for our guidance on how we would like the panel to handle this issue. Thus far, there appears to be a bipartisan consensus among the governors on the panel, supported by Secretary Riley, that it is important to continue to have national education goals in some fashion, beyond the year 2000. There is also agreement that there must continue to be a mechanism to monitor progress toward reaching the goals, though little certainty that NEGP in its current form is the right mechanism for carrying out that function. Along with Secretary Riley, we believe that you, rather than the Goals Panel or the governors alone, ought to lead an effort to examine what has been accomplished in the near-decade since the goals were established, and what the Nation's education goals ought to be for the future. However, we also believe that it will be much more difficult now than in 1989 initiate a process for establishing new goals, or even reaffirming the existing ones. It will be more difficult for control of the process to be shared between the Administration and the Governors to the relative exclusion of other parties and even if we could, much more difficult to establish bipartisan consensus with the Governors. Yet, a more open process could be even more difficult to bring to a productive conclusion. Despite the concerns, we are beginning to think through a strategy for how to proceed in this area.**

**Community Empowerment -- Empowerment Zones/Enterprise Communities (EZ/EC):** Last Friday, a bipartisan coalition led by Senators Jeffords, Leahy, and Warner, introduced legislation that would provide grant funding for the second round of Empowerment Zones. This bill, the result of month-long negotiations between the Administration and Senate staff, differs from the Administration's earlier bill in several key areas. In addition to providing flexible grants to the second round EZs the bill would provide: 1) funds for a new demonstration program called Rural Opportunity Communities (ROCs) to spur economic development in communities that cannot qualify for the EZ/EC program; 2) a new pool of money for well-performing ECs and EZs that have exhausted their existing resources; 3) a preference for high-performing first round ECs who are applying for a second round EZ. In the coming weeks, DPC, OVP, and NEC will continue to work closely with HUD and USDA in procuring additional cosponsors for this legislation and work to secure its passage as a rider on revenue-related legislation out of the Senate Finance Committee.

**NOTE: (Elena, in response to your e-mail, OVP is still waiting to get sign-off from the Vice President about delaying the report from the Commission on Digital Broadcasting until late November. They have asked therefore that we include an update for POTUS next week.)**

**Crime -- Concealed Weapons Legislation --** On August 5th, the Judiciary Committee favorably reported legislation (H.R. 218) expanding the right of certain persons to carry concealed weapons across interstate lines. As originally introduced -- and proposed by the Fraternal Order of Police -- this bill would have allowed current and former law enforcement officers to carry concealed firearms across state lines. As amended in the Judiciary Committee -- and with strong support from the NRA -- the bill would also allow private citizens with

permits to carry a loaded and concealed weapon in their home states to be able to do the same in other states that permit concealed weapons.

Currently, 29 states are required to issue concealed weapons permits to persons not prohibited from owning a firearm (generally, a convicted felon); 13 states may issue concealed weapons permits, but retain some discretion in approving and denying applicants; 7 states prohibit the carrying of a concealed weapon; and only 1 state -- Vermont -- does not require any permit or license to carry a concealed weapon. The practical effect of H.R. 218, as amended, is to allow millions of gun owners to carry concealed and loaded weapons on an interstate basis in 43 of the 50 states.

**Crime -- Law Enforcement:** On Friday, the House Crime Subcommittee is scheduled to mark up legislation to provide college scholarships to the children and spouses of local law enforcement officers killed in the line of duty. In 1996, you signed legislation to provide such scholarships to the dependents of slain federal officers; last year, you called on Congress to expand these educational benefits to families of state and local law enforcement as well. Similar legislation passed the full Senate in May.

**Gay and Lesbian Issues -- Sexual Orientation Executive Order Upheld:** The House blocked a measure, sponsored by Rep. Hefley, that would have prohibited funding to implement your May 28 executive order which prohibits discrimination based on sexual orientation in the federal civilian workforce. By a vote of 252 to 176, the House rejected arguments that this executive order would lead to affirmative action for gays and lesbians. Sixty-three Republicans joined 188 Democrats and the one independent in voting against the measure. The DPC, along with Counsel's Office and OPL, worked closely to ensure that House members had information to rebut arguments about special preferences. A recent Wall Street Journal/NBC News Poll showed that 72 percent supported the order against antigay bias in federal agencies, while only 20 percent opposed it.

**Children and Families -- After-School Programs and Service:** You asked us to look into a proposal from a White House Fellow to earmark 15 percent of proposed funding for the 21st Century Community Learning Centers program for after-school programs run through the Corporation for National Service (CNS). Strengthening the connection between service and after-school activities is important, and service is in fact already a significant part of the current 21st Century program. However, specific earmarking from an Education Department program to the CNS might be disadvantageous for both programs: (1) funds from the Education Department come with many more restrictions on their use than CNS dollars; (2) additional earmarking would drain the 21st Century program of resources (the Administration's budget proposal already targets 10 percent of program funding to community-based organizations, and the House Appropriators cut our budget request from \$200 million to \$60 million); and (3) it would lessen our ability to promote greater utility of public school buildings during after-school hours. We will, however, continue to explore ways in which we can provide greater support and

funding both to traditional after-school learning programs and specific service-oriented programs.

**Welfare Reform -- Minorities on Welfare Reform Caseload:** The New York Times report on the increasing share of minorities on the welfare caseloads highlights some important trends and issues that we will explore further. In the meantime, it's helpful to put the information in context.

First, the racial/ethnic composition of welfare caseloads **has been changing gradually over the last 25 years: whites rose from 38 percent in 1973 to a peak of 42 percent in 1983 and have dropped steadily to 35 percent in 1997. The proportion of blacks has generally declined, from 46 percent in 1973 to 37 percent in 1997. As the New York Times points out, the most significant trend is the increase in the Hispanic portion of the caseload, from 13 percent in 1973 to 23 percent in 1997. However, this is not too surprising given the rapid increase in the Hispanic population overall. The question is how welfare reform may be affecting these historic trends. National data on the racial/ethnic characteristics of welfare recipients are only available through June 1997, so it is hard to gauge the impact of the past year when welfare reform efforts accelerated so rapidly. Some states have more recent data which they shared with the Times, and which may reveal more significant trends. It is also worth noting that the caseload data only tells who is currently on the rolls; it does not tell the rate at which different groups are entering and exiting.**

Second, the number of white, black and Hispanic families receiving welfare have all dropped since 1994 (when caseloads peaked), but the rate of decline has been greater for whites than blacks, with an even slower decline for Hispanics.

	<u>94</u>	<u>97</u>	<u>Change</u>
Whites 1.9M	1.4 M		-26
Blacks	1.8M	1.5 M	-18
Hispanics	1.0 M	.9 M	-9

Third, the changes are more dramatic than the actual mix of who is left on the caseloads, at least on a national basis. While the story pointed out important trends, the conclusion that the composition of the caseload has changed dramatically seems unwarranted.

	<u>94</u>	<u>97</u>
Whites	37%	35%
Blacks	36%	37%
Hispanics	20%	23%

Fourth, there is some encouraging evidence from Census data that the employment rates of former welfare recipients are *increasing* even faster for minorities than for whites

**(although the actual rates and the disparity between groups remains disturbing). Between 1996 and 1997, the percentage of all prior year welfare recipients who were employed in the next year increased by 28%. The increase was highest for blacks (33%), followed by Hispanics (22%) and whites (21%).**

**Finally, there is longstanding evidence that minorities on welfare disproportionately share characteristics that may make it harder to leave the rolls: lower education levels, lower marriage rates, larger families, employment and housing discrimination, and isolation from areas with jobs.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides ( CN=Richard Socarides/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-AUG-1998 13:19:23.00

SUBJECT: House Passes Anti-Gay Adoption Amendment to DC Appropriations B

TO: Nanda Chitre ( CN=Nanda Chitre/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Elizabeth Gore ( CN=Elizabeth Gore/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Craig T. Smith ( CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Tracey E. Thornton ( CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Dario J. Gomez ( CN=Dario J. Gomez/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Charles E. Kieffer ( CN=Charles E. Kieffer/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Michael Deich ( CN=Michael Deich/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Julia M. Payne ( CN=Julia M. Payne/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Robert N. Weiner ( CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Barry J. Toiv ( CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Martha Foley ( CN=Martha Foley/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Virginia Apuzzo ( CN=Virginia Apuzzo/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Janet Murguia ( CN=Janet Murguia/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Charles M. Brain ( CN=Charles M. Brain/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 08/07/98  
01:19 PM -----

Doug.Case @ sdsu.edu  
08/07/98 01:57:00 PM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides  
cc:  
Subject: House Passes Anti-Gay Adoption Amendment to DC Appropriations B

HUMAN RIGHTS CAMPAIGN  
1101 14th Street NW  
Washington, DC 20005  
website <http://www.hrc.org>  
phone 202 628 4160  
fax 202 347 5323

HRC News Release

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FOR IMMEDIATE RELEASE  
Friday, August 7, 1998

HOUSE PASSES ANTI-GAY ADOPTION AMENDMENT TO  
DISTRICT OF COLUMBIA HOUSE APPROPRIATIONS BILL

Rep. Tiahrt Amendment Passes Denying D.C. Money For Needle Exchange  
Programs

WASHINGTON -- In the latest of series of legislative attacks against gay Americans and people at risk for HIV, two amendments to the District of Columbia House Appropriations Bill were passed that would prohibit unmarried couples from jointly adopting and deny money for needle exchange programs. The discriminatory adoption amendment, offered by Oklahoma Republican Steve Largent, is unmistakably anti-gay and is an intrusion into local government that will put thousands of DC children at risk, according to the Human Rights Campaign.

"The contradictions and illogic of Largent's anti-gay amendment are unbelievable. On the one hand, those pushing it say they want to provide greater security for children. But in reality, they are creating less

stability by limiting the number of guardians which will leave children vulnerable," said HRC political director Winnie Stachelberg. "The American public doesn't want family policy made by the federal government. It is hypocritical that these vocal proponents of more local control want to play national nanny and micro-manage adoption decisions that should be made on a case-by-case basis by parents and professionals."

Under the Largent amendment, which passed on a 227-192 vote, single DC residents would still have the ability to adopt children. The amendment will ban joint adoption by unrelated persons. While both parties of an unmarried couple would obviously still serve as parents to the child, the second parent would have no legal responsibility or protections for the child, including financial. In unfortunate circumstances, such as a break up or the death of a legal parent, the non-legal parent would have no legal responsibility to care for the child. As of June 22, 1998, there were 3,600 children in the D.C. foster care system waiting to be adopted.

The passage of Rep. Largent's amendment follows last week's rejection of the same amendment offered by Rep. Tiahrt to the House Appropriations Committee. For three years, there have been attempts to attach similar language on adoption in the D.C. appropriations bill. This is the first time such language has passed.

An August, 1997 poll conducted by Penn, Schoen & Berland Associates shows that most Americans agree that the federal government should stay out of family law decisions. In fact, Americans categorically reject the notion that the government should take a greater role in deciding who can and cannot adopt children. By a margin of nearly four to one (74 to 19 percent,) voters say we should keep the system we currently have, rather than allow the federal government to take a greater role.

Kansas Republican Rep. Tiahrt's amendment to the bill also passed by a vote of 250-169. The Tiahrt amendment would prohibit the use of federal and District funds from being used for needle exchange programs. The amendment further prohibits funds from being paid to any organization that carries out such programs.

"This crass political opportunism and intrusion into local District affairs will result in more people suffering and becoming infected with HIV," said HRC senior health policy advocate Seth Kilbourn.

The Tiahrt amendment is a radical departure from previous Congressional action on this issue and sets a dangerous precedent for many states and localities where needle exchange programs operate using local and state funds.

The District of Columbia has chosen to use its own funds to address an urgent local need. Congress should not encroach on the ability of any state or locality to implement successful programs to prevent the transmission of HIV.

"We will work tirelessly during the months ahead to defeat both of these amendments in conference," said Stachelberg.

The Human Rights Campaign is the largest national lesbian and gay political organization, with members throughout the country. It effectively lobbies Congress, provides campaign support, and educates the public to ensure that lesbian and gay Americans can be open, honest, and safe at home, at work, and in the community.

- 30 -

\*\*\*\*\*  
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fine to reprint. Don't reprint wire stories, such as Associated Press stories, in their entirety unless you subscribe to that wire service.) Forwarding of this material should not necessarily be construed as an endorsement of the content. In fact, sometimes messages from anti-gay organizations are forwarded as "opposition research."

=====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)  
id <01J0BMU1KI2800DVTW@PMDF.EOP.GOV>; Fri, 7 Aug 1998 12:57:24 EDT

Received: from Storm.EOP.GOV by PMDF.EOP.GOV (PMDF V5.1-9 #29131)  
with ESMTTP id <01J0BMTYHUNK00D26C@PMDF.EOP.GOV>; Fri,  
07 Aug 1998 12:57:20 -0400 (EDT)

Received: from mail.sdsu.edu ([130.191.25.1])  
by STORM.EOP.GOV (PMDF V5.1-10 #29131)  
with ESMTTP id <01J0BMT9GAOC00010J@STORM.EOP.GOV>; Fri,  
07 Aug 1998 12:56:46 -0400 (EDT)

Received: from [130.191.242.121] ([130.191.242.121])  
by mail.sdsu.edu (8.8.7/8.8.7) with ESMTTP id JAA17450; Fri,  
07 Aug 1998 09:56:00 -0700 (PDT)

X-Sender: dcase@mail.sdsu.edu

=====  
END ATTACHMENT 1

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-AUG-1998 10:15:21.00

SUBJECT: more food safety

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

Other points they may make:

USDA: we are already doing this, we have a budget.

A. There is no harm to institutionalizing it. We understand that right now there is a good deal of hemming and hawing -- FDA hasn't even shared its proposed budget with USDA yet. That should not be a subject of debate and this will make it less of an ad hoc process.

USDA: This is too sudden, it is sprung on us.

A. We have been doing regular meetings for months chaired by NPR and DPC, asking the agencies for examples of new coordination mechanisms we could promote. We finally suggested this one weeks ago. This timing and the idea of it are not new.

Other:

According to OMB, we probably will need to make this a Directive not an Order because Orders they give the agencies a week to vet. You might offer that as a "concession" to the agencies who wanted to soft pedal the council.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane ( CN=Andrea Kane/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-AUG-1998 09:29:04.00

SUBJECT: Follow up from Hispanic Caucus meeting

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Cynthia A. Rice ( CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Spoke w/ Rep. Velasquez' staffer on the issue welfare reform/caseload changes in NYC. They do not have any other data other than what was reported in the NYT. I let her know that we are interested in the issue and in process of gathering additional information. She said she's let me know if she got any hard data over the recess.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson ( CN=Christa Robinson/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 8-AUG-1998 18:34:37.00

SUBJECT: Police Chiefs Parks will speak at LA crime event.

TO: Jennifer M. Palmieri ( CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Stacie Spector ( CN=Stacie Spector/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Karen E. Skelton ( CN=Karen E. Skelton/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Michelle Crisci ( CN=Michelle Crisci/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Laura A. Graham ( CN=Laura A. Graham/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

I spoke the Chief. He is happy to speak in the program, and to give anecdotes of large capacity clips seized in Westchester. He said he would speak regardless of whether the Mayor attends. (Obviously, we need to make sure the Mayor is ok, and not going to change this.)

I will try on Monday to get in touch with the Co-Chair of the neighborhood citizens patrol, who would be a good person to introduce the Chief if we have the room. We can discuss Monday.



August 9, 1998

## **PATIENTS' BILL OF RIGHTS EVENT**

**DATE:** August 10, 1998  
**LOCATION:** Commonwealth Convention Center  
**EVENT TIME:** 11:00 am - 12:15 pm  
**FROM:** Bruce Reed/Elena Kagan/Chris Jennings

### **I. PURPOSE**

**To describe the differences between a strong Patients' Bill of Rights and the Republican proposals, and to announce that you will veto the Republican Leadership bills if they are sent to you by Congress. You will also announce that the Office of Personnel Management (OPM) is implementing a new regulation to prohibit anti-gag rules, as part of your ongoing efforts to implement the patient's bill of rights for the 85 million Americans in Federal health plans.**

### **II. BACKGROUND**

**The Republican Leadership proposals: contain empty promises; leave out critical protections patients need and deserve take a step backwards for some essential patient protections; and do not apply to all health plans, leaving millions of Americans in the cold. These proposals:**

#### **TAKE A STEP BACKWARDS FOR SOME CRITICAL PROTECTIONS.**

- **Undermine existing medical privacy protections. The House Republican Leadership bills would increase the number of individuals who can review health records and give them out without consent or knowledge. By preempting state law, it would also obliterate many of the medical privacy guarantees at least states have on the books to protect patients today and offers no substitute protections.**
- **Do not have real emergency room protections. The Republican Leadership proposals explicitly reject the prudent layperson standard that Congress agreed to implement for Medicare and Medicaid beneficiaries during the Balanced Budget Act of 1997. Instead, they have included a watered down provision that does not require health plans to cover patients who have to go to an emergency room outside of their network and does not assure coverage for any treatment beyond an initial screening. This puts patients at risk for huge costs for critical treatment that a doctor believes should take place in the facility where they were initially admitted.**

### **CONTAIN HOLLOW PROMISES.**

- **Let HMOs, not health professionals, define medical necessity. The Republican Leadership proposals include an external appeals process that simply does not assure patients a fair independent review.** They allow health plans to develop their own definition of medical necessity, meaning that HMOs, not health professionals, get to determine what is medically necessary. This loophole will make it extremely difficult for patients to prevail on an appeal to get the treatment their doctor believes they need. The proposal also charges patients that need to address a grievance with their health plan.
- **Allow dangerous financial incentives to limit critical patient care. The Republican legislation does not contain important provisions that prevent patients from being put at risk through unknown destructive financial incentives to limit patient care. This means that a patient may not even know about the treatment that may prove most effective.**

### **LEAVE OUT ESSENTIAL PROTECTIONS PATIENTS NEED AND DESERVE.**

- **Do not guarantee direct access to specialists. The Republican Leadership proposals do not guarantee patients with critical health needs direct access to the specialists they need. This means that patients with cancer or heart conditions may be denied access to the doctor they need to treat their condition.**
- **Do not protect patients when physicians have been dropped from a health plan.** The Republican Leadership bills do not assure that a patient's care will not abruptly change if their provider is unexpectedly dropped from a health plan or if their employer changes health plans. **Therefore pregnant women or individuals undergoing care for a chronic illness may have their care abruptly halted in the middle of their treatment, which can severely undermine their health.**
- **Do not compensate patients who are maimed or who die as a result of a wrongful health plan action.** The proposed per day penalties in the Republican Leadership plans are wholly insufficient for patients who suffer serious harm or even death because of a wrongful action by a health plan. These penalties are designed to bring health plans into compliance, rather than compensate patients who have been harmed or die because of a health plan's actions. A health plan that denies a service so that a child can no longer benefit from a lifesaving cancer treatment will only be penalized for the number of days it takes for the plan to comply: they do not have to compensate the family who, as a result of their denial, has a child with a now untreatable disease.

## LEAVE MILLIONS OF AMERICANS OUT IN THE COLD.

- **Does not cover all health plans.** Both Republican Leadership bills do not cover millions of Americans. The Lott proposal only covers self-insured plans, leaving out 100 million Americans, including millions of Americans in small businesses. Therefore, these Americans are left hostage to the hope that every state will pass every patient protection in a timely and meaningful way.

You will also highlight that while the Republicans Leadership delays passing strong patient protections, you are working to implement the patients' bill of rights for the 85 million Americans in Federal health plans. You will announce that the Office of Personnel Management is implementing a new regulation prohibiting "anti gag" rules, **as part of their efforts to meet your Executive Memorandum directing all Federal health plans to come into compliance with the patients' bill of rights.** Earlier this year, OPM notified all participating health plans through the annual call letter that they will have to provide new patients protections as a condition of participation, including assuring access to specialists, continuity of care, and access to emergency room services. The Federal Employees Health Benefits Program has 350 participating health plans that serve 9 million Federal Employees and their families, including over 100,000 people in Kentucky.

This builds on your efforts to implement the patients' bill of rights for all Federal health plans. In June, the Department of Health and Human Services extended the patient's bill of rights to the 40 million Americans who receive Medicare. Last month, the Department of Veterans' Affairs began to put in place a new, rapid appeals process for the 3 million veterans who receive health care. Last week, the Department of Defense issued a directive to all military bases throughout the world, extending patient protections to 8 million servicemen and women and their families at nearly 600 hospitals and clinics around the world.

### III. PARTICIPANTS

Mayor Jerry Abramson  
Senator Wendell Ford  
Governor Paul Patton  
Dr. Kenneth Peters, President, Kentucky Medical Association  
Dr. Linda Peeno, former HMO executive

### IV. PRESS PLAN

Open Press.

**V. SEQUENCE OF EVENTS**

- **YOU** will be announced onto the stage accompanied by Governor Patton, Senator Ford, Mayor Abramson, Dr. Peters, and Dr. Peeno.
- Mayor Jerry Abramson will make remarks and introduce Senator Wendell Ford.
- Senator Wendell Ford will make remarks and introduce Governor Paul Patton
- Governor Paul Patton will make remarks and introduce Dr. Kenneth Peters.
- Dr. Kenneth Peters will make remarks and introduce Dr. Linda Peeno.
- Dr. Linda Peeno will make remarks and introduce **YOU**.
- **YOU** will make remarks.

**[NOTE: During your remarks you will proceed with a hand-held microphone to an aisle with a chart listing the key patient protections missing in the Republican proposals. You will write a check mark next to each protection indicating that they are included in your proposal.]**

- **YOU** will complete your remarks at the podium, work a ropeline and then depart.

**VI. REMARKS**

Provided by Speechwriting.

**PRESIDENT CLINTON ANNOUNCES HE WOULD VETO REPUBLICAN LEADERSHIP PATIENTS' BILL OF RIGHTS AND THAT FEDERAL HEALTH PLANS CONTINUE TO IMPLEMENT PATIENTS' BILL OF RIGHTS**

**August 10, 1998**

Today, in a speech in Louisville, Kentucky, the President outlined in detail how the Gingrich/Lott patients' bill of rights have more loopholes than protections. He announced that if Congress sends him such flawed legislation, he would veto it. The President highlighted how the Republican Leadership proposals: contain empty promises; leave out critical protections patients need and deserve take a step backwards for some essential patient protections; and do not apply to all health plans, leaving millions of Americans in the cold. While the Republican Leadership stalls on passing a real patients' bill of rights, the President continues to implement patient protections for the 85 million Americans in Federal health plans. Today, the Office of Personnel Management is releasing a new regulation to prohibit "anti-gag" rules, as part of their efforts to meet the President's directive to bring all Federal health plans in compliance with the patients' bill of rights. Today, the President:

**ANNOUNCED HE WOULD VETO THE GINGRICH PROPOSALS THAT ARE MORE LOOPHOLES THAN PATIENT PROTECTIONS.** The President outlined the weaknesses in these Republican proposals that:

**Contain Empty Promises.** Many of the provisions in the Republican plan are symbolic gestures rather than real patient protections. As the American Nurses Association says: "Republican leaders who promise protection from managed care abuses for patients - only deliver slogans for the patients and protections for the managed care industry." For example these bills:

- **Let HMOs, not health professionals, define medical necessity.** The Republican Leadership proposals include an external appeals process that simply does not assure patients a fair independent review. They allow health plans to develop their own definition of medical necessity, meaning that HMOs, not health professionals, get to determine what is medically necessary. This loophole will make it extremely difficult for patients to prevail on an appeal to get the treatment their doctor believes they need.
- **Allow dangerous financial incentives to limit critical patient care.** The Republican legislation does not contain important provisions that prevent patients from being put at risk through unknown destructive financial incentives to limit patient care. This means that patients may not even know of treatments that may prove most effective.

**Leave Out Essential Protections Patients Need and Deserve.** The Republican proposals do not include several critical patient protections. The National Breast Cancer Coalition, raising concerns about the absence of critical protections, says "if this bill is enacted, it could be devastating for the thousands of women who undergo breast cancer treatment every year." The Republican Leadership proposals:

- **Do not guarantee direct access to specialists.** The Republican Leadership proposals do not guarantee patients with critical health needs direct access to the specialists they need. This means that patients with cancer or heart conditions may be denied access to the

**doctor they need to treat their condition.**

- **Do not protect patients when physicians have been dropped from a health plan.** The Republican Leadership bills do not assure that a patient's care will not abruptly change if their provider is unexpectedly dropped from a health plan or if their employer changes health plans. **Therefore pregnant women or individuals undergoing care for a chronic illness may have their care abruptly halted in the middle of their treatment, which can severely undermine their health.**
- **Do not compensate patients who are maimed or who die as a result of a wrongful health plan action.** The proposed per day penalties in the Republican Leadership plans are wholly insufficient for patients who suffer serious harm or even death because of a wrongful action by a health plan. These penalties are designed to bring health plans into compliance, rather than compensate patients who have been harmed or die because of a health plan's actions. A health plan that denies a service so that a child can no longer benefit from a lifesaving cancer treatment will only be penalized for the number of days it takes for the plan to comply: they do not have to compensate the family who, as a result of their denial, has a child with a now untreatable disease.

**Take a Step Backwards For Some Critical Protections. In some areas, the Republican Leadership bills undermine current patient protections that are law today. The American Medical Association says that in some instances these bills “would roll back vital patient protections enacted in the states.” The Kentucky Chapter of the American College of Physicians says: “The Republican bills basically gutted the ‘prudent layperson standard’” that assures real emergency room protections.**

- **Undermine existing medical privacy protections.** The House Republican Leadership bill would increase the number of individuals who can review health records and give them out without consent or knowledge. By preempting state law, it would also obliterate many of the medical privacy guarantees at least states have on the books to protect patients today and offers no substitute protections.
- **Do not have real emergency room protections.** The Republican Leadership proposals explicitly reject the prudent layperson standard that Congress agreed to implement for Medicare and Medicaid beneficiaries during the Balanced Budget Act of 1997. Instead, they have included a watered down provision that does not require health plans to cover patients who have to go to an emergency room outside of their network and does not assure coverage for any treatment beyond an initial screening. This puts patients at risk for huge costs for critical treatment that a doctor believes should take place in the facility where they were initially admitted.

**Leave Millions of Americans Out in the Cold.** The Republican Leadership does not apply to all health plans and therefore leaves out millions of Americans. As the American Nurses Association says: “we will not agree to leave a large segment of the population unprotected” It:

- **Does not cover all health plans.** Both Republican Leadership bills do not cover millions of Americans. The Lott proposal only covers self-insured plans, leaving out 100 million Americans, including millions of Americans in small businesses. Therefore, these Americans

are left hostage to the hope that every state will pass every patient protection in a timely and meaningful way.

**ANNOUNCED FEDERAL HEALTH PLANS CONTINUE TO COME INTO COMPLIANCE, WITH A NEW “ANTI GAG” REGULATION IMPLEMENTED TODAY FOR FEDERAL EMPLOYEES. While Republicans Leadership delays passing strong patient protections, the Clinton Administration is implementing the patients’ bill of rights for the 85 million Americans in Federal health plans.**

- **Announce release of anti-gag regulation.** Today, the President announced that the Office of Personnel Management is releasing new regulation prohibiting “anti gag” clauses so that health professionals can discuss all medical treatment options with their patients. Earlier this year, OPM notified all participating health plans through the annual call letter that they will have to provide new patients protections to enrollees, including new protections assuring access to specialists, continuity of care, and access to emergency room services. The Federal Employees Health Benefits Program has 350 participating health plans that serve 9 million Federal Employees and their families, including over 100,000 people in Kentucky.
- *Builds on President Clinton’s efforts to extend patients’ bill of rights to all Federal health plans.* In June, the Department of Health and Human Services extended the patient’s bill of rights to the 40 million Americans who receive Medicare. Last month, the Department of Veterans’ Affairs began to put in place a new, rapid appeals process for the 3 million veterans who receive health care. Last week, the Department of Defense issued a directive to all military bases throughout the world, extending patient protections to 8 million servicemen and women and their families at nearly 600 hospitals and clinics around the world.

**AMERICANS DESERVE A REAL PATIENTS' BILL OF RIGHTS**

<b>PATIENT PROTECTION</b>	<b><u>GINGRICH/LOTT</u> REPUBLICAN PLAN</b>	<b><u>PRESIDENT CLINTON/</u> BIPARTISAN PROPOSAL</b>
<b>PROTECTING MEDICAL PRIVACY LAWS*</b>	<b>NO</b>	
<b>ASSURING BEANCOUNTERS DON'T MAKE ARBITRARY MEDICAL DECISIONS</b>	<b>NO</b>	
<b>GUARANTEEING DIRECT ACCESS TO SPECIALISTS</b>	<b>NO</b>	
<b>KEEPING YOUR DOCTOR THROUGH CRITICAL TREATMENTS</b>	<b>NO</b>	
<b>PROVIDING REAL EMERGENCY ROOM PROTECTIONS</b>	<b>NO</b>	
<b>HOLDING HEALTH PLANS ACCOUNTABLE FOR HARMING PATIENTS</b>	<b>NO</b>	
<b>PROTECTING PATIENTS FROM SECRET FINANCIAL INCENTIVES</b>	<b>NO</b>	
<b>COVERING ALL HEALTH PLANS</b>	<b>NO</b>	<b>Automated Records Management System Hex-Dump Conversion</b>

\*As drafted in the House plan

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides ( CN=Richard Socarides/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 9-AUG-1998 12:31:00.00

SUBJECT: House Republicans Deny Unmarrieds/Gays/Lesbians right to adopt

TO: Nanda Chitre ( CN=Nanda Chitre/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Elizabeth Gore ( CN=Elizabeth Gore/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Craig T. Smith ( CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Tracey E. Thornton ( CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Dario J. Gomez ( CN=Dario J. Gomez/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Charles E. Kieffer ( CN=Charles E. Kieffer/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Michael Deich ( CN=Michael Deich/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Julia M. Payne ( CN=Julia M. Payne/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Robert N. Weiner ( CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Barry J. Toiv ( CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Martha Foley ( CN=Martha Foley/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Virginia Apuzzo ( CN=Virginia Apuzzo/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Janet Murguia ( CN=Janet Murguia/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Charles M. Brain ( CN=Charles M. Brain/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 08/09/98  
12:30 PM -----

GSS1 @ aol.com  
08/08/98 03:47:00 PM

Record Type: Record

To: Richard Socarides

cc:

Subject: House Republicans Deny Unmarrieds/Gays/Lesbians right to adopt

New York Times News Service, August 7, 1998

House Would Ban Unmarrieds, Gays, and Lesbians from Adopting Children

By JUDY HOLLAND

WASHINGTON -- In the latest of a series of measures that gay rights advocates view as anti-homosexual, the House has passed a bill that would forbid unmarried couples -- including gays and lesbians -- in the nation's capital to adopt a child.

The measure -- an amendment sponsored by Rep. Steve Largent, R-Okla., to a \$6.8 billion spending bill for the District of Columbia -- passed by a 227-192 vote shortly before the House adjourned early Friday for its August recess.

Prospects in the Senate are unclear. No corresponding adoption provision

exists in that chamber's D.C. spending bill, but one could be added once the

measure goes to the floor for a vote.

President Clinton has threatened to veto the D.C. bill because of the adoption provision and because it includes a pilot program that would give up

to \$3,200 in vouchers to some poor public school children so they could attend

private nonsectarian and parochial schools.

This is the fourth consecutive year that the House Appropriations Committee has considered a measure to bar gays and lesbians from adopting, but

the first time one has passed the House.

Last week, Rep. Todd Tiahrt, R-Kan., tried to attach the measure to the

D.C. bill in the appropriations committee, but it was defeated, after Chairman

Bob Livingston, R-La., voiced qualms. Largent then restored the provision

on  
the floor Thursday night.

His amendment says, "None of the funds contained in (the D.C. spending bill) may be used to carry out any joint adoption of a child between individuals who are not related by blood or by marriage."

During the floor debate, Largent said his measure "does not single out homosexuals. ... This could be a heterosexual couple that does not have a marriage contract that binds them together."

He added: "Sure, it might give some gay rights advocates a warm feeling to see gay couples treated just as if they were married. But these are real kids ... who have already had a rough start. ... It is simply wrong to turn them into trophies from the culture war, to exploit them in order to make some political point."

But Rep. Chet Edwards, D-Texas, said the amendment would deny children in need a loving home. It would "allow a philandering married husband who abuses

his wife on a regular basis to be able to legally adopt a child," Edwards said. "But if two nuns felt God's calling to adopt a disabled, blind child from Romania, under this amendment they would be prohibited from doing so.

Rep. Heather Wilson, R-N.M., also argued that adoptions should be reviewed "on a case-by-case basis," looking at "the best interests of each and every child."

Passage of the adoption amendment followed the chamber's rejection earlier this week of a measure by Rep. Joel Hefley, R-Colo., that would have

blocked President Clinton's executive order issued in May banning job discrimination against gays in the federal government.

Two weeks ago, the House passed a measure by Rep. Frank Riggs, R-Calif., that would prevent San Francisco from using federal housing money to implement its requirement that contractors with the city must provide the same benefits to unmarried domestic partners as they provide to married couples.

Before that, Senate Majority Leader Trent Lott, R-Miss., compared homosexuality to kleptomania, and House Majority Leader Dick Armey, R-Texas, said homosexuality is a sin.

Republicans have also blocked the nomination of San Francisco gay rights advocate James C. Hormel to become U.S. ambassador to Luxembourg.

Asked about Largent's measure, Ann Sullivan, adoption program director for the Child Welfare League of America, a nonprofit group of agencies that offer services for children and families, said it is clearly aimed at preventing homosexuals from adopting.

"There are very few straight unmarried couples who are seeking to adopt," Sullivan said.

At least 35,000 foster children in this country are waiting for families to adopt them, Sullivan said. "Why would we want to arbitrarily rule out a part of the population? The capacity to nurture a child, and sexual orientation are two very different things."

Numerous gays and lesbians in this country are already parents, she added, noting that many of them were previously in heterosexual marriages.

Sullivan said if Largent's amendment becomes law, gays and lesbians who want children will be driven to adopt them independently rather than

through

agencies, which can better prepare couples for the rigors of parenthood.

Winnie Stachelberg, political director of the Human Rights Campaign, the nation's largest gay and lesbian organization, said Largent's measure "is a discriminatory amendment that is really about (denying) gays and lesbians whocan't get married the ability to provide loving and stable homes. Gays and lesbians can be good parents just as straight parents can."

=====  
ATTACHMENT 1  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

RFC-822-headers:

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id <01J0D7TYO9U800DV07@PMDF.EOP.GOV> for socarides\_r@a1.eop.gov; Sat,  
8 Aug 1998 16:09:48 EDT

Received: from Storm.EOP.GOV by PMDF.EOP.GOV (PMDF V5.1-9 #29131)

with ESMTTP id <01J0D7TX9MXC00E75I@PMDF.EOP.GOV> for socarides\_r@a1.eop.gov;  
Sat, 08 Aug 1998 16:09:46 -0400 (EDT)

Received: from imo22.mx.aol.com ([198.81.17.66])

by STORM.EOP.GOV (PMDF V5.1-10 #29131)

with ESMTTP id <01J0D7T6B1EW0007FQ@STORM.EOP.GOV> for socarides\_r@a1.eop.gov;  
Sat, 08 Aug 1998 16:09:14 -0400 (EDT)

Received: from GSS1@aol.com by imo22.mx.aol.com (IMOV14\_b1.1)

id WHCJa04142 for <GSS1@aol.com>; Sat, 08 Aug 1998 15:47:32 -0400 (EDT)

X-Mailer: AOL 4.0 for Windows 95 sub 170

=====  
END ATTACHMENT 1  
=====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 9-AUG-1998 21:44:19.00

SUBJECT: One Pager -- Take One

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Michelle Crisci ( CN=Michelle Crisci/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Christa Robinson ( CN=Christa Robinson/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Laura Emmett ( CN=Laura Emmett/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

MC:

Per my conversations with Rahm and Elena this weekend, here's a first-cut at the proposed one-pager for Wednesday's event in LA. While I recognize that it needs to be cleaned up -- not a lot of inspirational text -- it should serve as an outline for Rahm to talk to Riordan and to see what he thinks of the overall announcement.

Based on my conversation with DOJ today, the Brady reg should be fine for Wednesday, but somebody should push the OMB folks at Monday's senior staff to tell DOJ to get it out by then.

Jose'

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D38]MAIL451933422.226 to ASCII,  
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## **Defending the Brady Law and Ban on Assault Weapons**

### **August 12, 1998**

Today, with Mayor Richard Riordan of Los Angeles and California Lt. Governor Gray Davis, President Clinton will issue a bipartisan call for Congress to strengthen -- and not undermine -- the tough laws that have worked to keep guns out of the hands of criminals. The President will: (1) announce the publication of a proposed regulation to fully implement the Brady Law; (2) strongly support legislation to ban the transfer of large capacity military magazines; and (3) oppose Congressional efforts to expand the carrying of concealed weapons across state lines..

### **Defending the Brady Law**

- **Final implementation of the Brady Law.** Despite the gun lobby's attempts to derail implementation of the Brady Law's National Instant Criminal Background Check System (NICS), the Administration will publish a proposed regulation to implement the NICS on November 30, 1998. Among other things, this regulation will allow the FBI to charge gun dealers the same fee it charges day care provides and others for similar background checks -- guaranteeing that the FBI will have the resources it needs to operate the NICS.
- **Making Permanent the Brady Law's Requirements.** Although the NICS will make many more records of ineligible gun purchasers available in mere seconds, it will also replace a network of 5,400 state and local law enforcement officials that have stopped an estimated 242,000 prohibited purchasers from buying a handgun. To make sure all Americans have the benefit of the best background check system possible, the President supports legislation to make permanent the Brady Law's requirements by: (1) requiring a minimum 3-day waiting period for all handgun purchases; (2) adding up to an additional 2 days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) continuing to require gun dealers to notify designated law enforcement officials of all proposed handgun purchases. Congress should pass such legislation before it adjourns, so all Americans can benefit from the best background check system possible.

### **Banning Assault Weapons and Military Magazines**

- **Closing the Clips Loophole.** The Assault Weapons Ban that passed as part of the 1994 Crime Act prohibited the future importation, manufacture and sale of magazines accepting more than 10 rounds of ammunition. Nearly 4 years later, however, it is estimated that hundreds of thousands of pre-Ban clips continue to be bought and sold. The intent of the Assault Weapons Ban was to end the easy access to these large capacity military magazines (LCMMs). Today, President Clinton will support legislation, introduced by Senator Feinstein, to ban -- once and for all -- the transfer of these military magazines that are used with assault-type weapons.
- **LCMM Rifles and Clips Recently Banned from Importation.** This past April, the Treasury Department concluded that more than 50 kinds of modified assault weapons --

including variants of the AK 47, Uzi, FN-FAL, HK 91 and 93, and SIG SG550 -- were generally not importable because they accept LCMMs. Consistent with its obligation to restrict the importation of firearms unless they are determined to be "particularly suitable for or readily adaptable to sporting purposes," the Treasury Department concluded that LCMM rifles and clips -- did not meet the sporting purposes test and were generally not importable.

### **Fighting Gun Lobby Efforts to Undermine State and Federal Laws**

- **Carrying Concealed Weapons Across State Lines.** Last Wednesday, the House Judiciary Committee quietly passed a bill that -- under the guise of allowing police officers to carry their firearms across state lines -- could allow millions of persons with state permits to carry a concealed weapons to do so throughout most parts of the country. Currently, 43 of the 50 states issue permits for concealed weapons and could be impacted by this legislation. While there may be good reasons to allow law enforcement officers to carry their service weapons across state lines, allowing millions of others traveling out-of-state to carry concealed and loaded weapons can only serve to undermine state and federal gun laws -- and will be strongly opposed by the President.

-----  
**NB: Rahm wanted to see what a bullet on these crime funds, which can be released next Wednesday, would like. We have generally downplayed this as the R's block grant -- and Bruce didn't seem to think it was on message -- but here it is.**

### **Releasing Crime Control Funds for California**

- **Local Law Enforcement Block Grant.** President Clinton will also announce the release of \$78.8 million in crime fighting funds for California -- including \$18.1 million for the City of Los Angeles and \$3.7 million for the County of Los Angeles. Generally, these funds can be used to: hire and train additional police officers; procure equipment and technology for law enforcement use; enhance security in and around schools; establish drug courts; adjudicate violent offenders, including violent juveniles; establish task forces of federal and local enforcement; and promote cooperative crime prevention between community residents and police officers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ( "Christopher Edley, Jr."

CREATION DATE/TIME: 9-AUG-1998 10:30:02.00

SUBJECT: Race Book working groups

TO: Edward W. Correia ( CN=Edward W. Correia/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP [ OMB ] )  
READ:UNKNOWN

TO: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP [ OPD ] )  
READ:UNKNOWN

CC: Scott R. Palmer ( CN=Scott R. Palmer/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: Michele Cavataio ( CN=Michele Cavataio/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: Jacinta Ma ( CN=Jacinta Ma/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: John M. Goering ( CN=John M. Goering/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

TEXT:

Elena, Mike, Josh:

Here's where we are and where I'd like to go.

1. Working groups in Education, Criminal Justice, Economic Development and, sort of, Civil Rights Enforcement. My partners on each topic are, respectively, Elena/Mike, Elena, Josh and Eddie.

2. For the time being, at least, working with me as staff are: Michele Cavataio (K-12); Scott Palmer (higher ed and criminal justice); John Goering (economic dev); and Jacinta Ma (civil rights).

3. I'd like to have initial meetings of these working groups ASAP. Eddie is trying to arrange Civil Rights for Monday around 3 pm; Jacinta is working with him on a

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah A. Bianchi ( CN=Sarah A. Bianchi/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 9-AUG-1998 18:31:03.00

SUBJECT: KY patients' bill of rights paper

TO: Eleanor S. Parker ( CN=Eleanor S. Parker/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joseph C. Fanaroff ( CN=Joseph C. Fanaroff/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Barbara D. Woolley ( CN=Barbara D. Woolley/OU=WHO/O=EOP [ WHO ] )  
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TO: Elizabeth R. Newman ( CN=Elizabeth R. Newman/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

TO: Dawn L. Smalls ( CN=Dawn L. Smalls/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Lori L. Anderson ( CN=Lori L. Anderson/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Nanda Chitre ( CN=Nanda Chitre/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Melissa G. Green ( CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [ OPD ] )  
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TO: Charles M. Brain ( CN=Charles M. Brain/OU=WHO/O=EOP @ EOP [ WHO ] )  
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TO: Darby E. Stott ( CN=Darby E. Stott/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Jonathan A. Kaplan ( CN=Jonathan A. Kaplan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Michelle Crisci ( CN=Michelle Crisci/OU=WHO/O=EOP @ EOP [ WHO ] )  
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TO: Lawrence J. Stein ( CN=Lawrence J. Stein/OU=WHO/O=EOP @ EOP [ WHO ] )  
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TO: Joseph P. Lockhart ( CN=Joseph P. Lockhart/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

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**PRESIDENT CLINTON ANNOUNCES HE WOULD VETO REPUBLICAN LEADERSHIP PATIENTS' BILL OF RIGHTS AND THAT FEDERAL HEALTH PLANS CONTINUE TO IMPLEMENT PATIENTS' BILL OF RIGHTS**

**August 10, 1998**

Today, in a speech in Louisville, Kentucky, the President outlined the inadequacies of the Gingrich/Lott patients' bills of rights, showing that they have more loopholes than protections. He announced that if Congress sends him such flawed legislation, he would veto it. While the Republican Leadership stalls on passing a real patients' bill of rights, the President continues to implement patient protections for the 85 million Americans in federal health plans. Today, the Office of Personnel Management is releasing a new regulation to prohibit gag rules, as part of its efforts to meet the President's directive to bring all Federal health plans into compliance with the patients' bill of rights. Today, the President:

**ANNOUNCED HE WOULD VETO THE GINGRICH-LOTT PROPOSALS THAT ARE MORE LOOPHOLES THAN PATIENT PROTECTIONS.** The President said that these Republican proposals:

**Contain Empty Promises.** Many of the provisions in the Republican plans are symbolic gestures rather than real patient protections. As the American Nurses Association says: "Republican leaders who promise protection from managed care abuses for patients only deliver slogans for the patients and protections for the managed care industry." For example these bills:

- **Let HMOs, not health professionals, define medical necessity.** The Republican Leadership proposals provide for an external appeals process, but make this process meaningless by allowing HMOs themselves, rather than independent health professionals, to define what services are medically necessary. This loophole will make it very difficult for patients to prevail on an appeal to get the treatment their doctors believe they need.
- **Allow financial incentives to threaten critical patient care.** The Republican legislation purports to protect patients from financial incentives to limit care, but applies this protection in only a very narrow set of circumstances. The bills thus leave most patients, in most health care settings, vulnerable to financial incentives that limit patient care. By pretending remove those incentives, while allowing them to go forward, the Republican Leadership bills mislead patients as to the risks of improper care.

**Leave Out Essential Protections For Patients.** The Republican Leadership proposals fail to include several critical patient protections. The National Breast Cancer Coalition, raising concerns about the absence of important protections, says that "if these bills are enacted, it could be devastating for the thousands of women who undergo breast cancer treatment every year." The Republican Leadership proposals:

- **Fail to guarantee direct access to specialists.** The Republican Leadership proposals fail to ensure that patients with serious health problems have direct access to the specialists they need. For example, patients with cancer or heart disease may be denied access to the doctors they need to treat their conditions.

- **Fail to protect patients from abrupt health care changes.** The Republican Leadership bills fail to assure continuity of care when an employer changes health plans. **This deficiency means that pregnant women or individuals undergoing care for a chronic illness may have their care suddenly altered mid course, potentially causing adverse health consequences.**
- **Fail to compensate patients who have suffered harm as a result of a wrongful health plan action.** The proposed per day penalties in the Republican Leadership plans fail to compensate patients who suffer serious harm or even death because of a health plans' wrongful action. For example, if a health plan improperly deny a lifesaving cancer treatment to a child, it will only incur a penalty for the number of days it takes to reverse its decision but will not have to pay the family for all the damages it will suffer as the result of having a child with a now untreatable disease. And because the plan will not have to pay for all the harm it causes, it will have insufficient incentives to change health care practices for the future.

**Reverse Course on Some Critical Protections.** In some areas, the Republican Leadership bills undermine current patient protections that are law today. The American Medical Association says that these bills “would roll back vital patient protections enacted in the states.” Similarly, the Kentucky Chapter of the American College of Physicians says that “the Republican bills basically gutted the ‘prudent layperson standard’” that assure real emergency room protections. **The Republican bills:**

- **Undermine existing medical privacy protections.** The House Republican Leadership bill would preempt some existing medical privacy protections guaranteed by state law, without putting any protections in their place. As a result, the bills would increase the number of individuals who can review and give out health records without a patient's knowledge or consent.
- **Reverse course on emergency room protections.** The Republican Leadership proposals back away from the emergency room protections that Congress implemented for Medicare and Medicaid beneficiaries in the Balanced Budget Act of 1997. The Republican bills include a watered-down provision that does not require health plans to cover patients who go to an emergency room outside their network and does not ensure coverage for any treatment beyond an initial screening. These provisions put patients at risk for the huge costs associated with critical emergency treatment.

**Leave Millions of Americans Out in the Cold.** The Republican Leadership bills do not apply to all health plans and therefore leave out millions of Americans. As the American Nurses Association says: “we will not agree to leave a large segment of the population unprotected.” The bills:

- **Do not cover all health plans.** Both Republican Leadership bills leave millions of Americans unprotected. The Lott proposal, for example, covers only self-insured plans, thus leaving out 100 million Americans, including millions of Americans in small businesses. These Americans are held hostage to the hope that states will provide them with every patient protections that the Republicans in Congress will not.

**ANNOUNCED A NEW “ANTI GAG” REGULATION FOR FEDERAL EMPLOYEES.** While the Republican Leadership delays passing strong patient protections, the Clinton Administration is implementing the patients’ bill of rights for the 85 million Americans in Federal health plans. The President:

- **Announced release of anti-gag regulation.** Today, the President announced that the Office of Personnel Management (OPM) is releasing a new regulation prohibiting plans participating in the Federal Employees Health Benefits Program (FEHBP) from using gag clauses. This regulation will ensure that health professionals can discuss all medical treatment options with their patients. Earlier this year, OPM notified all participating health plans that they must provide other new patient protections -- including assuring access to specialists, continuity of care, and access to emergency room services -- to their enrollees. FEHBP has 350 participating health plans that serve 9 million federal employees and their families, including over 100,000 people in Kentucky.
- *Built on efforts to extend patients’ bill of rights to all Federal health plans.* In June, the Department of Health and Human Services extended the patients’ bill of rights to the 40 million Americans who receive Medicare. Last month, the Department of Veterans’ Affairs began to put in place a new, rapid appeals process for the 3 million veterans who receive health care. Last week, the Department of Defense issued a directive to all military bases throughout the world, extending patient protections to 8 million servicemen and women and their families at nearly 600 hospitals and clinics around the world.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ( "Christopher Edley, Jr." )

CREATION DATE/TIME: 9-AUG-1998 16:38:14.00

SUBJECT: book working groups -- RETRANSMIT

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP [ OMB ] )  
READ:UNKNOWN

TO: Edward W. Correia ( CN=Edward W. Correia/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP [ OPD ] )  
READ:UNKNOWN

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

CC: Jane T. Price-Smith ( CN=Jane T. Price-Smith/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: John M. Goering ( CN=John M. Goering/OU=PIR/O=EOP [ PIR ] )  
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CC: Jacinta Ma ( CN=Jacinta Ma/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: Scott R. Palmer ( CN=Scott R. Palmer/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: Michele Cavataio ( CN=Michele Cavataio/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

CC: Marjorie Tarmey ( CN=Marjorie Tarmey/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

CC: Judith A. Winston ( CN=Judith A. Winston/OU=PIR/O=EOP [ PIR ] )  
READ:UNKNOWN

TEXT:

Sorry -- hit the send button before I was done.

Maria, Elena, Mike, Joshua:

Here's where we are and where I'd like to go w.r.t. bold idea working groups for the workplan chapter of the book.

[[MARIA: After reading this, I'd like you to send an email to all addresses conveying your sense of the process, the priority you want DPC, NEC and OMB to assign to this, and what you want me to do if and when those offices decide [as seems inevitable, in my experience] they are too busy to engage. I'd like everyone on the same page process-wise. Thanks. ]]

1. Working groups in Education, Criminal Justice, Economic Development and, sort of, Civil Rights Enforcement. [perhaps additional topics later]  
My partners on each topic are, respectively, Elena/Mike on education, Elena on crime, Josh on economic development, and Eddie on enforcement.

2. For the time being, at least, working with me as staff are: Michele Cavataio (K-12); Scott Palmer (higher ed, and criminal justice); John Goering (economic dev); and Jacinta Ma (civil rights).

3. Near-term goal is an abbreviated piece of Think Paper with four headings: (a) major Administration accomplishments; (b) pending hot/important policy problems that may need to be addressed before or in the book; (c) ideas or problems in addition to the above that are "out there" that are candidates for discussion in the book, even if there is no policy exigency or, even, policy decision -- the so-called "hard-questions"; (d) bold ideas, including state, local and private measures.

4. CIVIL RIGHTS: I'd like to have initial meetings of these working groups ASAP. Eddie is trying to arrange Civil Rights for Monday around 3:30 pm; Jacinta is working with him on the Think Paper. I suggest that Mike Cohen attend that meeting because of education overlaps.

5. EDUCATION: Mike Cohen agreed to organize the Education meeting this coming week. [Not Wednesday. I suggest Thursday, any time other than 2pm, when Maria has another mtng scheduled. Mike, please invite Eddie, as well as Shireman. Invite Josh, but because Josh and Barbara Chow are scheduled to be on vacation, Josh wants you to invite Barbara's career dputy, Barry White. I concur. I've known him for 20 years. I've asked Scott Palmer and Michele Cavataio, working with Mike or his designee, to start on the Think Paper.

6. ECONOMIC DEVELOPMENT: On economic development, Josh is away, but I'll work with OMB staff to get the thing started, along with John Goering, so that when Josh returns that work group can get going in high gear. I will also ask Sperling who he wants involved.

7. CRIMINAL JUSTICE, ETC.: Elena, will you please take the lead in convening a group? I've asked Scott Palmer to start on a Think Paper, but it needs DPC input ASAP. Who is Scott's contact? Jose? Can you please set something up this coming week? Again, not Wednesday (I must be in Boston).

MY GOAL: is to get some preliminary thinking to POTUS [and VPOTUS] within a couple of weeks, for his quick reaction, to calibrate our boldness, and to help us set priorities in further, detailed idea development. Also, remember that those few ideas that may have budgetary implications will have to feed into that process.

Thanks one and all.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides ( CN=Richard Socarides/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 9-AUG-1998 12:34:14.00

SUBJECT: Washington Blade Account of Hefley Amendment

TO: Nanda Chitre ( CN=Nanda Chitre/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Elizabeth Gore ( CN=Elizabeth Gore/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Craig T. Smith ( CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Tracey E. Thornton ( CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Dario J. Gomez ( CN=Dario J. Gomez/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Charles E. Kieffer ( CN=Charles E. Kieffer/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Michael Deich ( CN=Michael Deich/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Julia M. Payne ( CN=Julia M. Payne/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Robert N. Weiner ( CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Barry J. Toiv ( CN=Barry J. Toiv/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Martha Foley ( CN=Martha Foley/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Virginia Apuzzo ( CN=Virginia Apuzzo/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Janet Murguia ( CN=Janet Murguia/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TO: Charles M. Brain ( CN=Charles M. Brain/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 08/09/98  
12:34 PM -----

Doug.Case @ sdsu.edu  
08/07/98 09:48:00 PM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides  
cc:  
Subject: Washington Blade Account of Hefley Amendment

WASHINGTON BLADE  
August 7, 1998  
<http://www.washblade.com>Nays' have it

Measure sought to end federal job protections

by Lou Chibbaro Jr.

In an action considered a crushing defeat for the religious right, the House of Representatives on Wednesday voted 252 to 176 to kill an amendment seeking to overturn President Clinton's May 28 executive order banning job discrimination against Gay federal employees.

The vote came after moderate and conservative Republicans joined Democrats in speaking out on the House floor against the amendment, which had been introduced by Rep. Joel Hefley (R-Colo.).

The vote also followed what officials with Gay political groups called an unprecedented collaborative effort to lobby against the Hefley amendment by a group of conservative Republicans and Democrats who rarely, if ever, agree on any issue, let alone an issue on Gay civil rights.

The Human Rights Campaign, a national Gay political group, and Log Cabin Republicans, a national Gay Republican group, credited openly Gay Reps. Barney Frank (D-Mass.) and Jim Kolbe (R-Ariz.) with putting together the bipartisan effort to defeat the Hefley measure.

Both Frank and Kolbe spoke out against the Hefley amendment, saying it would overturn an executive order that seeks only to ban discrimination against civilian federal employees who happen to be Gay. Frank served as the Democratic floor manager during the debate over the amendment. In an unusual development, Frank - who normally locks horns with Republicans

during House debates - called upon mostly Republicans to speak out against the amendment. Some of them were conservative Republicans who, in the past, have been at odds with Frank and who have spoken out against Gay civil rights.

Among them were Reps. Tom Bliley (R-Va.) and Dana Rohrabacher (R-Calif.), both of whom condemned the Hefley amendment as unfair and discriminatory and urged their House colleagues to vote against it.

"The real story in this vote is that a growing segment of the Republican Party is emerging," said Rich Tafel, executive director of the Log Cabin group. "They are no longer afraid to draw the line on bashing Gays and they are putting the leadership on notice that it will not work."

Hefley and other House members supporting his amendment argued that Clinton's executive order would lead to hiring quotas and affirmative action programs for Gays. Hefley also argued that the Clinton order was an improper attempt to circumvent Congress by using presidential powers to create "special set-aside or carve-out [program] for homosexuals."

Rohrabacher, considered one of the most conservative members of the House, took the lead in refuting Hefley's claim.

"[A]fter close examination, I have determined that the Clinton executive order will not lead to quotas or affirmative action plans for homosexuality, nor will this executive order give homosexuals any special rights or a protected status under the civil rights acts," Rohrabacher said.

Kolbe is credited with playing a key role in defeating the Hefley amendment by taking steps to counter an attempt by Hefley to link the Clinton executive order pertaining to Gay federal workers with another, highly unpopular Clinton order addressing the interaction between the federal and state and local governments. Hefley's amendment called for overturning both Clinton orders, with the aim of garnering more support for the anti-Gay portion of the amendment from House members who disliked the section pertaining to the other Clinton executive order, referred to as a "federalism" order. To the dismay of Gay activists, House GOP leaders approved Hefley's request to link the two orders in one amendment and pushed through a House rule barring opponents from separating them.

Kolbe responded by introducing his own amendment calling for repeal of the Clinton order on the federalism question, thus giving opponents of the federalism order a way to vote against that order while also voting against Hefley's amendment. The Kolbe amendment passed by a lopsided margin.

In the vote on the Hefley amendment, 188 Democrats and 63 Republicans voted against it while 15 Democrats and 161 Republicans voted for it. The House's sole independent voted against it.

Among D.C. area House members, Rep. Frank Wolf (R-Va.), was the only one to vote for it. Reps. Steney Hoyer (D-Md.), Albert Wynn (D-Md.), Connie Morella (R-Md.), James Moran (D-Va.), and Tom Davis (R-Va.) voted against it.

\*\*\*\*\*  
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## TEXT:

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by mail.sdsu.edu (8.8.7/8.8.7) with ESMTTP id RAA03859; Fri,  
07 Aug 1998 17:47:28 -0700 (PDT)

X-Sender: dcase@mail.sdsu.edu

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END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael V. Terrell ( CN=Michael V. Terrell/OU=CEQ/O=EOP [ CEQ ] )

CREATION DATE/TIME: 9-AUG-1998 20:43:21.00

SUBJECT: Safe Drinking Water event memo w/attachment

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Per the request of your office. Please call me at 6-5151 with any questions. You may also wish to contact Brad Campbell, who is the policy person in our office who deals with this issue.===== ATTACHMENT 1 =  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

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August 9, 1998

SAFE DRINKING WATER EVENT

DATE: August 10, 1998  
LOCATION: Harry Tracy Treatment Plant  
San Bruno, California  
TIME: 9:50am - 10:55am  
FROM: Kathleen A. McGinty

I. PURPOSE

**You will be announcing the final rule requiring public drinking water suppliers to provide customers with “consumer confidence reports.” The rule will require 56,000 water systems across the country to provide a total of 240 million Americans with annual reports on the source of their drinking water, contaminants found in their drinking water, the likely source of the contamination, the potential health impacts of contaminants detected, and other information.**

**While California requires some form of disclosure, the EPA rule will establish standards that are clearly more protective (most notably by requiring information about the condition of drinking water sources and the sources of contamination), and will impose those standards nationally.**

II. BACKGROUND

**The EPA rule you are announcing reflects two signature achievements of your Administration: repeated strengthening of community right-to-know about potential health and environmental threats, and landmark reforms to Federal drinking water laws to strengthen public health protection.**

**Congress enacted the Safe Drinking Water Act Amendments of 1996 in the waning days of the 104th Congress. After a flurry of proposals and partisan debate in the 104th Congress that would have substantially weakened drinking water protection, there emerged broad, bipartisan support for a bill that incorporated virtually the entire proposal for Safe Drinking Water Act reauthorization that you first presented to Congress in 1993. This legislation included provisions to: strengthened protection of drinking water sources, expanded community right-to-know about drinking water quality; creation of a new Safe Drinking Water State Revolving Fund to provide state and local governments with the resources to**

improve drinking water systems; certification of drinking water system operators; and common-sense regulatory reforms (replacing highly prescriptive statutory requirements that EPA regulate a specified number of contaminants each year with science-based priority-setting, and providing greater regulatory flexibility for smaller water systems). The right-to-know requirements giving rise to this rule were among the last and most hard-fought provisions in the bill. The Senate narrowly defeated Senator Boxer's floor amendment to include these provisions, which were added only after a major debate on the House floor led by Congressman Henry Waxman (D-CA), the principal House proponent of the bill.

You signed the bill into law on August 6, 1996. Since enactment, the Administration has provided more than \$2 billion in low-interest loans for improvements in local drinking water systems.

EPA's rule implementing the right-to-know provision requires disclosure of a broad range of information intended, as is true for other right-to-know requirements, to prompt public attention and efforts to reduce potential risk even in the absence of regulation from a central bureaucracy. The rule is significant because, despite substantial progress in improving the quality of drinking water, communities continue to face public health threats linked to water quality problems.

Last month, the parasite *Cryptosporidium* in drinking water infected 1,300 residents of an Austin, Texas suburb. Also in July, *E. coli* infection of a public water supply in Alpine, Wyoming, sickened more than 50 people. The most deadly recent drinking water calamity in recent years was a 1993 outbreak of *Cryptosporidium* in Milwaukee's public drinking water supply, which resulted in 100 deaths and more than 400,000 illnesses. Note that while EPA's rule requires reporting of *E. coli*, standards for *Cryptosporidium* are still under development (EPA expects to announce them this fall). The rule does require reporting of turbidity, however, which is closely linked to outbreaks of *Cryptosporidium*.

The "consumer confidence reports" will strengthen Americans' right to know about possible environmental and human health threats to drinking water in their community.

### III. PARTICIPANTS

#### Event participants (T)

Senator Barbara Boxer; Lt. Governor Gray Davis; Mayor Ed Simon, San Bruno; Paul Mazza, Superintendent of Water Treatment Facilities - San Francisco Public Utility Commission; Lorraine Ross.

### IV. PRESS PLAN

Open Press

V. SEQUENCE OF EVENTS

**NOTE: You will take a brief tour of the facility prior to the program.**

**NOTE: The program is tentative.**

- Paul Mazza, Superintendent of Water Treatment Facilities - San Francisco Public Utility Commission, makes brief welcoming remarks and introduces Lorraine Ross;
- Lorraine Ross makes brief remarks and introduces YOU;
- YOU make remarks;
- YOU work a ropeline and depart.

VI. REMARKS

To be provided by speechwriting

VII. ATTACHMENT

-Related Environmental Issues

## RELATED ENVIRONMENTAL ISSUES

### **Regional Drinking Water Issue: MTBE**

**MTBE (Methyl Tertiary-Butyl Ether) is an automotive fuel additive, first introduced in the late 1970s, that has been detected in groundwater and drinking water supplies in California and other states, causing widespread public concern. For example, in Santa Monica, MTBE contamination forced the closure of two major drinking water supplies in 1996. There has been no MTBE detected in San Francisco's water supplies.**

**On Thursday, August 6, 1998, environmental groups filed suit in San Francisco against eight major oil companies alleging negligence in the handling of MTBE. The suit seeks to hold the companies liable for cleanup and damages.**

**MTBE contamination is primarily attributed to leaking underground storage tanks and pipelines.**

**First introduced to enhance engine performance after the phase-out of lead in gasoline, MTBE is currently added to gasoline as an oxygenate in order to reduce both carbon monoxide and ozone levels. MTBE has been used in increasing quantities in recent years to meet Clean Air Act requirements, especially in areas in nonattainment for carbon monoxide and ozone. Thus, while there have been calls for an outright ban on MTBE use, the air policy implications militate against such a ban in the absence of better scientific support.**

**EPA has issued an advisory on MTBE and is assisting in investigating and responding to cases of MTBE contamination. In EPA's view, the MTBE levels that render drinking water unacceptable as a matter of taste and odor are 100,000 times lower than the levels at which there are human health effects. EPA does not have a regulatory standard for MTBE in drinking water, although MTBE is a candidate for such a standard under the 1996 Safe Drinking Water Act amendments. Accordingly, MTBE levels need not be monitored as part of EPA's new consumer confidence rule. California does require such monitoring, however, and EPA's rule strongly encourages inclusion of this additional information in the reports.**

### **CalFed Bay-Delta Program**

**As the CALFed process moves toward closure, the stakeholders are becoming more anxious about the outcome. Many urban water agencies are concerned that drinking water quality may not be adequate to protect public health without a major new facility ("the peripheral canal") to export fresh water around the Delta, which supplies two-thirds of the State's drinking water.**

**A study earlier this year suggested a connection between drinking water disinfectants and miscarriages. This study will be evaluated as part of a broader strategy to determine what**

**new facilities or programs are needed to protect public health. In the interim, the CALFED program will be implementing new programs to control polluted runoff affecting drinking water sources, while maintaining the peripheral canal as a contingency strategy for later stages of the program.**

### **San Francisco Drinking Water Concerns**

**San Francisco gets 85 percent of its drinking water supplies from Yosemite National Park and The Stanislaus National Forest. The ultimate source is snow melt in the Sierra Mountains. The high quality of this drinking water source permitted EPA to grant a filtration waiver to San Francisco in 1993. As reports of *crypto sporidium* and other drinking water threats have become more prominent, there have been periodic concerns about the appropriateness of the waiver. San Francisco's water continues to meet EPA's criteria for filtration avoidance. Of the 50 contaminants monitored in this drinking water supply last year, most were below minimum detection levels and all were well below EPA's maximum contaminant levels (MCLs).**

### **San Francisco Bay Area Smog Redesignation**

**On June 25, 1998, EPA's Regional Administrator signed a final rule redesignating the San Francisco Bay Area a nonattainment area for Federal ozone standards under the Clean Air Act. The determination will require additional air pollution controls in the area, and may affect the level of funding the Bay Area can receive under the Congestion Mitigation and Air Quality (CMAQ) programs under the Transportation Equity Act for the 21st Century (TEA-21). Several Bay Area Congressmen have urged EPA and DOT to interpret TEA-21 to avoid penalizing the Bay Area for having dirtier air, and the agencies are working to resolve the issue.**

### **Headwaters**

There is currently a great deal of controversy concerning the State of California's proposed \$130 million appropriations for its share of funds to purchase the Headwaters Forest. As you know, we have obtained \$250 million for the purchase of Headwaters, but the transaction cannot be completed absent the State's share of the purchase. Spurred by environmentalists' concerns that the proposed Habitat Conservation Plan (HCP) for the lands that Pacific Lumber Co. would be able to log is not protective enough, certain key California legislators, led by Byron Sher, have been balking at appropriating the State's share. The situation was not helped by the company's recent logging in an area contrary to recommendations of the National Marine Fisheries Service.

Pacific Lumber Co. has now ceased that logging. Governor Wilson, Senator Feinstein and Charles Hurwitz have been engaged in negotiations regarding possible further changes to the HCP.

Press coverage on this indicates that the deal is about to fall apart. However, behind the scenes, considerable progress is being made in terms of developing modifications to the agreement that would make it acceptable to the California legislature and, hopefully, not unacceptable to

PALCO. Until now, we have stayed one step removed from these negotiations, but are now getting engaged to try to bring them to a close in time for inclusion in the budget package being voted on Monday or Tuesday. The Vice President will be calling a key California legislator this weekend to urge a speedy conclusion.