This is a preliminary transcript of a Committee hearing. It has not yet been subject to a review process to ensure that the statements within are appropriately attributed to the witness or member of Congress who made them, to determine whether there are any inconsistencies between the statement within and what was actually said at the proceeding, or to make any other corrections to ensure the accuracy of the record.

RPTS KESTERSON

DCMN HERZFELD

MARKUP OF H.R. 358, PROTECT LIFE ACT;

H.R. 570, DENTAL EMERGENCY RESPONDERS ACT;

H.R. 528, NEGLECTED INFECTIONS OF

IMPOVERISHED AMERICANS ACT; AND H.R. 525,

VETERINARY PUBLIC HEALTH AMENDMENT ACT

FRIDAY, FEBRUARY 11, 2011

House of Representatives,

Subcommittee on Health,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 9:18 a.m., in Room 2123, Rayburn House Office Building, Hon. Joseph R. Pitts [chairman of the subcommittee] presiding.

Present: Representatives Pitts, Burgess, Whitfield, Shimkus, Rogers, Myrick, Murphy, Blackburn, Gingrey, Latta, McMorris Rodgers, Lance, Cassidy, Guthrie, Barton, Upton (ex officio),

Pallone, Dingell, Towns, Engel, Capps, Schakowsky, Gonzalez, Baldwin, Ross, Weiner and Waxman (ex officio).

Staff Present: Clay Alspach, Counsel, Health; Gary Andres, Staff Director; Jim Barnette, General Counsel; Michael Beckerman, Deputy Staff Director; Mike Bloomquist, Deputy General Counsel; Allison Busbee, Legislative Clerk; Howard Cohen, Chief Health Counsel; Aaron Cutler, Deputy Policy Director; Marty Dannenfelser, Senior Advisor, Health Policy & Coalitions; Andy Duberstein, Special Assistant to Chairman Upton; Garrett Golding, Legislative Analyst, Energy; Julie Goon, Health Policy Advisor; Peter Kielty, Senior Legislative Analyst; Ryan Long, Chief Counsel, Health; Carly McWilliams, Legislative Clerk; Jeff Mortier, Professional Staff Member; Katie Novaria, Legislative Clerk; Heidi Stirrup; Lyn Walker, Coordinator, Admin/Human Resources; Karen Nelson, Minority Deputy Staff Director (Health); Tim Westmoreland, Minority Consulting Counsel; Ruth Katz, Minority Chief Public Health Counsel; Phil Barnett, Minority Staff Director; Kristin Amerling, Minority Chief Counsel; Karen Lightfoot, Minority Communications Director and Senior Policy Advisor; Jennifer Berenholz, Minority Chief Clerk; Stephen Cha, Minority Professional Staff Member; Mitch Smiley, Minority Assistant Clerk; Lindsay Vidal, Minority Deputy Press Secretary; and Allison Corr, Minority Policy Analyst.

Mr. Pitts. The committee will come to order. The chair recognizes himself for an opening statement.

I would like to thank my colleagues on both sides of the aisle for being here for our subcommittee's first markup of the 112th Congress. Today the subcommittee will consider four bills. First, we will mark up the Protect Life Act, which, in short, would amend the Patient Protection and Affordable Care Act to continue the historical practice of prohibiting Federal funds from being used on abortion services. The bill would also prevent government entities funded by the Affordable Care Act from discriminating against health care providers and professionals that do not participate in abortion. Further, the bill would allow individuals to purchase a separate abortion plan with private funds and allow health insurance providers to offer separate plans for abortion coverage so long as they don't use Federal funds to do so.

The bill was summarized by the Democrats witness from Wednesday's hearing as bringing, and I quote, health reform into line with what originally was Stupak-Pitts, end quote. Unfortunately, the Stupak-Pitts provision was not included in final passage. So this will seek to amend health care reform by statutorily putting into law what was overwhelmingly supported in this body and is supported by 60 to 70 percent of the American people.

The subcommittee will also consider 3 other bills: Dr. Burgess' Dental Emergency Responders Act, Representative Hank Johnson's Neglected Infections of Impoverished Americans Act, and Representative Baldwin's Veterinary Public Health Amendment Act.

The Dental Emergency Responders Act would allow, but not require, the Secretary of Health and Human Services, Homeland Security to incorporate dentists and dental facilities into its disaster response planning. Currently, the national health security strategy does not include dentists and dental facilities as parts of the response plan. This bill would allow dentists to serve as a resource during a time of disaster.

Next, the Neglected Infections of Impoverished Americans Act requires HHS to conduct a study and report to Congress on six neglected parasitic diseases that are believed to be related to poverty.

And finally, the Veterinary Public Health Amendments Act allows those going into the field of veterinary public health to be eligible for an existing loan-repayment program under the Public Health Services Act.

These are noncontroversial bills. In the 111th Congress, we reported them out of this committee, and all three passed the House by a voice vote.

I would like to thank Ranking Member Pallone and his staff and the authors of the bills for working with us to bring these bills before the committee today.

[The prepared statement of Mr. Pitts follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. I would now like to recognize the gentleman from New Jersey, the ranking member, Mr. Pallone for 5 minutes for an opening statement.

Mr. Pallone. Thank you, Mr. Chairman.

Today the subcommittee meets on four bills, and I am happy to see that three of those bills are important legislation that we worked on last Congress in this subcommittee, and these three are bipartisan, commonsense bills that our staffs worked hard on last fall, and I am pleased that we are marking them up today.

The first of those is the Dental Responder Emergency Act which allows States to incorporate dentists and dental facilities into their emergency planning. It provides for emergency training in the dental workforce and also provides the necessary addition and improvements to emergency response around the country.

The second bill, Veterinary Public Health Workforce and Education Act, sponsored by Congresswoman Tammy Baldwin, aims to increase our Nation's supply of public health veterinarians. It is a bill that I was very supportive of and cosponsored. It is also the reason, as I explained to the chairman, that I visited his district when I went to the University of Pennsylvania farm. Veterinarians play a critical role in treating and working with public health programs, such as swine flu and HIV/AIDS. This bill amends current law to allow veterinarians to participate in important public health workforce programs, including loan

repayment assistance.

The third bill, the Neglected Infections of Impoverished Americans Act, will require the Secretary of HHS to report on the origins and impact of neglected infectious diseases of poverty in the U.S. In addition, the report will assess the funding and resources needed to address these diseases.

I urge my colleagues to support these three bills, and, again, I thank the chairman for moving them forward.

Unfortunately, today in the mix is the fourth bill that serves only to attack the rights of women in the United States and limits their access to reproductive health care to which they are entitled to by law. The Protect Life Act does nothing but attempt to dismantle the Affordable Care Act and roll back women's reproductive rights 38 years.

We already know that Federal funds do not go to abortions except in the limited cases of rape, incest or to save the mother's life, but this bill goes beyond government funding and dictates what women can do with their own health care dollars. Our hearing on Wednesday proves that Republicans, in my opinion, are being hypocritical, committed to fighting against big government and intrusion into personal lives, except when it comes to the most personal of all, and that is someone's health.

What we heard in our hearing on Wednesday from the Republicans, in my opinion, was a total disregard and disrespect for women's health and safety. This bill is not prolife, It is

antiwomen. And I urge my colleagues to vote against this intrusive, divisive and, I believe, very extreme bill.

Thank you, Mr. Chairman. I yield back.

Mr. Pitts. The chair thanks the gentleman.

[The prepared statement of Mr. Pallone follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. Without objection, all Members' opening statements will be made part of the record.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. Are there further opening statements?

The chair recognizes the chairman of the full committee Mr. Upton.

The Chairman. I am going to put my statement in the record just to speed things along.

[The prepared statement of Mr. Upton follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. All right. The chair recognizes the chair emeritus Mr. Barton.

Mr. Barton. Whatever. Thank you, Chairman. I will be very brief because I know we have these four bills.

I have long supported legislation obviously aimed at preventing the use of Federal funding to cover the cost of abortions. Those of us on this committee in the last Congress know as we marked up what we now call Obamacare in this committee, we had several very contentious-type votes on that very issue. In one case then-Chairman Waxman changed his vote so he could move to reconsider. He then -- or at least a member of the majority at that time then switched his vote so that on the revote, the Stupak-Pitts amendment that had passed failed, I believe, by one vote. So this is obviously an issue that is very important and very tight.

It has been 38 years since the Supreme Court ruling in Roe v. Wade that gave a woman a right to terminate her pregnancy. It has been 35 years since that same Supreme Court in Harris v. McCrae indicated that there is no statutory or constitutional obligation of the States or the Federal Government to fund what are called "necessary abortions."

It has only been 11 months since the President signed into law the Patient Protection and Affordable Care Act, which eliminates the Hyde amendment and does allow for federally funded

abortions. The bill before us today, the Protect Life Act, would overturn the elements of the Patient Protection and Affordable Care Act that deal with abortion.

I think the hearing you held the other day, Mr. Chairman, was a very good hearing. I think the bill that you put before the subcommittee is a very strong bill. I fully support it and will oppose any of the so-called gutting amendments that our friends on the minority are prepared to put forward.

So with that I will put the rest of my statement in the record. Thank you for holding this legislative markup. The other three bills did pass the subcommittee and the full committee in the last Congress. They are worthy of support, and I would assume on a bipartisan basis we would unanimously report those three bills to the floor.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Barton follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the gentleman and now recognizes the ranking member Mr. Waxman for such time as he may consume.

Mr. Waxman. Mr. Chairman, I regret that this legislation is the subject of the first legislative markup on the Subcommittee on Health. This is the last thing we should be debating in this subcommittee today because it is untimely, it is unnecessary, and it is unjustified. The bill before us today is an attack on one of the most hard-fought, delicately balanced provisions of the Affordable Care Act, those related to abortion. Those provisions authored by Senator Nelson, whose prolife record speaks for itself, clearly and unequivocally prohibit that use of Federal funds for abortion, keep stated Federal abortion-related laws in place, and assure that those whose conscience dictates against abortion are protected and not discriminated against.

Mr. Chairman, your legislation, the subject of today's markup goes far beyond this by restricting insurance plans' flexibility regarding abortion coverage. The bill will result in a virtual shutdown of private coverage for this service. Now, I know those who are against abortion would be happy with that, but it is still a legal procedure in the United States, and in many cases, when it is medically necessary, insurance pays for it. This bill would take away that provision in the Affordable Care Act, which would allow women, families to use their own money to purchase an insurance plan that will provide this coverage.

Another very disturbing provision of the Pitts bill would up-end the Affordable Care's requirement that health care providers remain obligated to provide emergency services as required under EMTALA. It, in effect, would allow someone who argued their conscience would prevent them from treating a woman who presents herself in the emergency room from saving her life in order to -- in order to save her life to perform a termination of her pregnancy. And I don't think we ought to be dictating the practice of medicine, especially under emergency circumstances.

November's election was a mandate for jobs and economic growth. It was not a mandate to erode the rights of choice protected under the Constitution. In my view, the abortion provisions included in this Affordable Care Act deal are far too restrictive, but I know firsthand how difficult this issue was negotiating a final health reform package, so I am willing to stand behind them. But I don't think we ought to turn the clock back any further. Abortion should be treated as we treat any other legal, medically appropriate service. It should be the standard of review for this bill, and I strongly will oppose it.

I yield back.

[The prepared statement of Mr. Waxman follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the gentleman and yields to the gentleman from Michigan Mr. Rogers for an opening statement.

Mr. Rogers. Thank you, Mr. Chairman.

Energy and Commerce has a critical responsibility to begin oversight of the Democratic health law, a responsibility the committee has ignored for over a year. One of the first places the new majority will start is closing the law's enormous loophole that allows taxpayers to foot the bill for abortion coverage. Simply put, the health law as it stands reverses three decades of bipartisan law regarding taxpayer-funded abortions by allowing people to use Federal subsidies to purchase plans that cover abortion in the new exchanges. The law up-ends the Hyde amendment, which emphasized that regardless of your personal beliefs on the issue, public funding for abortion should be off limits.

Chairman Pitts' bill is very straightforward. It prevents Federal funds included in the health law from being used to pay for abortions or abortion coverage, and I look forward to supporting that today.

I hope in the coming weeks we start digging into the law's other major flaws. It has been over a year and a half since Secretary Sebelius testified before this committee, at the time telling us she couldn't comment on the health reform law because she hadn't read the bill. Now this committee has important

questions to ask. Why is the law raising premiums and making health care more expensive? Why is the President's pledge that if you like your plan, you can keep it being broken so often? Why are waivers being handed out to Fortune 500 companies and unions, and how will HHS deal with the impending Medicaid crisis created by the law? The American people are looking for answers, and we should deliver them soon.

Thank you, Mr. Chairman, and I yield back.

[The prepared statement of Mr. Rogers follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the gentleman and recognizes the gentlelady Ms. Capps for 2 minutes.

Mrs. Capps. Thank you, Mr. Chairman.

I must reiterate my disappointment that the Health Subcommittee, a powerful and potentially effective body to spur economic growth and job creation, is here again stuck on the culture wars instead of working on job creation. This extreme legislation will create not even one job. This extreme legislation will not foster a single economic advancement for our Nation. Instead, it is an unprecedented display of disrespect for the ability of a woman to make her own life choices. It is a clear indication of the real agenda being pursued by my friends on the other side of aisle.

Let me be clear. The new health care reform law, the Affordable Care Act, does not provide direct Federal funding for abortion except in the cases of rape or incest or to save the life of the pregnant woman. But as we saw on Wednesday, the proponents of this bill think even that is too lenient. Their original extreme proposal made it clear that, in their view, even being raped is not a valid enough reason for a woman to have access to a range of reproductive services. And this new version is just as bad. It would allow a hospital, an individual doctor, even a receptionist to stand in the way of lifesaving care and let a woman die if terminating a pregnancy is the treatment needed to

save her life. What is worse is that there is no need to even refer her elsewhere. Not even the Stupak amendment we vigorously debated last year tried to change this.

The bill's name is misleading. It does not protect life. Instead it puts a woman and their families in danger. Instead of pushing legislation that intrudes into the private lives of American families, we should be focused on supporting American families by creating jobs for the millions of mothers out of work who need these jobs to put food on their table. I urge my colleagues to abandon this divisive effort and finally turn our focus to the issue of job creation. And I yield back.

[The prepared statement of Mrs. Capps follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the lady and recognizes the gentlelady from Tennessee Mrs. Blackburn for 2 minutes.

Mrs. Blackburn. Thank you, Mr. Chairman. I thank you for bringing forth the Protect Life Act this morning, and I want to thank you for your continued work as a champion of life.

After listening to testimony earlier this week, we now have further confirmation of what we feared last Congress when we stated our concerns before this committee, that Obamacare, PPACA, through measures and bookkeeping gimmicks will fund elective abortions with taxpayer dollars for the first time in decades. This view is not only held by our hearing witnesses, the chairman and myself, but, as I mentioned during questioning earlier this week, former White House Chief of Staff Rahm Emanuel has publicly stated that without the inclusion of the Stupak-Pitts amendment, PPACA will allow taxpayer funding to be used for abortions. In fact, Mr. Emanuel did not stop there. He even went on a step further by stating that the Executive Order signed by the President as a substitute to the amendment -- and I am quoting -- "does not carry the force of law," end quote, and will not prevent taxpayer dollars from being used to fund elective abortions.

Mr. Chairman, if there was any doubt before, it should be clear now how incredibly important it is that we move forward with the Protect Life amendment and apply the long-held standard of the Hyde amendment. I thank you for bringing forward the legislation

and for your continued work, and I yield back.

[The prepared statement of Mrs. Blackburn follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the lady and recognizes the ranking member emeritus, the gentleman from Michigan Mr. Dingell, for an opening statement.

The chair recognizes the gentlelady from Illinois Ms. Schakowsky. Two minutes

Ms. Schakowsky. The American people have made it clear that they want us to work together to create jobs and bolster the economy, but instead we are here to consider legislation that endangers and attacks the rights of women and is out of the mainstream of American priorities.

H.R. 358 is extreme, extreme legislation that is dangerous to women's health, disrespects the judgment of American women, and is nothing less than the most comprehensive and radical assault on women's health in our lifetime. It would take away a woman's right to make her own decisions about her reproductive health, even with her own money. It would allow public hospitals to deny life-saving care. It could allow a conscience objection to avoid providing contraception.

This legislation revives a debate that has already been settled. There is no Federal funding for abortion in the health care reform law. Federal funds are already prohibited from being used for abortions under the Hyde amendment at the expense of poor women, Federal employees and military women, and this goes way beyond current law.

The attention Republicans are focusing on the private lives of women, what American families can do with their own money makes it perfectly clear to me that their goal is to ban all abortions and end access to birth control and contraceptives. I would be offering an amendment to clarify that the provision regarding State conscience laws applies only to abortion services as opposed to contraception or any other procedure to which a provider may assert conscience objection.

This legislation is an extreme and mean-spirited way to roll back women's health and rights. It is too extreme for women, too extreme for America, and we should all reject it.

I yield back.

Mr. Pitts. I thank the lady.

[The prepared statement of Ms. Schakowsky follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. And I recognize the gentleman from Pennsylvania Dr. Murphy for 2 minutes.

Mr. Murphy. Thank you, Mr. Chairman.

I would like to talk about babies for a moment. During the hearing for this bill, I brought up a case, an example. The grand jury in Pennsylvania found that an abortion clinic in Philadelphia had basically operated a house of horrors, and the staff at that clinic were charged with at least seven counts of murder, including one of a woman who had died subsequent to some of her care, and that there were many cases where women who were treated in this abortion factory in which unsterilized equipment was used left with venereal disease such as syphilis, or left sterile, or left in debilitating pain. There is nothing about women's rights in this or protecting women's health in that case. And what was so egregious was that when that grand jury document was brought out, that one of the parts of the appendix was a billing method from the clinic that specifically listed Medicaid as part of the system to pay for this. So all of this talk about how we are not using Federal tax dollars to pay for abortion is simply false, and we do need to codify that.

Also, this does not restrict abortion in cases of life of the mother, incest or rape. But it is important that we talk about children in this specific case, the many children, seven cases they can document, although paperwork was destroyed, and perhaps

hundreds of other cases of living, viable, 30-week-plus-old-gestation children who were left on the table breathing and flailing until the doctor came over with scissors and cut their spine.

Give me a break. This is about killing babies and using Federal money to do it.

And I yield back.

Mr. Pitts. The chair thanks the gentleman.

[The prepared statement of Mr. Murphy follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. Are there further opening statements from the Democrats?

The chair recognizes the gentleman from New York Mr. Towns for 2 minutes.

Mr. Towns. Thank you, Chairman Pitts. And let me indicate that I strongly oppose this bill. For one, the Affordable Care Act is crystal clear: No Federal funds can be used to pay for elective abortions. This bill does nothing to change that.

However, most importantly, this bill is completely outside the scope of what we should be doing; namely, we should be attempting to decrease the Nation's unemployment rate. We should be talking about job, jobs, jobs, jobs, and we are simply not doing that with this bill. As the witnesses testified at the legislative hearing 2 days ago, nothing in this bill creates jobs. This is an extremely important point that needs to be emphasized over and over and over again. What this bill does is deny access to reproductive health care, it gives insurance companies new power that it does not have under current law, and would allow public hospitals to deny life-saving care.

I could not in good conscience support a bill that would do that, and I hope that my colleagues would not do it. Enough is enough. We need to be working together on jobs and economic growth, not attempting to dismantle existing women's health options.

Thank you, Mr. Chairman. Let us work together and create jobs. On that note, I yield back.

[The prepared statement of Mr. Towns follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the gentleman and recognizes the gentleman from Georgia Dr. Gingrey for 2 minutes.

Dr. Gingrey. Mr. Chairman, first off, I want to commend my colleague Mr. Green for his work on H.R. 528, the Neglected Infections of Impoverished Americans Act of 2011. I was happy to work with him on this issue in the 111th Congress. I want to thank him again for his leadership.

To Ms. Baldwin, my heartfelt thanks as well. I approached her with a plan to ensure that rural areas may have the health professionals necessary to ensure our food supply is safe.

Lastly, to my good friend, a fellow ob/gyn, Dr. Burgess. I supported his bill in the last Congress, and I look forward to doing so again today.

Finally, to our chairman and my colleague Mr. Joe Pitts. The Protect Life Act is an important piece of legislation that I hope my colleagues on both sides of the aisle will embrace. As a practicing ob/gyn physician who delivered almost 5,000 babies in a 30-year practice, I know firsthand how precious and indeed how fragile life is. As an Ob/Gyn, the health and welfare of the mother and the child have always been my concern. Every life, no matter how small or how old, is sacred. Because of that philosophy, I have argued against rationing care from our seniors, and I will continue to fight to ensure the lives of children are equally protected.

As raised through testimony on Wednesday, neither the Patient Protection and Affordable Care Act nor the President's Executive Order ensured that the tax dollars of our constituents, my constituents and yours, are not being spent on abortion. So Chairman Pitts, knowing this, worked tirelessly in a strong bipartisan manner to ensure that no matter what the opinions on President Obama's overall provisions of the health care bill are, the principle that all life is sacred was upheld by Federal law.

This is a bipartisan issue. In many respects, this issue has demonstrated in the past, and it can in the future, how two parties with different philosophies toward government can work together for meaningful change. And with that thought in mind, I want to thank you for your continuing leadership, Mr. Pitts, on this issue, and I yield back as I have gone a little bit over. Thank you.

Mr. Pitts. The chair thanks the gentleman.

[The prepared statement of Dr. Gingrey follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. Are there further opening statements?

The chair recognizes the gentleman from Texas Mr. Gonzalez for 2 minutes.

Mr. Gonzalez. Thank you very much, Mr. Chairman.

I guess what strikes me about H.R. 358 is the irony of many of its sponsors, those that have said that oppressive regulatory scheme at the Federal level frustrates the free-market forces and inhibits the businessmen and women in this country. You are seeing a prime example of the attempt of the Federal Government adding a layer of regulation that impacts an insurance product that will not be available to the consumer to be paid by private funds. The safeguards in the Hyde amendment -- safeguards and conditions -- already attach. What you are seeing is an incremental step of manipulating the free-market system in order to achieve what my colleague Ms. Schakowsky has already indicated, and that is the eventual goal of a total ban on women's right to choose.

Thank you very much, Mr. Chairman, and I yield back.

[The prepared statement of Mr. Gonzalez follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. The chair thanks the gentleman.

The chair recognizes the gentleman from Ohio Mr. Latta for 2 minutes.

Mr. Latta. I thank the chairman.

I firmly believe in the sanctity of human life and that the right to life of the unborn children must be defended. Furthermore, it is imperative that government funds should not be used to pay directly for abortions or health care coverage that pays for abortion.

Abortion has claimed over 50 million innocent lives since 1973. This statistic is tragic enough, but the fact that the United States facilitates funding for abortion through the health care law is really disturbing. That is why I am committed to passing the Protect Life Act, so that the government dollars are not being used to pay for abortions through Obamacare.

And, Mr. Chairman, I would like to ask unanimous consent to offer a letter that I received.

Mr. Pitts. Without objection, so ordered.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Latta. Mr. Chairman, this letter is from the Catholic Health Care Partners. And If I could just briefly summarize it. It just briefly in a couple of spots, I would like to also express that Catholic Health Care Partners support of H.R. 358, the Protect Life Act, which will further ensure protection of the unborn and of the provider's conscience rights. And also it goes on in the letter to say, we support H.R. 358 as drafted.

Again, Mr. Chairman, I would offer the letter.

Mr. Pitts. The chair thanks the gentleman and recognizes the gentlelady from Wisconsin Ms. Baldwin for 2 minutes.

Ms. Baldwin. Thank you, Mr. Chairman. And I would confine my opening remarks to H.R. 358 and address the others at a later juncture.

Mr. Chairman, I feel that the new Republican majority is playing a game of bait and switch with the American people. Despite all the talk about jobs and the economy, we have as our very first bill for markup this extreme legislation that takes away women's ability to make their own important life decisions about their reproductive health.

This extreme bill is an unprecedented display of lack of respect for American women and our safety. The bill would cut off millions of women from their private health care that they already have and limit the ability of a woman to get the care she needs even if the result is a permanent health condition that could

shorten her life. This intrusive legislation would allow public hospitals to refuse to take the steps necessary to save a woman's life and allow States to deny Medicaid coverage to prevent lifelong disabilities. It denies individual decisionmaking by giving insurance companies more power, and dictates what women can do with their own health care dollars. And many Americans, frankly, are asking, what is next?

Well, I think we know if we look to the underlying bill, that the Republicans will go much further. They have shown their intentions by presenting legislation that would also weaken the rape and incest exceptions for abortion. A majority of the Republican Conference have cosponsored a bill that would give the IRS and insurance companies new authority to decide if a woman has been raped and to deny care to victims of incest. Thanks to American women who spoke out against these provision, it has been dropped, but I think it raises an important question. If Republicans are willing to redefine what constitutes rape and incest, what will they try next?

Enough is enough. It is time for the new majority to respect women's choices and focus on restoring our economy. I urge my colleagues to oppose this extreme and intrusive legislation, and I yield back.

Mr. Pitts. The chair thanks the lady.

[The prepared statement of Ms. Baldwin follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. Are there any other opening statements on the Republican side? Any members seeking recognition?

Dr. Cassidy is recognized.

Dr. Cassidy. I have to admit I approach this as a physician. I have been here for 2 years, but the hyperbole in this Chamber is something which I am a little surprised about. Ms. Rosenbaum came and spoke, and although we collaborated on academic paper, it was clear that she was not here as an academic giving both sides of an argument. She was here, frankly, as an advocate, and she admitted it. She said that if we pass this, we eliminate the private market, and yet there is five States that have laws similar to this, and there is still a private market, a private insurance market. This is based upon her own paper.

Secondly, we say that they can't use their own money. Right now if you are a Medicaid mama, you are able to use your own money and get an abortion. We know women who are on Medicaid who are not otherwise eligible for coverage to obtain abortions. So that again is hyperbole, if you will. It is not there.

As it turns out, the CRS report speaks only a Memorandum of Understanding between DHHS and State insurance companies -- excuse me, insurance regulators. It does not speak of the IRS. So there is a lot of hyperbole here; frankly, fear mongering. I used that term with Ms. Rosenbaum. She didn't refute it, she just said she was there to speak of possibilities. We can speak of

possibilities such as a meteor hitting CMS. The fact is it is not inherent in this bill that any of this will occur.

And most particularly, this does not affect the ability of a woman when she is near death to have an abortion. It specifically excludes that. And there is a great deal of effort to contrast "medically indicated" from "that endangering the life of a mother." That is a distinction without fact. If a woman's life is in danger, this bill protects it. This is a Protect Life Act. But on the other hand, if a woman can be medically managed, as it can -- Burgess practicing for 25 years as an ob/gyn says it can be -- it will be.

So I think there is a lot of hyperbole here which is, frankly, not based on empiric evidence.

I yield back.

Mr. Pitts. The chair thanks the gentleman.

Are there any other opening statements on the Democrat side?

Are there any other opening statements on the Republican side?

If not, the chair calls up H.R. 358 and asks the clerk to report.

The Clerk. H.R. 358, to amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage --

Mr. Pitts. Without objection, the first reading of the bill is dispensed with.

[The information follows:]

******** INSERT 1-1 ********

Mr. Weiner. Reserve the right to object.

Mr. Pitts. The gentleman is recognized.

Mr. Weiner. Mr. Chairman, I reserve a point of order.

Mr. Pitts. The gentleman reserves.

Mr. Weiner. Mr. Chairman, actually I make a point of order.

Mr. Pitts. The gentleman will make his point of order.

Mr. Weiner. Mr. Chairman, I make a point of order consideration of this bill is not in order as it has not been duly enrolled under the rules of the House and ask to be heard on the point of order.

Mr. Pitts. The gentleman is recognized.

Mr. Weiner. Thank you, Mr. Chairman.

Mr. Chairman, as my colleagues know, when we began this new session of Congress, we enacted a new rule 12, section 7, subsection 5(c)(1) that requires that all enrolled bills have a statement attached that state the constitutional authority under which the bill may be considered. And I can read it from subsection (c)(1): Record a statement citing as specifically as practical the powers granted to Congress in the Constitution to enact the bill.

When this bill was enrolled, when H.R. 358 was enrolled, on January 20, 2011, that statement, which was intended to state a specific section of the Constitution, fails to do so. As such, this bill has not been duly enrolled. I ask that it not be

considered today, and that the remedy be that it be reintroduced with a proper statement, and that the bill be considered at that time.

The language that was included in the record reads as follows: The Congress has the power to enact this legislation pursuant to the following, colon: The Protect Life Act, which apparently is the short title for this, would overturn an unconstitutional mandate requiring abortion in the Patient Protection and Affordable Care Act. Unlike every other bill that has been introduced in this session of Congress by Democrats and Republicans alike, no section of the Constitution is stated, no subsection, no constitutional authority whatsoever. It is as if somebody said, we are going to be considering the bill because we don't like it, or we don't think it is constitutional.

The requirement of the rule is clear. It says it has to -- to enact the bill, the power granted to Congress in the Constitution. None of this language refers to that. And I make this point of order for really two reasons. One is I think we should follow the rules. I think this is our first day. And I like that section that the Republican majority insisted upon. I think we should always be thinking about the constitutional underpinnings of what we do.

Secondly, there is a serious question of whether, when push came to shove, you would have the ability to point to where it is in the Constitution you can take a woman's right away, where you

-- you would have to be able to say where under the Fourth Amendment you have the right to deny the right of privacy to half of the population of our country.

So for both of those reasons, I insist upon my point of order and the remedy that the bill not be considered on this day.

Mr. Shimkus. Would the gentleman yield for a minute?

Mr. Weiner. Sure. You have a right to be heard on the point of order. Sure. Certainly, certainly.

Mr. Pitts. The chair will recognize --

Mr. Shimkus. I would just talk about his debate on the protections of the Fourth Amendment, I think the Constitution -- we will also start having a great debate about the constitutional rights of the unborn. If we want to have a debate on when life begins, then many of us are ready to have that debate.

Mr. Weiner. Sure. I, frankly, would welcome that, because we have this dynamic that, frankly, most of the American people believe in a woman's right of privacy, and the majority doesn't believe that --

Mr. Shimkus. I would ask the gentleman to cite the public opinion polls that would have the vast majority of Americans who believe that.

Mr. Weiner. Well, I think we can go ahead and talk about public opinion polls. I will be glad to swap them back and forth. But the rules of the House are fairly --

Mr. Shimkus. You are the one that quoted the public opinion

and the percentages. I am not doing it. You are doing it.

Mr. Weiner. I will stipulate that I come here not to have a conversation about the public opinion, and I apologize if that threw the gentleman off his step. But the rules are the rules, and I think the Constitution is the Constitution. If indeed there is a constitutional underpinning for what we do today, the rules should be followed.

I am holding in my hand the rules of the House. This is day one, markup one of this subcommittee, and we have failed to do what is required under the rules. I think it is perfectly reasonable for you to say that subsection something or the other -- let us introduce it properly, let us get this right and let us come back and do it that way.

Mr. Pitts. The chair thanks the gentleman. And we will pause.

Mr. Guthrie. Strike the last word.

Mr. Weiner. Point of order. I think all Members have a right to be heard on a point of order.

Mr. Pitts. If you would permit us to consult with the Parliamentarian, please.

Mr. Weiner. I think the Members have a right to be heard on a point of order, Mr. Chairman.

Mr. Pallone. I would like to be heard on the point of order, Mr. Chairman, if that wasn't clear.

Mr. Pitts. The chair recognizes the ranking member.

Mr. Pallone. Thank you, Mr. Chairman.

Mr. Chairman, I believe, if I could follow up on what Mr. Weiner said, my concern is that the reason why the majority has not cited the Constitution is because they can't. In other words, Mr. Weiner is saying that the rule requires that the constitutional authority be placed in the record under the new Republican rules, and that they haven't done so, and I think the reason they haven't done so is because they can't.

My concern throughout this debate on this bill starting Wednesday has been that basically this bill impinges on a constitutional right. In other words, under the Supreme Court decision Roe v. Wade, women have certain reproductive rights pursuant to the privacy provisions that the Supreme Court ruled on in Roe v. Wade, and essentially what this bill does is override that in an unconstitutional way. So I think it is not only a procedural aspect if they haven't stated the law or the constitutional reason, but that they can't, which, in my opinion, makes it even worse, because essentially what is being done here is an effort to hide what they are really trying to do, which is overrule the Constitution.

Now, I know, Mr. Shimkus and others would probably think that that is a good thing to do, but the fact of the matter is the Court hasn't done it. Roe v. Wade is still the law of the land, and if you are going to override it, then you are going to have to say that is what you are doing. And there is nothing here at all

because essentially there is no ability on the part of the majority to justify this on a constitutional basis.

So I think this is a very, very important point that Mr. Weiner was raising. It is not just the procedural aspect that you haven't cited it, it is the fact that you can't because of what you are really doing.

And I would yield back.

Ms. Schakowsky. Mr. Chairman, I would move to strike the last word.

Mr. Pitts. The chair recognizes the chair emeritus Mr. Barton.

Mr. Barton. Thank you, Mr. Chairman.

We have checked, and the information that the Chairman Upton and I just received is that when this bill was filed on the floor, the document citing the constitutional authority was also filed with it, so that we believe that we are in compliance with our new rule. We respect our friends on the minority by holding us accountable for the rule. If they are right, they are right, and we will live by the rule, but we were told that we have complied with the rule.

Mr. Weiner. Would the gentleman yield?

Mr. Barton. Let me ask the counsel first to confirm what I have just said, and then I will be happy to yield. Is it true that when the bill was filed on the floor and put in the hopper, that it did have the constitutional authority filed with it?

Mr. Pitts. The chair recognizes the counsel for the committee.

Counsel. Yes, sir.

Mr. Barton. There you go.

Do we need to put the counsel under oath, or can we assume that he is telling the truth? I now yield to my friend --

Mr. Weiner. I just perhaps -- I can get you a copy if you would like, or you or the counsel can point to the section of the Constitution in that statement. You can put "my daughter has curly hair" here. It doesn't mean that you have lived up to the rule.

Now, I am going to read the rule again. Record a statement as specifically as practicable the power or powers granted to Congress in the Constitution. I don't see that here, Mr. Chairman Emeritus.

Mr. Dingell. Would the gentleman from New York yield?

Mr. Barton. Reclaiming my time. Reclaiming my time. We have a point of order. We have confirmed that we have filed the document. Now there is a question by the minority about the constitutional appropriateness of that document. That is a legitimate opinion, but I don't believe it is a constitutionally required -- we have a difference of opinion about what we filed.

Mr. Weiner. Mr. Chairman, if you will just yield so we are not misunderstanding. I am not saying anything -- there is a constitutional requirement that the rule be filed. But it is the

rule of the House, and this is a point of the order that the rules of the House are not being followed. The rules of the House are unambiguous. It doesn't say you have got to file a statement. It says you have got to file a statement -- and this is your rule, and, frankly, I support it. I think it was a good idea. The Congress -- in the grant of the Congress in the Constitution.

So you can file words and have answered your question yes, Mr. Chairman Emeritus, but you will not be in compliance with the rule. And I even say it to you, sir, common sense, where does it say it would overturn an unconstitutional mandate? That is like saying, I want to do this because it is constitutional.

Mr. Barton. Again reclaiming my time. We have had two Federal courts now rule that the law that we are seeking to amend is, in fact, unconstitutional. We have had, I think, two courts rule that it is. So the Federal courts have various opinions about the constitutionality starting within the right of the new majority in the House to take the position that the courts that have ruled it is unconstitutional are, in fact, the appropriate view.

Ms. Schakowsky. But will the gentleman yield?

Mr. Pitts. The chair is prepared to rule.

Mr. Dingell. Mr. Chairman. Mr. Chairman. Mr. Chairman.

Mr. Pallone. We have some Members, Mr. Chairman, who are --

Mr. Dingell. Mr. Chairman.

Mr. Pitts. The chair recognizes the ranking member emeritus

Mr. Dingell.

Mr. Dingell. Mr. Chairman, you are most courteous, And I thank you.

It occurs to me that the best proof that the papers were filed would be the presentation of the papers here in the committee, and that they should accompany the documents that are required to be presented to the committee, including the language of the bill, as opposed to having a great free-for-all as to whether or not these papers were filed in proper form. Those papers best speak themselves to the situation. And if they are not able to be presented, I, with all respect to those who said they were presented, I would think that they should be presented to us so that we may then see them and observe, because this -- this constitutes the best evidence.

Now I yield to the gentleman from New York.

Mr. Weiner. And just an important part of that, Mr. Dingell, is they have got to show where in these words the Protect Life Act would overturn an unconstitutional mandate regarding the abortion in the Patient Protection and Affordable Care Act, where in those words it alludes to any section of the Constitution. That is the challenge here.

The challenge is not whether this is unconstitutional or not. That, you are right, is subject to interpretation. Our rules put a burden on all sponsors to point to the Constitution and say, this section, this clause, this word. We failed on that. I don't

think there is any real dispute on that. No one has yet to say -- hold up a copy of the Constitution with these words highlighted or this section highlighted.

The question isn't whether you are right or wrong about this bill. We are going to let the courts decide. We are going to let this -- this Legislature is going to work its will. The question is whether on day 1 we are following the rule, which requires very specifically -- it is unambiguous -- it is powers granted to Congress in the Constitution. These words, there is no reference to that. Nor would it be if I were to introduce a bill and say because I think this is constitutional right in front of the Health Care Act. You wouldn't accept that in a minute. You would never say, okay, that is good enough, you think it is constitutional. You would say where is it; what is the purpose of this rule --

Mr. Dingell. Reclaiming my time. With all respect for my good friend from New York, who makes a very good point, I would simply observe that the best evidence that the papers were filed in accordance with the requirement of the rules is the presentation of the papers. The papers will speak for themselves, and they will also define whether or not the contents of the papers met the requirements of the rule. So I would urge that the point of order has to be sustained, and I thank you for your courtesy, Mr. Chairman.

Mr. Pitts. Thank you.

The chair recognizes the counsel and asks him if Mr. Weiner's point of order applies.

Mr. Weiner. Before you rule, does Ms. Schakowsky want to be heard on the point of order?

Mr. Pitts. I think we can have additional discussion. Counsel is recognized.

Mr. Weiner. Mr. Chairman, point of order. Counsel is not being asked to rule on the point of order, is he?

Mr. Pitts. No, no.

Counsel. To Mr. Dingell's point, there is no requirement that the constitutional statement that was submitted along with the introduction of the bill be circulated in the committee before the consideration of the bill.

Mr. Weiner. Can I direct a question to the counsel?

Mr. Pitts. The gentleman Mr. Weiner.

Mr. Weiner. That is not the subject of the point of order. I appreciate that guidance about circulation or whatever, but, I mean -- let me ask the counsel, am I correct that rule 12, section 7, subsection 5(c)(1) reads as follows: A bill or joint resolution may not be introduced unless the sponsor submits for printing in the Congressional Record a statement citing as specifically as practicable the power or powers granted to Congress in the Constitution to enact the bill or joint resolution. Is that not the rule of the House?

Counsel. Yes, sir.

Mr. Weiner. Further question to counsel: Is there any reference in this -- from what I am about to read to you, a section in the Constitution, the Protect Life would overturn an unconstitutional mandate requiring abortion in the Patient Protection and Affordable Care Act. The question is, is there any reference to a section of the Constitution in the words I just read?

Counsel. No, sir.

Mr. Weiner. Thank you, Mr. Chairman.

Mr. Dingell. Would the gentleman yield quickly to me, if you please, the gentleman from New York?

Mr. Weiner. Certainly.

Mr. Dingell. The best proof of what this filing, which was made supposedly in accordance with the rule, is the content of the paper itself. And I would suggest that in order to resolve the question and to see to it that we don't wander into this or flounder into this kind off a mess again, that the rule should be interpreted to see to it that we have the document so that the chair might appropriately rule, knowing what the particular paper happens to say. And no one in this room seems to know what the paper said, and there is some doubt as to whether, in fact, the filing was made.

I thank the gentleman for yielding.

Mr. Barton. Will the chairman yield again to the chairman emeritus?

Mr. Dingell. If I have the floor, I will yield to the gentleman, of course.

Mr. Barton. I thank the distinguished gentleman from Michigan.

I have a copy of the Constitution of the United States. I hope we can certify that it is a valid copy. Article I, section 1, all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives.

Mr. Counsel, is it not true that the bill that has been introduced is a piece of legislation?

Counsel. Yes, sir.

Mr. Waxman. We will stipulate it.

Mr. Barton. It is a piece of legislation.

Counsel. Yes, sir.

Mr. Barton. Is it not true that a piece of legislation can amend an existing law?

Counsel. Yes, sir.

Mr. Barton. Is it also not true that the bill before us is a piece of legislation that would amend an existing law?

Counsel. Yes, sir.

Mr. Barton. So, therefore, is it constitutional that this bill complies with the rule of the House of Representatives?

Mr. Dingell. Reclaiming my time, and with enormous respect to my good friend from Texas --

Counsel. Yes, sir.

Mr. Dingell. -- I would simply observe that we all are aware of the Constitution. This is a matter which can be taken judicial notice of in any court. And I think that is so clear that we don't need to spend time on that. But the document that is supposed to comply with the rules and to support the presentation of the bill in accordance with the rules of the House is not before this committee, so no one in this room has the vaguest idea what that piece of paper happens to say. And until we have seen it, we can invest -- only speculate, A, whether such a paper exists, and, B, whether it complies with the rules. And with all the respect I have for the chairman of the subcommittee, I would simply say that even with his great wisdom, without having seen the document, he can't tell us what it does and whether the document is in compliance with the rules.

Mr. Weiner. Mr. Dingell, would you yield for a brief moment?

Mr. Dingell. I will, yes.

Mr. Pitts. The chair is prepared to rule.

Mr. Weiner. I think Members --

Mr. Pallone. Mr. Chairman, we have additional questions on the point of order. We have to have debate on the point of order.

Mr. Pitts. Let the counsel respond. Please.

Counsel. The requirement in the House rules to submit the constitutional statement is not appropriate for a point of order. It is appropriate for debate during the committee's deliberation.

Mr. Weiner. Would the gentleman yield on that point? Can I follow up on that point, Mr. Chairman?

Mr. Pitts. The gentleman is prepared to rule.

Ms. Schakowsky. Mr. Chairman, I have my hand up.

Mr. Pitts. We will have further debate on this. The chair is prepared to rule.

Mr. Weiner. Mr. Chairman, point of order.

Mr. Pitts. The gentleman will state his point of order.

Mr. Weiner. Members have a right to be heard on the point of order under the rules of the House of Representatives and the rules of this committee. And I think Ms. Schakowsky at least -- and the counsel just said that violation of the rules are not a point of order, which is, of course, not only counterintuitive, but wrong. But I think at the very least Members have a right to be heard under the rules of the House on this point of order. And Ms. Schakowsky at least, and I know others, are waiting to be heard on the point of order.

This is a most unusual transaction. The counsel asked the questions and then --

Mr. Pitts. The Members have a right to be heard. At the chairman's discretion, the chairman may entertain as much or as little debate as he wishes. The chair is prepared to rule.

Mr. Gonzalez. Point of order. I would like to be heard on it. It is my interpretation that this bill is not properly before this committee.

Mr. Pitts. The chair is prepared to rule.

Mr. Waxman. Mr. Chairman, I would request a chance to speak briefly on this. I have a feeling your mind is already made up, but I would like to bring something to your attention that might make you look at it in a different perspective, and I have asked for 2 minutes.

Mr. Pitts. We will recognize each side for 2 minutes, and then the chair will rule. The gentleman is recognized for 2 minutes.

Mr. Waxman. There was a rule that was adopted by the Republican majority that said we had to say where in the Constitution the legislation that is being introduced fit, and that is the rule. And what the Republican proponents put in as their justification is the following -- and Mr. Dingell said it would be circulated, but we can read it -- that Congress has the power to enact this legislation pursuant to the following: The Protect Life Act would overturn an unconstitutional mandate regarding abortion in the Patient Protection and Affordable Care Act.

Now, I don't know what the unconstitutional mandate is. I don't know that Members of Congress can decide if there was an unconstitutional mandate in accordance to reach that conclusion. The court has reached -- one court has reached the conclusion that a mandate to buy insurance may be unconstitutional, but there is no mandate regarding abortion that I have ever heard argued. So

if this is the justification, it makes a mockery of the rule that the Republicans have introduced that you must say where in the Constitution -- if we are following the Constitution, and it is so important that we have to show where in the Constitution there is a justification for the bill, then, okay, let us follow that rule. I just don't see that this statement, this paragraph meets that requirement.

Now, it may well be that a point of order can't be raised against a bill's consideration because of a failure -- because of the failure to state the constitutional provision. That may well be the Parliamentarian's point. But it is hard for me to see that in other bills. We saw Ms. Richardson introduce a bill, and she said this is granted a power under Article I, section 8, clause 3. And Mrs. Blackburn introduced a bill pursuant to the power granted to Congress under Article I, section 8, clause 3. Ms. Foxx cited another constitutional authority. But the only authority in this bill -- for this bill is a statement that the law should be overturned because of the presumed unconstitutional mandate. It doesn't say where in the Constitution this law would be justified.

So I make that point to further express some views, Mr. Chairman, to take under consideration.

Mr. Pitts. The chair thanks the gentleman. The chair recognizes the gentleman from Georgia Dr. Gingrey for 2 minutes.

Dr. Gingrey. Mr. Chairman, thank you. This is an inquiry of counsel.

Counsel, it is a pretty straightforward question. Is it constitutional for Congress to submit legislation such as this seeking to amend a current law that it deems to be unconstitutional?

Counsel. Yes, sir.

Dr. Gingrey. Would you repeat that?

Counsel. Yes, sir.

RPTS DEAN

DCMN HOFSTAD

[10:15 a.m.]

Dr. Gingrey. So, in your opinion, is this point of order challenging that? Is it subject to a point of order.

Counsel, would you answer that?

Counsel. It is the chairman's decision. I have very strongly held views on it.

Dr. Gingrey. And I thank you for that. I think I understand exactly what you said.

Mr. Barton. Would the gentleman from Georgia yield to the chairman emeritus on the majority briefly?

Dr. Gingrey. I will be glad to yield any time remaining to the chairman emeritus.

Mr. Barton. First, I want to commend Mr. Weiner for raising this. I think it is an important debate to have, especially since this is the first markup of a subcommittee of this committee.

I want to commend Chairman Pitts for allowing there to be a discussion. It is at the discretion of the chair to rule on points of order. The normal tradition of the committee has been that each side gets 5 minutes to make their point of order and then to rebut it, and then the chairman rules. But because this is a constitutional issue and it is the first time, I want to commend Chairman Pitts for allowing there to be more extended

debate.

But on this specific point of order, what Mr. Weiner's real argument is, that our constitutional citation to comply with the House rules was not done as artfully as it should have been done or maybe not done exactly like he would have done it, that is his opinion. But the fact is, we did put that in, and it is definitely constitutional for an authorizing committee to amend a current law, repeal it, change it, whatever the committee wishes to do in introducing those members of the committee that introduced the legislation. And this clearly complies with the constitutional authority granted in the Constitution to the House of Representatives.

So I would urge the chairman to rule against the point of order because it is without merit, although it is meritorious in the fact that we are having the debate that needs to be had.

Mr. Whitfield. Mr. Barton, would you yield?

Mr. Barton. I yield to Mr. Whitfield.

Ms. Schakowsky. Well, his time has expired, and I have been trying to speak.

Mr. Pitts. The gentleman's time has expired. The chair is prepared to rule.

Mr. Pallone. Mr. Chairman, can I just ask -- I don't understand what you are ruling on, because we have additional Members, like Ms. Schakowsky, that would like to speak on the point of order, and Mr. Whitfield. I mean, you shouldn't be

cutting off debate on the point of order. If there is debate on the point of order, Members should be continued to allowed to talk about the point of order.

Mr. Pitts. All right.

Mr. Pallone. I am just simply saying, Mr. Chairman, that there are additional Members that want to spoke on the point of order. They should be allowed to speak. I don't understand what we are cutting off here or why we are ruling if there are still Members that want to talk about the point of order. And Ms. Schakowsky has made that request.

Mr. Pitts. The chair asks the counsel, is the debate on the statement debatable under the 5-minute rule?

Counsel. Yes, sir.

Mr. Weiner. Mr. Chairman, can I ask the counsel a question?

I just want to make sure that we understand. I am not talking about the adequacy of the statement in the light of our whether we view it is constitutional or not. That is not the issue. The issue is whether it is in conformity with the rules of the House.

It might be constitutional, it might be unconstitutional. But if we are to accept this statement as in compliance with the rule of the House, then, simply put, I can write on the next bill I introduce, "Because I think the present laws aren't good and constitutional," that is it.

That is the problem. You are in violation of the House

rules, not whether or not the bill is constitutional or not. You might be right, you might be wrong --

Dr. Gingrey. Would the gentleman yield? Would the gentleman from New York yield to me?

Mr. Weiner. Certainly, certainly.

Dr. Gingrey. I thank the gentleman.

The gentleman from New York, I think the counsel has already responded to that inquiry, saying that the rules of the House in regard to submitting a statement in regard to the constitutionality of this legislation was submitted. Is that not right?

Mr. Weiner. No, no, no, no. Reclaiming my time, that is the wrong question, I say to my good friend. The question is whether it was submitted. I don't dispute that it was, but I can tell you it does not conform with the clear letter -- it says here, the powers granted to Congress in the Constitution. And I can bring the gentleman a statement. It doesn't reasonably refer to the --

Mr. Pitts. The chair thanks the gentleman. The chair has been more than generous with the time for debate. The chair is prepared to rule --

Ms. Schakowsky. Mr. Chairman, I have had my hand up for the last 20 minutes. The --

Mr. Pallone. Mr. Chairman, can I just ask with regard to additional debate, Ms. Schakowsky and anyone else who wants to debate this issue should be allowed to do so. And I am not quite

sure I understand what the chairman is ruling on. Will Members such as Ms. Schakowsky be allowed to continue to debate the constitutionality issue?

Mr. Pitts. In the opinion of the chair, he has been more than generous with both sides on the debate on this issue. The chair thanks the gentleman but is prepared to rule.

The chair rules that --

Ms. Schakowsky. No, I would like to raise a point of order before the rule.

Mr. Waxman. Mr. Chairman, I ask unanimous consent --

Mr. Pitts. The chair rules --

Mr. Waxman. -- I ask unanimous consent that the debate --

Mr. Pitts. -- the point of order does not lie, and that is the ruling of the chair. Members can debate that under the 5-minute rule.

Mr. Pallone. So, Mr. Chairman, a point of order again. Are Members, such as Ms. Schakowsky and others, allowed now to continue to argue over this constitutional issue? Is that still allowed? It should be, it seems to me. Can we continue that debate?

Mr. Pitts. As soon as the bill is up for debate, they have 5-minute rule, and they can continue that debate.

Mr. Weiner. A point of parliamentary inquiry, Mr. Chairman.

Mr. Pitts. The gentleman will state his parliamentary inquiry.

Mr. Weiner. Members who use a portion of their 5 minutes to discuss the rule, the point of order on the rule, will then be denied a further 5-minute section of time in order to consider the substance of the bill, is that not true?

Ms. Schakowsky. And point of order --

Mr. Pitts. The chair will follow the rules of the House, and each Member will have 5 minutes for the debate.

Mr. Weiner. Thank you, Mr. Chairman.

Ms. Schakowsky. The point of order, Mr. Chairman.

Mr. Pitts. The gentlelady will state her point of order.

Ms. Schakowsky. If this is debatable, even though the ruling has been made and I wanted to make a comment on it, are you saying that you will shut down debate on this very important question at the first markup of a bill now, whether or not Members get a chance to actually debate the constitutional -- whether or not you followed the rules of the House?

Is this the way we are going to operate from now on, that counsel is going to give one-word answer, "yes," that he is going to use all kind of subterfuge, that he doesn't have to circulate the information, that it isn't a legitimate point of order?

This is very important. Is this the way you are going to run this committee? You are just going to decide whether or not the rules of the House apply here?

Because I think this is extremely insulting, and I think the American people who are watching now feel that manipulation has

been used to shut down debate.

Mr. Pitts. The chair will ask the gentlelady to state her point of order.

Ms. Schakowsky. The point of order is, do I have a -- I believe that I have a right to speak under the rules of the House. And under the rules --

Mr. Pitts. Yes, you do.

Mr. Pallone. Mr. Chairman, an inquiry.

Mr. Pitts. The gentleman will state his inquiry.

Mr. Pallone. I would simply ask that each Member be given 5 minutes to strike the last word and discuss this issue of the constitutionality at this time, if we could, without prejudicing the right to speak on other issues. In other words, that we should simply allow each Member to strike the last word for 5 minutes on this issue of the constitutionality under the rule.

That is my request. I make that request.

Dr. Burgess. No, I am going to object to that. The point of order has been ruled on. We are now under the 5-minute rule in the debate.

Ms. Schakowsky. I want to reserve the right to object.

Mr. Pallone. But the point is that Members weren't allowed to speak on the point of order. They should be allowed to speak on this issue of the constitutionality rule.

And I simply ask the chairman -- I am not asking for unanimous consent -- I am simply asking the chairman that each

Member, if they choose, should be able to spend 5 minutes on this issue, those who have not had the opportunity.

Ms. Schakowsky. And I reserve the right to object.

Mr. Pitts. The objection has been heard.

Mr. Weiner. Point of order. If the gentlewoman from Illinois reserved the right to object, she has an opportunity to speak under her reservation.

Mr. Barton. She is not objecting to anything. The chairman has said everybody is going to have 5 minutes to speak.

Mr. Weiner. Point of order.

Mr. Barton. The chairman has ruled --

Mr. Weiner. Point of order, point of order.

Mr. Barton. The chairman under the rule in the House of Representatives --

Mr. Weiner. Point of order.

Mr. Barton. -- has the right to make the decision on the point of order.

Mr. Weiner. Regular order, Mr. Chairman.

There is a unanimous consent request. There is someone who is reserving the right to object to it. She gets to speak to her reservation.

Mr. Barton. I object to the unanimous consent --

Mr. Weiner. It is too late. It is too late. The gentleman does not control the floor. The gentlelady from Illinois has a reservation that she has a right to speak to.

Mr. Barton. She was not recognized.

Mr. Weiner. Yes, she was.

Mr. Pallone. Mr. Chairman, I am simply asking that Members be allowed to strike the last word exclusively on this issue.

Ms. Schakowsky. And I reserve the right to object.

Mr. Weiner. Mr. Chairman --

Mr. Pitts. The gentleman will suspend.

Ms. Schakowsky. Mr. Chairman, I find it interesting that every man has spoken, who wanted to, on an abortion bill that only affects women. And I would like to object. I have objected, and I would like to chance to speak.

Mr. Pitts. All right. Without objection, the first reading of the bill is dispensed with, and the bill will be open --

Mr. Weiner. Reserving the right to object. Reserving the right to object.

Mr. Pitts. The gentleman is recognized.

Mr. Weiner. I object to the not reading of the bill because we have yet to determine whether or not the bill is even properly and duly enrolled. There is a reservation from a unanimous consent request that is still outstanding.

The gentleman was not in proper order. He no longer controlled the floor. The gentlewoman from Illinois, under a proper recognition and proper reservation, has a right to speak under her reservation. She had a unanimous consent request to the gentleman from New Jersey, was properly recognized, and controlled

the time.

The chairman does not have the right to take and give control of the time willy-nilly. There are rules under which operate.

Mr. Upton. Mr. Chairman, if the gentleman will yield?

Mr. Weiner. Surely, surely, I will yield.

Mr. Upton. We have contacted the Rules Committee this morning, and they have sent this message back. So let me read this into the record.

"Clause 7 of Rule 12 requires a statement of constitutional authority to be submitted for printing in the record at the time of the introduction of a bill or joint resolution. The point of introduction is the only point at which the rule is enforceable. The question of whether the statement is sufficient is a matter for debate and a factor that a Member may consider when deciding whether to support the measure. There is no separate point of order in committee or on the floor relating to the sufficiency of the statement."

Mr. Weiner. Reclaiming my time.

Mr. Upton. That is from the Rules. So, at this point --

Mr. Weiner. No, I understand. Reclaiming my time, the question now is --

Mr. Pitts. The gentleman will suspend.

Continue, please.

Mr. Upton. So we have heard from the Rules. So, at this point, I would suggest the chairman has made the proper judgment

as it relates to the point of order. We need to discuss and debate the now-amendment in the nature of a substitute, at which point all Members then operate under the 5-minute rule. They can comment upon the gentleman's motion from New York. They comment on the bill itself. They can comment on the amendments as they are offered. But I think we are now prepared to go, particularly that we have now received this back from the House Rules Committee.

Mr. Weiner. Reclaiming my time. And I appreciate the gentleman getting that ruling from the Republican-controlled Rules Committee. And, frankly, it is completely appropriate for you to have that statement.

The point now on the floor is whether or not all Members have a right to their question about clear interpretation of the clear letter of the law. And what we are having now is the chairman is now saying, "You know what? No. We have heard enough." And I think it is fair that, on something as important at this, Members have a right to be heard.

Furthermore -- continuing to reserve, Mr. Chairman -- furthermore, we had something on the table that was in order. The gentleman from New Jersey made a legitimate unanimous consent request under proper recognition. There was a reservation of a right to object by the gentlewoman from Illinois, properly recognized to do so. She now has an opportunity to speak to that reservation.

So we can't keep trampling on, trampling on, trampling on people's rights to speak here, Mr. Chairman. I just don't think it is an appropriate way to begin.

Mr. Waxman. Would the gentleman yield to me?

Mr. Weiner. Certainly.

Mr. Pitts. The gentleman's time has expired.

Mr. Weiner. First of all, Mr. Chairman, there was no provision under the rule. A reservation does not have a fixed amount of time. Furthermore, the clock was off. Third of all, I yielded to the gentleman from Michigan.

Mr. Rogers. Regular order.

Mr. Weiner. So I don't see that my time has expired at all.

Mr. Pallone. Mr. Chairman, I did have a unanimous consent request. And my concern is, as Ms. Schakowsky has said, is that the chairman allowed other Members to speak on this issue and then ruled, and some people, like Ms. Schakowsky, were not allowed to speak.

So my unanimous consent request simply is that other Members be allowed 5 minutes to address this constitutional issue because they didn't have a chance --

Ms. Schakowsky. And I continue to reserve.

Mr. Pallone. -- and that that not count toward their 5 minutes.

Mr. Barton. Mr. Chairman, I object to the unanimous consent request. If we are going to play by the rules, let's play by the

rules. The chairman has the power of recognition. He has not recognized the gentleman from New York. And I didn't --

Mr. Waxman. And he didn't recognize you either.

Mr. Weiner. You weren't recognized either.

Mr. Barton. That is also true. He has not recognized me.

Mr. Pitts. Without objection, the first reading of the bill is dispensed with.

Mr. Weiner. Reserving the right to object, Mr. Chairman. You just said "without objection" right after I said, "I reserve the right to object."

Mr. Pitts. The bill will be open for amendment at any point. So ordered.

Mr. Waxman. Objection.

Mr. Pitts. The chair recognizes himself for the purpose of offering an amendment in the nature of a substitute.

Mr. Weiner. Objection.

Mr. Waxman. Point of order, Mr. Chairman.

Mr. Pitts. I ask the clerk report the title.

Mr. Waxman. Point of order, Mr. Chairman. You asked unanimous consent, and there was an objection.

Mr. Pitts. The objection was heard.

The chair recognizes himself for the purpose of offering an amendment.

Mr. Waxman. You have to read the bill. The reading was not waived by unanimous consent.

Mr. Barton. Mr. Waxman is correct on that.

Mr. Waxman, what is the phone number of your speed reader that you had in the last Congress?

Mr. Weiner. Mr. Chairman, point of order.

Just to review the bidding, it was at the original reading of the bill that I reserved the right to object and then did object, made my point of order. At that point, the reading had not been commenced with or completed, nor had there been unanimous consent granted.

At that point, when the chairman just began his proceedings, objection was heard. Unfortunately, we didn't want to object to that; we just wanted to give Ms. Schakowsky a chance to be heard under her reservation, which she was granted. She had the floor at the time the chairman began his unanimous consent.

Mr. Pitts. All right. The chair will give the gentlelady 5 minutes, and then we will proceed.

Ms. Schakowsky. Mr. Chairman, this is not a small point. The way that this committee is managed and the conformity to the rules is what we are talking about here.

The fact that there is a requirement now in the House rules that the Constitution be cited does not mean that someone here can, after the fact, say, "Well, the legislative branch can make laws." Big news here. If that is going to be the case, then what you are saying and what you are doing is that the chairman of this committee and the subcommittee can do anything they or he wants.

And that is exactly what is happening right now. It really does make a mockery of the House rules. What we find here is that you can make up rules as you go. You can interpret them in a way that is counter to the absolute meaning of the rules of the House.

And I think that what we should be doing right now is going back, that we should do this properly, that there should be a proper citation in the Constitution on why this bill -- if you contend that it is constitutional, why it is.

And to say, as the chairman emeritus said, "Well, the entire bill was decided to be unconstitutional by two courts," you know darn well that this was on a very different issue, had nothing to do with this anti-abortion legislation.

And I think that on something as essential to the women of this country as this issue is, establishing the constitutionality of this bill is the very least that the women of America can demand.

Mr. Waxman. Does the gentlelady yield?

Ms. Schakowsky. And that is the rule of the House.

And I do yield.

Mr. Waxman. I thank you for yielding.

When we started this Congress with the new Republican majority, they made a big to-do that "we are going to follow the Constitution," as if Congress didn't follow the constitution beforehand in introducing legislation. So the rule that was adopted is that, whenever you introduce a bill, you have to cite

where in the Constitution there would be a justification for that piece of legislation.

All right, Chairman Upton is absolutely correct, the Rules Committee people advised him that you don't really have to do it right, you just have to do it. So they didn't really cite an area of the Constitution. They just said, we think that this bill ought to go forward because we think there is an unconstitutional mandate. Well, that is very questionable. But the ruling is that it doesn't make any difference what you say. You could say "abooga bagga booga bonga," and that is enough to justify the constitutionality of the proposal.

Now, you are right, this does make a mockery of the rules. And it makes me wonder why we spent a whole day reading the Constitution. Wasn't it to edify us about what we can do and what our powers are and the limits on our powers? This is not a government where the Constitution says we can do anything we want. There are limitations on the power of government. And what now we are saying is that the rules allow no limitation on what government wants to do as long as you say a statement in the record.

But I think the ruling is correct that Mr. Upton pointed out, that they have complied with the rules, but it certainly makes a mockery of the rule.

I thank you for yielding to me.

Ms. Schakowsky. Yes. And before I yield my remaining time

to my colleague from Wisconsin, let me just say that I happen to believe that the right to privacy, the right of women to access the health care that they need is so important, that for us to just sweep this rule of the House that relates to the issue of the constitutionality of this amendment is important enough for us to go back to square one and make sure that you establish that before we proceed.

And I yield to my colleague, Ms. Baldwin.

Ms. Baldwin. I thank the gentlelady.

And I just want to point out that the bill that we are about to consider fundamentally attacks constitutional rights. This bill is about women's constitutional rights. And so, if we can't even have an appropriately drafted statement about why the bill we are about to consider is constitutional, this is a real problem.

I respect the fact that the majority has added this rule. I have a bill coming up for which, Mr. Chairman, I am very grateful. I submitted a statement that said it is constitutionally valid pursuant to Article I, section 8, clauses 3 and 18 of the Constitution of the United States.

When we have a bill before us that affects basic constitutional rights of all women in the United States -- and men, the truth be told -- we should have an appropriate statement.

Mr. Pitts. The chair thanks the lady.

The chair --

Ms. Schakowsky. And I yield back.

Mr. Pitts. -- asks unanimous consent that the bill be considered as read.

Without objection, so ordered.

Ms. Schakowsky. No, I object.

Mr. Waxman. No, no --

Mr. Pitts. The chair recognizes himself for the purpose of offering an amendment in the nature of a substitute, and asks the clerk to report the title.

The Clerk. An amendment in the nature of a substitute offered by Mr. Pitts.

[The amendment follows:]

******** INSERT 2-1 ********

Mr. Pitts. Without objection, the first reading of the amendment is dispensed with. The amendment in the nature of a substitute will be considered original text for the purpose of amendment.

So ordered.

The chair recognizes himself for 5 minutes to explain the amendment.

The amendment that I offer before the subcommittee now would amend the Patient Protection and Affordable Care Act to return to the historical Federal policy of the Hyde Amendment, which prohibits Federal funds from being used on abortion and abortion coverage. It would also prevent the Federal Government from discriminating against health-care providers and professionals on the practice of abortion.

According to the polls, Americans overwhelming oppose taxpayer funding of abortion. In fact, depending on the survey, anywhere from 60 to 70 percent of Americans oppose Federal funding of abortion services. The President himself agrees with the goals of the Hyde Amendment, even issuing an Executive order to that effect.

The Stupak-Pitts amendment, which passed the House with overwhelmingly bipartisan support last session, would have extended Hyde to health reform. Unfortunately, the Stupak-Pitts amendment was stripped from the bill before final passage, and so

the Affordable Care Act passed without establishing a prohibition on Federal funding for abortion and without conscience protections for health-care providers and professionals. That was a mistake. The Protect Life Act would just fix this mistake which the House failed to deal with in its haste to pass health reform last year.

Abortion rights advocates claim to advance the freedom of choice. The bill that we are discussing today is all about choice. The Protect Life Act would take the Hyde Amendment, which has been Federal policy regarding abortion funding for several decades, and apply it to the new health-care law so that individuals may choose not to pay for abortions.

This bill would also prevent Federal agencies or appointees from restricting a private insurance company's choice by mandating plans to cover abortion.

This bill would codify the Hyde-Weldon provisions to protect health-care providers from being penalized by State and local governments or by the Federal Government for refusing to participate in providing abortions, and so give doctors the choice as to how to best treat their patients.

This bill is based off of an amendment that passed this committee by a voice vote in 2009. This bill has bipartisan cosponsorship and is the legislative descendant of the Stupak-Pitts amendment.

I hope through today's markup we can all come to an agreement that Federal dollars should not be spent on abortion, and I urge

support for the amendment.

Is there discussion of the amendment, or are there any amendments to this amendment in the nature of a substitute?

Mr. Pallone. Yes, Mr. Chairman. Mr. Chairman, I move to strike the last word and discuss the substitute.

Mr. Pitts. The gentleman is recognized for 5 minutes.

Mr. Pallone. I just wanted to say, again, on this constitutional issue, I just want to put the majority on notice that we will continue to raise these constitutional issues in the context of this subcommittee.

And I just want to say once more that my concern in this particular case is that the reason why constitutional provision was not set forth on the introduction of this bill was because it can't be done. I think that it wasn't a mistake. There is no way to articulate a constitutional justification for this legislation because it is unconstitutional. It will impact on Roe v. Wade in an unconstitutional way.

Now, my question is with regard to EMTALA, essentially. In the original bill -- it is in substitute, as well, but in the original draft there was a new subsection C on page 2 that says, "There is a statutory ban on payment for abortion except, among other reasons, in the case where a pregnant female suffers from a physical disorder that would place the female in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy

itself."

These abortions when the life of the woman is in danger can be paid for with Federal funds. I wanted to ask counsel if that is correct.

Mr. Pitts. The chair recognizes the counsel for a response.

Mr. Pallone. Whether abortions when the life of the woman is in danger can be paid for with Federal funds, "yes" or "no."

Counsel. On page 3 --

Mr. Pallone. I am asking whether or not, when the life of the woman is in danger, the abortions can be paid for with Federal funds. I am trying to get this in in my time, so if you could just answer "yes" or "no."

Counsel. Page 3, lines 1 through 7, are the exceptions to the prohibitions on Federal funding --

Mr. Pallone. And in that case it could be.

Counsel. Yes, sir.

Mr. Pallone. Okay.

Now, in the substitute, there is subsection G on page 5 of the amendment where a new nondiscrimination provision is added that prohibits any penalty against a provider that refuses to provide abortion or refer for such abortion.

Does that provision include permission similar to subsection C that I mentioned before, or does it allow for the requirement of abortions when the life of the woman is in danger?

Counsel. The provision in G is also subject to EMTALA, the

1867 Social Security Act, which states that emergency services should be provided to treat both the mother and the unborn child.

Mr. Pallone. Okay. Well, I am finally on page 5 of the Pitts amendment, you know, the new substitute. Subparagraph D makes all of the EMTALA emergency treatment laws subject to the new subsection G. That is correct, right?

Counsel. Yes, sir.

Mr. Pallone. All right. So is it correct to conclude that the effect of the Pitts legislation is to allow hospitals to refuse to provide emergency care for a woman whose life is in danger?

Counsel. The Pitts amendment does not change current law as it relates to section 1867 of the Social Security Act, EMTALA.

Mr. Pallone. But the answer really is, yes, it does, right? It allows hospitals to refuse to provide emergency care for a woman whose life is in danger.

Counsel. EMTALA requires that a hospital treat the medical condition. In treating the medical condition, they have to treat both the mother and the unborn child under 1867(e).

Mr. Pallone. But then, if I could ask counsel again, this language on page 5 was not included in H.R. 358 as introduced. Instead, it was a deliberate change that was made as part of the substitute. So why was it necessary to do that?

It seems the only reason it is necessary to do it is because you don't want to allow hospitals -- you know, you are basically

saying that you want to add a refusal clause and essentially say that hospitals can refuse to refer a woman whose life is in danger to a hospital who can and will provide her with an abortion.

In other words, why would you have to add that language if the purpose wasn't to say that now the hospitals don't have to allow the abortion even in these circumstances?

Counsel. The introduced bill still had, I think, the language that you are referring to.

Mr. Pallone. I understand, but what I am asking, counsel, is this: Why was it necessary to make these changes in the substitute if what you are saying is true, that they still, you know, when the woman's life is in danger or whatever, have to proceed, if necessary, with an abortion?

Counsel. The language that you are referring to was both in the introduced bill and in the substitute.

Mr. Pallone. Well, let me then ask the chairman.

Why was this language necessary? Why was it necessary to make that change in the substitute? That is what I am getting at. I don't understand why you would be doing it unless you were trying to say that now the hospital could refuse even when the woman's life is in danger. If I could ask the chairman.

Mr. Pitts. The chair recognizes the counsel to clarify.

Counsel. The substitute amendment in the underlying bill does not change the requirements of EMTALA as it relates to providing emergency services to individuals.

EMTALA in section 1867(e) states, when emergency services are provided, it is to treat a medical condition. That medical condition should be to stabilize both the mother and the unborn child.

So H.R. 358 is not inconsistent with EMTALA.

Mr. Pallone. All right. But why was it necessary to add this language? That is all I am saying. It seems to me you are saying it doesn't do anything. So why did you do it?

Counsel. I can't speak to the motivation of the authors. I can speak to that it doesn't have an effect on --

Mr. Pallone. Well, can I ask the chairman that, then? Mr. Chairman, what is the reason why we have this additional language?

Mr. Pitts. The clarifying language is necessary because H.R. 358 provides that other emergency services laws will not be invoked to nullify health-care providers' longstanding conscience rights. Without this safeguard, any State could force providers to perform some or all abortions simply by labeling these abortions as emergencies, negating all conscience protections in PPACA, including those added by H.R. 358.

Mr. Pallone. Well, you know, Mr. Chairman, I don't buy that. I don't buy that, Mr. Chairman.

Mr. Pitts. Thank you. The gentleman's time has expired.

Pursuant to Chairman Upton's direction, are there any amendments that have bipartisan authors or support to be offered?

Ms. Schakowsky. Mr. Chairman, I have a question for counsel

before we proceed.

Mr. Pitts. Does the gentlelady move to strike the last word?

Ms. Schakowsky. Yes, I move it strike the last word. Thank you.

Mr. Pitts. She is recognized for 5 minutes.

Ms. Schakowsky. Okay.

Counsel, I wanted to ask you, does the term "conscience rights" include anything other than abortion?

Counsel. Which section are you speaking to.

Ms. Schakowsky. Well, I wanted to speak to page 5, lines 6 through 10, where the words "regarding abortion" are stricken from the bill. And so I wanted to understand the meaning, if the conscience clause refers only to abortion.

Counsel. The section you are referring to is the section regarding not preempting State laws. It does not limit it to State laws regarding abortion.

Ms. Schakowsky. So what do the words "protecting conscience rights" mean? Does that go beyond abortion?

Counsel. Under this language, much like the language below regarding Federal law, it is not limited to just abortion.

Ms. Schakowsky. So this conscience right could be extended to family planning, as well. It could be extended to the right of a pharmacy or a pharmacist not to fill a prescription for a contraceptive.

Counsel. The provision you are talking about is related to

State laws. So it would depend on what the State law was.

Ms. Schakowsky. But the provisions in this bill relate only to abortion. So this legislation goes beyond abortion, is what you are saying.

Counsel. Well, the section regarding Federal conscience laws, which is the section below non-preemption of State law, also has the words of just "conscience protections." That provision doesn't limit it just to abortion. So this language is mirroring the same language that is related to Federal law.

Ms. Schakowsky. But the Affordable Care Act, section 1303, is just about abortion. So are you saying that this legislation now adds on family planning, for example, potentially, under State law, or HIV testing or a number of other things?

Counsel. There is nothing in the legislation that would affect existing law. The provision to which you are referring is designed to protect State law.

Ms. Schakowsky. Why is it that "regarding abortion" has been stricken from the bill?

Counsel. The heading "regarding abortion" was struck from the bill. I believe that --

Ms. Schakowsky. It is not just the heading. As I see in paragraph 3, it goes beyond the heading of the legislation.

Counsel. To mirror the way in which the legislation referred to the conscience protections in Federal law, which is section 1303(c)(2).

Ms. Schakowsky. So you don't protect State laws any longer that require abortion coverage by insurance companies?

Counsel. The provision only speaks to State law regarding the coverage or funding or procedures requirements on abortion. It does not speak to the fact of whether health plans have to cover abortion or not under State law.

Ms. Schakowsky. But would it negate a State law, as in Massachusetts, that says that, under its health reform law, that private insurance companies cover abortions -- rather than preempt, it doesn't provide protection for that State's law.

Mr. Pitts. The gentlelady's time has expired.

Ms. Schakowsky. Well, I haven't gotten an answer.

Mr. Pitts. Will counsel please respond?

Counsel. The provision to which you are referring does not change State law.

Mr. Pitts. The chair thanks the gentleman.

Mr. Shimkus. Would the chairman --

Mr. Pitts. Are there any amendments to the amendment in the nature of a substitute?

Mr. Shimkus. Mr. Chairman, strike the last word.

Mr. Pitts. The gentleman, Mr. Shimkus.

Mr. Shimkus. Just to follow up on my colleague from Illinois -- and I understand she is going to have an amendment, probably, to address these issues of her concern.

In the State of Illinois, there has been a continuing battle

on conscience clause, especially with pharmacists and RU-486 and abortifacients. And what we are trying to do is make sure that the State laws are not overridden by the Secretary. That is the intent of what is occurring here.

And from the State of Illinois, it has been a tremendous battle. And we believe that physicians, pharmacists have the right and do have a right to be able to be involved in conscience issues in this delivery. And so the ideal is to protect State laws in this case.

Yield back.

Mr. Pitts. The chair thanks the gentleman.

Are there any amendments to the amendment in the nature of a substitute?

Mr. Waxman. Mr. Chairman?

Mr. Pitts. The chair recognizes -- for what purpose does the gentleman seek recognition?

Mr. Waxman. I have an amendment at the desk.

Mr. Guthrie. Mr. Chairman, I reserve a point of order.

Mr. Pitts. A point of order is reserved.

The clerk will report the amendment.

The Clerk. Amendment to the amendment in the nature of a substitute, offered by Mr. Waxman.

[The amendment follows:]

******** INSERT 2-2 ********

Mr. Pitts. Without objection, the reading of the amendment is dispensed with.

The chair recognizes the ranking member, Mr. Waxman.

Mr. Waxman. Thank you, Mr. Chairman.

At yesterday's hearing, we received testimony that enactment of this legislation will have significant impact on the availability of insurance coverage for abortion in the private market. Professor Rosenbaum testified that the bill's provisions can be expected to lead to the complete exodus of abortion coverage from the affected market. Mr. Johnson of the National Right to Life Committee acknowledged that there would be little interest in insurance companies providing so-called rider coverage for this service. And CBO suggested last year in its analysis of the Stupak-Pitts amendment to the house health reform bill that fewer people would obtain insurance coverage for abortion services.

This is extremely disturbing. It is especially ironic since Republicans charge that government should not interfere with the private insurance marketplace. That is exactly what is happening under the Pitts bill, and it is hypocritical to argue anything else.

I do not believe we should enact legislation that, in effect, takes away private insurance coverage that women already have. Mr. Pitts himself, in his comments on the legislation, said, "This

is to stop the government from paying for abortion services." Well, in effect, it would stop the private sector from allowing women to buy coverage that will not be available to them.

To ensure that this does not happen, my amendment regards the effective date of the bill. And it says -- it is quite brief and quite clear -- the terms of the Pitts legislation can only be enforced if the Department of Health and Human Services Secretary provides written certification before January 1, 2014, the date health reform becomes effective, that the availability of abortion coverage in private health-care plans for individuals who will not receive any Federal subsidies will not be affected.

This does not affect any Federal dollars or Federal spending. This is paid for by employers and employees. It simply preserves the ability of private citizens to buy private insurance.

I think it is important that we do this, make this change, so that we can be assured that we are not using the legislation, which the authors claim will only codify the Hyde language, which we all know to be affecting only government expenditures, not to allow that legislation to be written in a way that would take away private individuals' ability to buy in the insurance market coverage that would allow them to have any termination of pregnancy covered as an insurable event.

And I submit this legislation and urge its adoption.

I yield back the balance of my time.

Mr. Pitts. The chair recognizes the gentleman, Mr. Guthrie.

Mr. Guthrie. Mr. Chairman, I withdraw my point of order.

Mr. Pitts. The chair thanks the gentleman and recognizes the gentleman from Georgia, Dr. Gingrey, for 5 minutes.

Dr. Gingrey. Mr. Chairman, thank you. And I seek recognition in opposition to the Waxman amendment.

I, we, oppose this amendment, for we see no plausible connection between the availability of abortion coverage in the private insurance market and this pending legislation.

Make no mistake, this is a poison pill amendment. It allows the Secretary of Health and Human Services, who is closely connected to pro-choice groups -- she could nullify the abortion provisions supported by a large majority -- you have heard the statistics -- including 64 Democrats in the last Congress, that essentially voted for this bill in the Stupak-Pitts amendment. This law has invested extraordinary powers and authorities in the Secretary to regulate almost all elements of the private health insurance marketplace.

The administration, however, told the American public repeatedly that they did not have to worry about this Federal power grab, because if you liked your current insurance coverage, you could keep it. Promises were constantly made from key administration spokespersons during the passage of the bill that, for those who had established relationships with their physicians and any other health-care providers, that they had nothing to worry about because they could keep the coverage which gave them

peace of mind.

Unfortunately, these assurances vanished in thin air when we read the administration's regulation on grandfathered plans and found out from the administration's own analysis that almost all would lose their own coverage in just a matter of a few years.

We have also seen the Secretary issue hundreds of waivers of various requirements of this law so that plans would not have to immediately go out of business and tens of thousands lose health insurance coverage. Think about McDonalds, the fast food issue and the mini-med plans.

Hundreds of waivers have been granted in a process that has been highly political and selective. It has been done without transparency behind closed doors. Politics and insider status, rather than objective criteria, have been guiding this process.

Now, in this amendment, we are asked to grant another authority to the Secretary to make another certification of the private insurance marketplace to determine if the pending legislation should go into effect. This is a certification of individual and group plans which are not eligible for tax credits under the Patient Protection and Affordable Care Act, and it is outside the future exchange structure.

So we oppose the amendment, for we see no plausible connection between the availability of abortion coverage in the private insurance market, which they can offer, and this pending legislation.

The private marketplace for insurance provides choices for individual consumers in the types of benefits they desire. The Protect Life Act even specifically says -- and I quote -- "Nothing in this act shall restrict any non-Federal health insurance issuer offering a grandfathered health plan from offering separate coverage for elective abortion." How much more specific and clear can you be?

Why would we now create a trigger to prevent the pending legislation to go into effect based on the availability of coverage in the private market? It makes no sense. The Waxman amendment is just another attempt to prevent implementation of these protections based on a spurious argument. And, for that reason, I wholeheartedly oppose this amendment.

Mr. Chairman, I yield back.

Dr. Burgess. Would the gentleman yield to me for just a moment of his remaining time?

Dr. Gingrey. I guess I do have some remaining time, and I would be glad to yield to my OB/GYN colleague from Texas, Mr. Burgess, the vice chair of the committee.

Dr. Burgess. And I thank the gentleman for yielding.

This is not just a theoretic concern about the usurpation of power by the Secretary of Health and Human Services. In addition to all of the instances of the grandfathering and the waivers that were just discussed, we heard of 10 instances by Mr. Cass Sunstein, who is the administration's point man at the Office of

Management and Budget, where the Secretary has proceeded with final rules without the required public comment period. So it is occurring, and it is occurring every day.

Do remember that government involvement in the health insurance industry was not the agenda of our side. It was the agenda of President Obama and then-Speaker Pelosi. When the government gets involved in using taxpayer dollars to pay for health insurance, the taxpayer must be protected. Taxpayers who do not want to pay for abortion coverage within the government -- and the government does have a history of not subsidizing abortion coverage. So what we are talking about is preventing that change from occurring in the first place.

We are helping the President enforce his Executive order. We are seeing that it is enshrined in law. And I am certain the President welcomes the help from this side of the aisle.

And I will yield back to my colleague from Georgia.

Dr. Gingrey. And I yield back my -- I am gone, I am done.

Mr. Pitts. The gentleman's time has expired.

Are there any other Members who wish to speak on the amendment?

The chair recognizes the gentleman from New Jersey, Mr. Pallone.

Mr. Pallone. Thank you, Mr. Chairman. I am going to yield most of my time to Mr. Waxman.

But I just want to say, you know, the purpose, or one of the

major purposes, obviously, of the health-care reform was to provide more access and to make sure that people would get insurance coverage. And I think we estimated something -- I don't know what number -- 97, 96, 98 percent of people will have coverage.

What Mr. Waxman is basically doing is trying to make sure that this Pitts amendment doesn't impede that in any way. I mean, the concern here, of course, is whether women will have coverage, whether they are going to have coverage for reproductive services.

And, I mean, listening to what Mr. Gingrey said, you know, he seems to think that there won't be a problem. So if that is true, I don't know why we can't simply adopt the Waxman amendment. Because if, practically speaking, there won't be a problem, then the Secretary can certainly certify that that is not the case.

Dr. Gingrey. Would the gentleman yield?

Mr. Pallone. Well, I want to yield now to Mr. Waxman.

Mr. Waxman. Well, I thank you for yielding to me.

As I understood Mr. Gingrey's comments, he didn't think that there would be any connection between this Pitts bill and the private insurance market. So if that is the case, then the Secretary would be able to certify that there has not been any diminution or, in fact, elimination of coverage in the private insurance market as a result of this legislation.

We don't know who the Secretary is going to be in 2014. And I presume that any Secretary, Democratic or Republican, would take

his or her job more seriously than the Republicans did in enforcing the rules showing the constitutionality of a bill.

A Secretary would have to make a certification based on evidence that the -- and I will read it -- that "the terms of this legislation would not affect the availability of abortion coverage in private health-care plans for individuals who will not receive any Federal subsidy." So we are talking about private insurance for Americans who are paying for it with their own money, and not to allow this legislation to affect the free market of insurance.

I would hope, whether it is a Democratic or Republican Secretary -- I would hope it would be a Democratic Secretary, but I hope either one would be honest in making any determination. And if the Secretary certifies that there is no impact, as Mr. Gingrey insists there will be none, then that certification will not be a problem.

But if there is a problem, let's make sure that we don't take away the right of people in this country to buy insurance with their own money in the private sector that will cover reproductive services.

So I would urge support for the amendment, and I yield back to the gentleman from New Jersey.

Mr. Pallone. I yield to the gentlewoman from California.

Dr. Gingrey. Would the gentleman yield to me?

Mr. Pitts. The chair thanks the gentleman. The --

Mr. Pallone. I still have a couple of minutes I wanted to

yield to Ms. Capps.

Mr. Pitts. All right. The chair recognizes Ms. Capps for 2 minutes.

Mrs. Capps. Thank you. And I thank my colleague for yielding.

Contrary to what a previous statement mentioned about ceding more power to the Secretary, I, frankly, don't believe that is true at all. This amendment of Mr. Waxman's simply requires that the Secretary certify that the private insurance market has not been impacted by this regulation.

While I don't believe the underlying legislation is necessary because no Federal money is presently going to this procedure, you state this is not about curtailing a woman's access to her constitutional rights. If the concern is taxpayer money, we should make sure that this legislation will not hurt access.

This amendment simply ensures that those with private insurance that happens to cover abortion will not be affected as a result of this legislation -- a commonsense measure making sure that the legislation is narrowly tailored to its purported purpose.

And, with that, I yield back.

RPTS KESTERSON

DCMN SECKMAN

[11:11 a.m.]

Dr. Gingrey. Would the gentleman yield to me for just a second.

Mr. Pallone. Sure.

Dr. Gingrey. I thank the gentleman for yielding and I appreciate the points that are being made in regard to this. But you are giving the talking points quite frankly of Emily's List. I went to their Web site last night, and of course, this is what --

Mr. Pallone. If I could take my time back. I assure you I have not read Emily's List. I know I personally and I know the other members are very serious about this because as I said, fundamental to the health care reform legislation was the idea that there should be universal coverage and increased access because we know increasingly that many Americans do not have access and that access to reproductive services in particular is often difficult. So please don't mention Emily's List. If I have read Emily's List, I don't -- certainly not in the last few years.

Mr. Pitts. The gentleman's time has expired. Are there any other members wishing to speak on the amendment? The chairman recognizes the gentleman from Louisiana, Dr. Cassidy, for 5 minutes.

Dr. Cassidy. Again, I am struck as I said in my opening statement how we base amendments upon hyperbole. So I pulled Ms. Rosenbaum's article in which the former chairman bases this amendment.

And, first, she points out that 81 percent of employer-sponsored health care is under the ERISA market and 87 percent of those plans currently have some sort of abortion coverage based upon that. Now, clearly if the minority was correct in the last term when they were the majority, that if people like their coverage, they can keep it, unless you are giving lie to that assertion that was made over and over, the fact is that people like their current coverage and they can keep it. And it turns out that 87 percent of employer-based insurance is in the private sector, under an ERISA market, and 81 percent of those have abortion coverage.

In fact, we actually have empiric evidence. Ms. Capps spoke about, do we have empiric evidence? Again, going back to Ms. Rosenbaum's article, she points out that under the Federal Employee Health Benefits Plan, there have actually been -- oh, let me back up. Ms. Rosenbaum says that the prohibition upon commingling administrative costs -- and I will quote here -- conceivably could cost the plan its Federal contract, and therefore, they would drop abortion coverage. So, again, hyperbole, conceivably it could. Conceivably a meteor could hit CMS. Conceivably we can come up with anything.

Let's address the specific issue. In this specific issue, it says that if you have some prohibition of commingling, there may not be any private market for abortion services insurance. But we pointed out that ERISA has that. And it is important to know that this coverage, according to Ms. Rosenbaum's article, has grown, and it has grown even though, except for 2 years, since 1984, there has been a prohibition under the Federal Employee's Health Benefits Program for commingling of administrative costs. We actually have empiric evidence. Since 1984, except for 2 years, there has already been such a prohibition, and there clearly has been no chilling effect upon the employer-based market because, again, according to Ms. Rosenbaum's article, that coverage has grown.

Now, we can say that, no, now it is going to be different. Now maybe we are conceding that if you like your insurance, you can't keep it and you are going to be thrown into the market. That would be something, that would be something to consider. But on the other hand, if we look at the empiric evidence, this has not occurred.

Now, frankly I do agree that this is ceding appropriate legislative statutory concerns to the Secretary. We already have empiric evidence. We can choose to ignore it and hope that we do have a person who agrees with us when they are a Democrat. But on the other hand, if we look at, since 1984, the empiric evidence that includes not only the Federal Employees Health Benefit

Program, but Medicaid coverage, the absence thereof, we can see that there has been no chilling of this private health care market.

Mr. Waxman. Will the gentleman yield?

Dr. Cassidy. I will yield.

Mr. Waxman. I hope you are right. And if you are right, then there will be no problem. But what we want to provide is if people have these ERISA plans and they like them and they cover reproductive rights, they should be able to keep them.

Dr. Cassidy. And there is nothing in this law to prevent that. In fact, it specifically says under this amendment -- I am sorry, reclaiming my time -- that there will be no prohibition on a privately insured health plan able to do that. So if they like their coverage and they keep it, frankly, this doesn't apply to them.

Mr. Waxman. Well, then there would be a clear certification that the proposal did not affect that market. And that is all we are asking.

Dr. Cassidy. So reclaiming my time, I think our difference is you want to ignore the current empiric evidence on the hope that a future Secretary will find in your favor. And I am going to say, heck, we know we were sent here by the American people to make decisions now, not to kick the can down the road to someone else who may or may not agree with the values of the American people but, no, to make a decision now. And frankly, I think this

legislation reflects the American people's values.

Mr. Waxman. Will the gentleman yield to me further?

I want the Secretary to find that your statement is accurate. I don't want -- I don't have a hope that the Secretary, in 2014, is going to say that the Pitts amendment is affecting the ability of people to buy insurance with their own money in the private market. I want the Secretary to say that that wasn't the impact, and I want to be sure that we have that certification because otherwise, I think there is a risk, and I don't think it is so remote --

Dr. Cassidy. Reclaiming my time, because we only have 20 seconds left, I must yield. I actually think we have the empiric evidence now. If we are in agreement that we hope this is not the case, Ms. Rosenbaum's article, who was frankly your witness, I think provides us with the reassurance that we need not worry about that.

Mr. Pitts. The gentleman's time has expired.

Are there any other members wishing to speak on the amendment?

If not, the vote occurs on the amendment.

Mr. Waxman. Mr. Chairman, I am going to ask for a roll call vote if you want to proceed.

Mr. Pitts. The clerk will call the roll.

The Clerk. Dr. Burgess?

Dr. Burgess. No.

The Clerk. Dr. Burgess, no.

Mr. Whitfield?

[No response.]

The Clerk. Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Murphy?

[No response.]

The Clerk. Mrs. Blackburn?

[No response.]

The Clerk. Dr. Gingrey?

Dr. Gingrey. No.

The Clerk. Dr. Gingrey, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. No.

The Clerk. Mrs. McMorris Rodgers, no.

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Upton?

Mr. Upton. No.

The Clerk. Mr. Upton, no.

Mr. Pallone?

Mr. Pallone. Yes.

The Clerk. Mr. Pallone, yes.

Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, yes.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, yes.

Mr. Engel?

Mr. Engel. Yes.

The Clerk. Mr. Engel, yes.

Mrs. Capps?

Mrs. Capps. Yes.

The Clerk. Mrs. Capps, yes.

Ms. Schakowsky? Yes.

Ms. Schakowsky. Yes.

The Clerk. Ms. Schakowsky, yes.

Mr. Gonzalez?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin, aye.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Weiner?

Mr. Weiner. Aye.

The Clerk. Mr. Weiner, aye.

Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mr. Pitts. The clerk will report the result. Are there any other members not recorded?

The Clerk. Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mr. Pitts. Are there any other members?

The clerk will report the result.

The Clerk. Mr. Chairman, 9 ayes, 16 nays.

Mr. Pitts. The amendment is not agreed to.

Are there any other amendments to the amendment in the nature of a substitute?

Mr. Engel. Mr. Chairman, I have an amendment at the desk.

Mr. Pitts. For what purpose does the gentleman seek recognition?

Mr. Guthrie. Mr. Chairman, I reserve a point of order.

Mr. Pitts. The clerk will report the amendment.

The Clerk. The amendment to an amendment in the nature of a substitute offered by Mr. Engel --

Mr. Pitts. Without objection, the reading of the amendment is dispensed with.

[The information follows:]

******** INSERT 3-1 ********

Mr. Pitts. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. Engel. Thank you, Mr. Chairman.

Mr. Chairman, I believe in the right of doctors and hospitals that do not believe in abortion to not be forced to perform those abortions. I think that we in America have freedom, and no one should be forced to do something that in their conscience or morally they do not want to do.

But I do think it should be a two-way street. Provisions of current law, both in health reform and in the longstanding Church Amendment put in my Senator Church many years ago, protect both doctors who do not believe in abortion and those who do. State laws are not preempted, no matter which group they protect. Federal laws are unaffected as they apply to either group, and the Church Amendment, as is current law and has been current law for about 40 years, protects providers who participate and who refuse to participate in abortion.

But this bill changes all that. It changes current law. It changes the balance that we have had for all these many years and creates a one-way street, protecting only those providers who oppose abortion. Again, I respect those providers who oppose abortion, but I also think what is good for the goose and good for the gander. This is very serious, and we shouldn't be protecting one side and not protecting the other side and going against

longstanding law.

I am sure that there are doctors and nurses who believe that they are ethically bound to provide abortion services when the pregnancy endangers the health of a woman. I am also confident that there are doctors and nurses who believe that they are morally required to provide a requested abortion to a victim of rape or incest. Yet my colleagues on the other side of the aisle seem to want to protect only one group's conscience and not the other's. This seems wrong to me.

This doesn't seem like conscience protection. This seems like the government advancement of a particular viewpoint on abortion, and we don't do that in this country. And it is wrong to say, as one of the majority's witnesses did, that this protection is already provided by Roe vs. Wade. It is not true, and it is ridiculous.

If a hospital fires a doctor because he performs abortions elsewhere, that is not protected by Roe vs. Wade.

If a nurse is not given a job because she has provided counseling on abortion, that is not protected by Roe vs. Wade.

If a hospital chooses to provide training on safe abortion methods and is denied a grant as a result, that is not protected by Roe vs. Wade.

If a clerk outside says to a woman who comes in for an abortion, sorry, we can't do it here, but the hospital 10 blocks away can do it, that person can be fired by the hospital. That is

not protected by Roe vs. Wade.

So we shouldn't protect one group's conscience and criminalize another's. It is not fair, and it is not right. We need the two-way protections that exist in current law, and my amendment provides that.

We are not even talking about the woman's conscience. We are talking about protecting conscience of doctors or hospitals, and I think the real conscience that should be protected is the woman's conscience. The woman who decides whether or not she is going to have an abortion.

But this law, my amendment doesn't go over that, doesn't talk about that. It just talks about providers and doctors, both rights should be protected. And I mean that sincerely. No one should be forced to do an abortion. No hospital should be forced to do an abortion. But on the other hand, if doctors want to do it, they shouldn't be penalized just for doing so.

And so I yield -- I yield to Mrs. Capps.

Mrs. Capps. Thank you for yielding to me and I want to agree with your amendment. I believe we have spent most of our time with conscience provisions outlined in this bill supporting and protecting those who do not want to provide reproductive services to women.

And if we are going to include a conscience provision, as Mr. Engel has put forth in his amendment, this just underscores the fact that it needs to protect the other side as well. And we

have ample evidence in the past years and currently where people who do counsel the options that a woman has before her and/or provides services are routinely discriminated against.

So this is a sensitive and divisive issue. There are professionals who oppose abortion, but there are also those who believe they are morally and ethically bound to perform those services, particularly when the life of the mother or the woman is endangered.

This protection isn't currently offered, as the author of the amendment states, by Roe, and many doctors who do perform services for women have been routinely discriminated against. And I believe it is fair to state, as this amendment does, that protection should be offered on both sides of this very sensitive and divisive issue. And I am prepared to yield back to Mr. Engel.

Mr. Pitts. Sure. The chair thanks the lady.

The gentleman's time has expired.

The chair recognizes the gentleman from Kentucky, Mr. Guthrie, for 5 minutes.

Mr. Guthrie. Thank you, Mr. Chairman.

This amendment changes conscience protection to prohibit a State or local government from discriminating any health care entity on the basis of the entity requires training for abortion, performs abortion or covers or pays for abortion. The conscience protections contained in the Pitts bill that we are debating were approved by a voice vote without objection in the full committee

when they were offered by Mr. Stupak in the last Congress on the debate over health care reform.

This amendment would make regulatory enforcement of laws regarding abortion subject to litigation. While the health care law, the existing health care law prevents preemption of State laws, regulatory enforcement of such laws would be considered discriminatory and subject to litigation. This change could even result in a backdoor Freedom of Choice Act that provides a legal basis to overturn any enforcement of any State or Federal laws that regulate or restrict abortion by calling such enforcement discriminatory.

The Gosnell situation in Pennsylvania demonstrates that more, not less, regulation enforcement of abortion providers is necessary. In the Gosnell case, the State failed to do proper inspections or comply with the Pennsylvania Abortion Control Act. Under this amendment, if the health department had investigated the Gosnell clinic vigorously, as certainly was warranted, Gosnell would have had grounds to sue the State.

The change is also internally inconsistent. For example, the underlying conscience protections ensure that government programs cannot require training in abortion, thereby discriminating against individuals who are opposed to participating in abortion. This amendment adds a contradictory provision for taking the requirement of abortion training as violating the consciousness of any applicant who opposes doing abortions.

At best, this will create an ambiguity in the law. I yield back.

Mr. Pitts. The chair thanks the gentleman.

Are there any other members wishing to speak on the amendment?

If not, the question occurs of shall the committee adopt the amendment.

All those in favor will signify by saying aye.

All those opposed, no.

The noes appear to have it.

Mr. Engel. Mr. Chairman, I ask for a recorded vote.

Mr. Pitts. The clerk will call the roll.

The Clerk. Dr. Burgess?

Dr. Burgess. No.

The Clerk. Dr. Burgess, no.

Mr. Whitfield?

[No response.]

The Clerk. Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mrs. Blackburn?

[No response.]

The Clerk. Dr. Gingrey?

Dr. Gingrey. No.

The Clerk. Dr. Gingrey, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. No.

The Clerk. Mrs. McMorris Rodgers, no.

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Upton?

Mr. Upton. No.

The Clerk. Mr. Upton, no.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzalez?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin, aye.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Weiner?

Mr. Weiner. Aye.

The Clerk. Mr. Weiner, aye.

Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Pitts. The clerk will report.

The Clerk. Mr. Chairman, 9 ayes, 16 nays.

Mr. Pitts. The amendment is not agreed to.

Are there any other amendments?

Ms. Schakowsky. Yes, Mr. Chairman.

Mr. Pitts. The chair -- for what purpose does the gentlelady --

Ms. Schakowsky. I have an amendment at the desk.

Mr. Guthrie. Mr. Chairman, I reserve a point of order.

Mr. Pitts. The clerk will report the amendment.

The point of order is reserved.

The clerk will report.

The Clerk. Just to be clear, Ms. Schakowsky, is it February 10, 2011, 1:00 p.m.?

Ms. Schakowsky. Yes.

The Clerk. Okay. The amendment to the amendment in the nature of a substitute offered by Ms. Schakowsky --

Mr. Pitts. Without objection, the amendment will be considered as read.

[The information follows:]

******** INSERT 3-2 ********

Mr. Pitts. The gentlelady is recognized for 5 minutes in support of her amendment.

Ms. Schakowsky. Thank you, Mr. Chairman.

Over and over again what we have heard is the purpose of this bill is to address only the issue of abortion to make sure there is no Federal funding for abortion, and my amendment actually does the simple thing to clarify that this legislation only affects abortion. It reinstates the words "regarding abortion" that are contained in current law and it adds the phrase "regarding abortion" to the big and undefined term conscience rights.

It is obvious that the Pitts language, whether intentionally or not, is ambiguous about the reach of the so-called conscience rights and my amendment would make clear that these provisions are solely about abortion. The conscience law in my own home State of Illinois is broadly interpreted.

Let me share with you some of the provisions that make the law so broad. It applies not only to the refusal to perform any procedure to which a medical professional objects, but it also applies to counseling and referrals. So not only can a provider refuse to perform a procedure, that provider can refuse to provide counseling about it or to refer to another willing provider.

It applies to a very wide range of health care professionals, institutions and insurance companies. It applies not only teachings of established religions but moral convictions, which

can mean practically anything, because that is up to the personal interpretation of the individual or entity that is protected under the act.

The reason I am concerned about the ambiguous reach of conscience rights in this bill is because some medical providers in Illinois have relied on the conscience act to do the following things: refuse to provide insurance payment for not only abortions but also contraception; refuse to dispense medications at pharmacies and refuse to refer or transfer prescriptions to another pharmacy, and this has included incidents where the pharmacist has assumed the reason medication has been prescribed even though he or she has not been privy to that information, allows the pharmacist to make assumptions; refused to provide information or referrals for condoms for patients concerned about protecting themselves from HIV.

So this an amendment that I believe clarifies the intention as stated by the majority of this legislation, and I would urge its adoption.

Mr. Pitts. The chair thanks the lady and recognizes the gentleman from Illinois, Mr. Shimkus.

Mr. Shimkus. Thank you, Mr. Chairman.

This was in essence part of the discussion that we had previously. The State of Illinois actually wants the broad protection of Illinois law. The State of Illinois is a very broad and tremendously diverse State, from south of I-80, very

conservative minded like myself, and in the great City of Chicago and Cook County, other great diversities of opinion.

I think for the State of Illinois to have passed legislation on a difficult issue such as the debate we have today is telling that they have got it right for the State of Illinois. Our opposition to this is having the Federal Government come in and then dictate to the States what they can and cannot do under State law.

And as we talked about earlier, there are issues, and it raises the debate, but I think the State got it right, and I would ask the rejection of this amendment to protect, especially the State of Illinois and our broad protections.

Ms. Schakowsky. Will the gentleman yield?

Mr. Shimkus. I would be honored to yield.

Ms. Schakowsky. I think that it is important then to underscore that the intention of this legislation is much broader than has been over and over again stated, which is simply to make sure that no Federal funds go toward abortion; that clearly it is going to go into the realm of contraception, of prescription drugs, of condoms, and I would argue that that is far beyond the scope as originally stated and far beyond the scope that it should go to.

Thank you for yielding. I yield back.

Mr. Shimkus. I am honored to yield.

I would just follow up and say that abortion proponents have

often blurred the lines between contraception and abortion. And they likely seek to overturn any State protections for pharmacists. This is really a pharmacy issue in the State of Illinois on what they can prescribe and what they can't. And those pharmacists who have strongly held pro-life views do not want to prescribe abortifacients, and they do not want to be forced under law to do so. That is why the law was adopted.

And my colleague, Ms. Schakowsky, knows I have great respect for her. It is the great diversity of this country that we can have this debate. I just disagree on this opinion, and I yield back my time.

Mr. Pitts. The chair thanks the gentleman.

Mr. Guthrie

Mr. Guthrie. Thank you, Mr. Chairman.

I withdraw my point of order.

Mr. Pitts. Is there further discussion on the amendment?

If not, the vote occurs on the amendment.

Ms. Schakowsky. I would ask for a roll call vote.

Mr. Pitts. All those in favor shall signify by saying aye.

Those opposed, no.

Clerk call the roll.

The Clerk. Dr. Burgess?

Dr. Burgess. No.

The Clerk. Dr. Burgess, no.

Mr. Whitfield?

[No response.]

The Clerk. Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mrs. Blackburn?

[No response.]

The Clerk. Mr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris Rodgers?

[No response.]

The Clerk. Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Upton?

Mr. Upton. No.

The Clerk. Mr. Upton, no.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzalez?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin, aye.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Weiner?

Mr. Weiner. Aye.

The Clerk. Mr. Weiner, aye.

Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mr. Pitts. Are there any other members who wish to be recorded?

If not, the clerk will report the result.

The Clerk. Mr. Chairman, 9 ayes, 15 nays.

Mr. Pitts. The amendment is not agreed to. Are there any other amendments?

Mr. Pallone. Mr. Chairman.

Mr. Pitts. For what purpose does the gentleman seek recognition?

Mr. Pallone. Mr. Chairman, I have an amendment at the desk.

Mr. Pitts. The clerk will report the amendment.

Mr. Guthrie. Mr. Chairman, I reserve a point of order.

The Clerk. An amendment to the amendment in the nature of a substitute offered by Mr. Pallone.

Mr. Pitts. Without objection, the reading of the amendment will be dispensed with.

[The information follows:]

******** INSERT 3-3 ********

Mr. Pitts. And the chair recognizes the gentleman from New Jersey, Mr. Pallone, for 5 minutes to speak in favor of this amendment.

Mr. Pallone. Thank you, Mr. Chairman.

My amendment would strike the Pitts language that applies to the refusal protections to the application of emergency services laws. While the Republicans have argued that the Pitts bill protects hospitals, medical workers and health clinics, in my opinion, it actually overturns decades of precedent that guarantees public access to emergency care, including abortion.

The EMTALA statute prohibits hospitals from dumping a patient who is medically unstable. If a patient arrives in a life-threatening situation, the hospital must treat them until the person's life is no longer in danger.

The health care reform made clear that the conscience protections that were written into the law did not repeal or amend the basic EMTALA provisions requiring hospitals to treat a patient until she is stable.

Now, the Pitts legislation, in my opinion, changes that. It says that EMTALA is subject to the abortion provisions. What does that mean? It means that if a pregnant woman's life is in danger and the medically indicated response is to terminate the pregnancy to save her life, that the hospital can refuse her emergency care. It could also refuse to transfer her to another facility that

would perform this life-saving procedure.

I know that when I asked counsel at the beginning when we were discussing the substitute, I got an answer from the chairman to my question. I thought that the chairman said in his response to my question earlier that he agreed that is, in fact, the impact, that if a pregnant woman's life is in danger and she had to terminate the pregnancy to save her life, that the hospital could refuse the emergency care or refuse to transfer her to another facility.

That is how I interpret what the chairman said in response. And for that reason, I think that we need to make sure that that language is stricken and that -- and therefore support this amendment.

I would yield back the balance of my time.

Mr. Pitts. The chair thanks the gentleman and recognizes the gentleman from Texas, Dr. Burgess, for 5 minutes.

Dr. Burgess. Thank you, Mr. Chairman.

Actually, might I just ask a question of counsel? Does the Pitts language as written, unamended, does it change EMTALA in any way?

Counsel. It does not amend EMTALA in any way.

Dr. Burgess. I thank counsel for that observation.

I would just point out that Title 42 of U.S. Code where EMTALA, an emergency medical condition is defined, it is fairly clear. An emergency medical condition means placed -- amongst

other things, one of the stipulations is placing the health of the individual or with respect to a pregnant woman the health of the woman or her unborn child in serious jeopardy.

There are other provisions that do address the issue of transfer with respect to a pregnant woman who is having contractions, number one, that there is not adequate time to effect a safe transfer to another hospital before delivery or, two, that the transfer may pose a threat to the health and safety of the woman or her unborn child.

Previous -- earlier in the code, the transfer is also addressed, an appropriate transfer to a medical facility is a transfer that minimizes the risk to an individual's health and, in the case of a woman in labor, the health of the unborn child.

So I think the statute under EMTALA is fairly clear. I think the amendment, therefore, is not necessary. The counsel has indicated EMTALA is not amended under the Pitts language in the amendment in the nature of a substitute. And for that reason, this amendment is not necessary. The language that exists in EMTALA today, the law under which every practicing physician understands that within 30 minutes, you must provide evaluation, stabilization or transfer, that does not change under the existing -- under the language that is offered in the Pitts amendment in the nature of a substitute.

With respect to the term stabilized, with respect to emergency medical conditions, that no material deterioration of

the condition is likely within reasonable medical probability to result from or occur during the transfer of the individual from the facility. I mean, the law is fairly clear, very clear. And certainly there was no ambiguity in my mind back in the days when I was responding to emergency calls from the hospital that I had a certain time limit in which I must respond to the situation, treat it if I was able, stabilize and transfer if it was beyond my capability. And nothing in this language is going to change that. So the amendment, in my opinion, is not necessary.

Mr. Pallone. Can I ask the gentleman to yield?

Dr. Burgess. I will be happy to yield to my friend from New Jersey.

Mr. Pallone. What I don't quite understand is it seems to be what you are saying is very different from what the chairman said before.

If there was no change, then why do we have to have the Pitts language? Because this wasn't in the original Pitts bill that was introduced. It was added. It was put into the substitute.

It seems to me that what you are doing is basically subjecting EMTALA to this refusal language. And my understanding in response to my question is that Mr. Pitts said that that is what he intended. If you think that there is no intention in that regard, then there is no reason not to vote for my amendment.

Dr. Burgess. Reclaiming my time.

It is for the reenforcement of the longstanding conscience

clause.

I will just tell you as a practical matter, if a situation occurs where delivery is eminent, no, you cannot transfer that patient. But that is no longer an elective termination of a pregnancy. That is treatment of a medical condition.

Mr. Pallone. Would the gentleman yield again?

If I could ask unanimous consent to enter into the record a letter from the Catholic Health Association of the United States --

[The information follows:]

******** COMMITTEE INSERT ********

Dr. Burgess. If the gentleman would -- if the gentleman would allow me to see the letter before --

Mr. Pallone. Sure. I mean, it basically says they didn't think it was necessary to have the Pitts language.

Dr. Burgess. I will yield back my time.

Mr. Pitts. The gentleman yields back.

Is there any further discussion?

Mr. Pallone. Mr. Chairman, there was no objection? Oh, I see.

Mrs. Capps. Mr. Chairman.

Dr. Burgess. Mr. Chairman, I have no objection to the insertion of the letter from the Catholic Health Association, but I would ask unanimous consent to insert a letter from the Catholic Medical Association alongside.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Pitts. Without objection, so ordered.

Mr. Pallone. Have I seen that? I have no objection to that either.

Mr. Pitts. Is there further discussion?

The gentlelady, Mrs. Capps, is recognized for 5 minutes.

Mrs. Capps. I won't take 5 minutes, but I do want to speak in strong support of Mr. Pallone's amendment because I think the underlying legislation is unclear and that this is a very important regulation that we have EMTALA. It saves countless lives every year and just to affirm, I believe is -- if there is disagreement on the other side that there needs to be this amendment, I think we need the amendment simply for the purpose of clarification.

It only ensures something that is stated law now and is in practice, that hospitals and medical providers which receive Federal dollars are required to provide emergency service and treatment, regardless of one's ability to pay but also regardless of the kind of procedure it is.

Under this extreme legislation, the underlying legislation, hospitals would be allowed -- at least it is vague enough that it could be interpreted that hospitals be allowed to turn away women in need of services, including termination of pregnancy, even if the life of the woman was in danger and that even referring such patients could be denied because of the conscience clause

provision.

EMTALA was put into effect to save lives, specifically saving the lives of pregnant women. And I believe that this amendment is important to underscore that fact and make sure that this legislation, this bill that we are considering, be in conformity with the rules of EMTALA.

And I am prepared to yield to the amendment's author, Mr. Pallone.

Mr. Pallone. Thank you.

One of the concerns I had during the hearing on Wednesday -- the hearing was so quickly followed up by the markup, that unfortunately we haven't had a lot of time to sort of digest some of the statements that were made.

But I can continue to point out that there are circumstances where it may be necessary to save the life of the mother, that the pregnancy is terminated. And many times those who are the anti-choice advocates said, well, that has never happened. But it does happen. We had a situation that got a lot of attention in Phoenix where there was a situation where the hospital, which was a Catholic hospital, made a decision that they would allow abortion or ending the pregnancy because of the mother's life. And as a consequence, the bishop stripped the hospital of its Catholic status and excommunicated the administrator.

So these situations do happen. And it seems to me, as Mrs. Capps said, that if there is some question on the other side of

the aisle as to what they are really trying to do here and the Catholic Hospital Association has said, there is no need for this Pitts language; so just to make sure we don't have these circumstances occur where a woman's life is in danger and somehow she could die if the wrong decision is made, it seems to me that you should support this amendment.

And I yield back to the gentlewoman.

Mrs. Capps. And I yield to Ms. Schakowsky.

Ms. Schakowsky. Yes. I just wanted to put on the record some of the words from the Catholic Health Association of the United States regarding this issue.

And it says, we have had the opportunity to review your revised version of H.R. 358 and would like to share our concern regarding one specific modification to your legislation. CHA, Catholic Hospital Association, member hospitals have been providing compassionate quality care under both EMTALA and the Weldon Amendment without conflict since the enactment of these provisions. Accordingly, CHA does not believe that there is a need for a provider nondiscrimination section to apply to EMTALA.

So I have to say I am very confused, unless there is something that we don't understand about the Pitts amendment, about the Pitts language, why it is that we would have to extend -- that we would have to have that language at all since the lead -- since it is a national leadership organization of more than 2,000 Catholic health care systems, hospitals, long-term care

facilities, sponsored and related organizations.

And so I think that their word on this particular issue and their general support, by the way, they would like to express our continued support for the intent of your legislation, H.R. 358, but they are objecting to this particular part of it and that is why I think we should not include it in the final legislation.

Mr. Waxman. Would the gentlelady yield?

Ms. Schakowsky. Yes, I yield.

Mr. Waxman. I would just like to ask, Mr. Pitts, the author of the bill, whether he intended to affect EMTALA or whether he thought he was not affecting EMTALA.

Mr. Pitts. It was not the intent to affect EMTALA if that is what you are asking.

Mr. Waxman. Then why do we have that language in there that seems to raise this ambiguity?

Mr. Pitts. Well, as I said before, the clarifying language is necessary because H.R. 358 provides that other emergency services laws will not be invoked to nullify a health care providers longstanding conscience rights.

Mr. Waxman. If you didn't want to affect EMTALA, why don't we adopt the pending amendment to clarify that fact?

Mr. Pitts. The gentleman's time has expired.

We will proceed. Are there any other members wishing to speak on the amendment?

If not, the question curse on the amendment.

Mr. Pallone. Mr. Chairman, I was going to ask for a roll call.

Mr. Pitts. The clerk will call the roll.

The Clerk. Mr. Burgess?

Dr. Burgess. No.

The Clerk. Mr. Burgess, no.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Rogers?

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mrs. Blackburn?

[No response.]

The Clerk. Mr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris Rodgers?

[No response.]

The Clerk. Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Upton?

Mr. Upton. No.

The Clerk. Mr. Upton, no.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

[No response.]

The Clerk. Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzalez?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin, aye.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Weiner?

Mr. Weiner. Aye.

The Clerk. Mr. Weiner, aye.

Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mr. Pitts. Are there any other members wishing to record their votes?

If not, the clerk will report the result.

The Clerk. Nine ayes, 15 nays.

Mr. Pitts. The amendment is not agreed to.

Are there any other amendment members wish to offer?

The gentlelady from California, Mrs. Capps, is recognized.

Mrs. Capps. Mr. Chairman, I do have an amendment at the desk.

Mr. Pitts. The clerk will report.

Mr. Guthrie. Mr. Chairman, I reserve a point of order.

Mr. Pitts. The gentleman reserves.

The Clerk. Amendment to the amendment in the nature of a substitute --

Mr. Pitts. Without objection, the reading of the amendment is dispensed with.

[The information follows:]

******** INSERT 3-4 ********

Mr. Pitts. And the gentlelady is recognized for 5 minutes to support her amendment.

Mrs. Capps. Thank you, Mr. Chairman. As a part of the health reform statute that Congress adopted language to ensure that the secretary of the Health and Human Services would not interfere with patients getting care. It was adopted in part to counter charges that this law would result in the rationing of health care. The language makes it very clear that rationing is illegal.

My amendment would make the same thing clear in the Pitts legislation. As a nurse, I know firsthand the value of a provider-patient relationship and the importance of a patient knowing that their full range of treatment options are being explained to them so that they can be an active participant in their own care.

My amendment would say that neither the Secretary nor the State can create any unreasonable barriers to care, can impede timely access to care, could interfere with communications between a patient and the doctor or provider or could restrict availability of the provider to give all relevant information to patients or could violate the principles of informed consent or medical ethics or finally could limit the availability of needed care. These are the basic tenets of medical ethics.

And I think it is clear from our hearing the other day that

the reach of this legislation is perhaps unknown, and only a single day of hearings with just three witnesses I believe was simply inadequate to answer these kinds of questions.

So I want it clarified in this amendment. Proponents of this very extreme proposal, which this legislation is, underlying legislation, are trying to ram it through this committee at a time, frankly, when we should be talking about jobs, and there is no concern for the unintended consequences. Clearly, there is a great deal of legal confusion here. So I want to make sure at least that this legislation does not allow rationing of care. That is what the debate states clearly. I understand that our debate has been contentious, but there is no reason that we can't agree on this commonsense protection, which has always been at the heart of medical ethics. Therefore, I urge my colleagues to support this amendment that would preserve the provider-patient relationship.

Mr. Pitts. The chair thanks the lady and recognizes the gentleman from Texas, Mr. Barton.

Mr. Barton. Thank you, Mr. Chairman.

I want to commend you on the way you are conducting this markup. It is a very serious, contentious issue, and you are doing it with compassion and courtesy for members on both sides.

I have to respectfully oppose the Capps amendment. With all due respect, if we were to adopt her amendment, we would basically gut the pending bill.

The whole purpose of this underlying legislation is to make it explicitly clear that we are not going to use taxpayer funds -- Federally -- taxpayer funds for abortions. We understand Roe v. Wade, and we understand that that is the law of the land. But having said that, there is no constitutional guarantee for Federally funded abortions and the health care bill that passed against the strong opposition of myself and others on the majority side in the last Congress does allow for it.

This amendment if adopted would strip power from the American people and the States, would give that power to the Secretary, if I understand her amendment correctly, to the health and -- Secretary of Health and Human Services, that would give her the power, the current Secretary of HHS, the power to refuse to implement prohibitions on taxpayer funding for abortion, which is the very reason that Mr. Upton and Mr. Pitts have put forward this particular piece of legislation.

This amendment would give the Secretary of the Health and Human Services the power to refuse to implement the law, that is this bill if it were to become law, if she views it as restricting abortion access -- if she views it. This amendment would even eliminate the inadequate and woeful protections against taxpayer funded abortion found in Obama care. This amendment would also now the Secretary of HHS, as I understand it, to ignore the conscience protections in the act and would prevent States from enacting their own conscience protection clauses. So there is any

number of reasons --

Mrs. Capps. Would the gentleman yield?

Mr. Barton. I would be happy to yield to my friend from California.

Mrs. Capps. Thank you, Mr. Barton.

Actually, you are changing the subject, with all due respect, in your argument because this is in no way about funding, and it certainly isn't about any kind of Federal funding for any medical procedures.

It simply goes to the heart of a patient-provider relationship and ensures that patients do not have unreasonable barriers to obtaining the kind of care that they need. And, in fact, as you are well aware, the underlying law that is now in effect provides for no Federal funding for abortion, except in the emergency cases.

The effects of this bill, if I could just finish my remarks, the effects of this bill on access to care is based on the hearing that we had in 1 day is vague and unknown. This amendment simply protects the basic protections of a patient -- doctor-patient-provider relationship against any kind of unknown consequences that this legislation might provide, makes sure that that guarantee is there.

It is based on Section 1554, the American Affordable Care Act. It happened to be authored by Senator Coburn. It is a commonsense protection I believe we should all be able to agree

upon.

Mr. Barton. Well, if I could reclaim my time.

Mrs. Capps. Certainly.

Mr. Barton. And I respect the gentlelady's opinion, but I also respectfully disagree with her interpretation of her amendment and also the underlying basis of this particular legislation.

I would encourage the members of the committee to reject the Capps amendment if they support the underlying Pitts-Upton bill.

And with that, I would yield back, Mr. Chairman, and ask for a no vote on the Capps amendment.

Mr. Pitts. The chair thanks the gentleman.

Are there any other members wishing to address the amendment?

If not, the vote occurs on the amendment? All those --

Mrs. Capps. Mr. Chairman, I ask for a roll call vote.

Mr. Pitts. The gentlelady has requested a recorded vote.

The clerk will call the roll.

The Clerk. Mr. Burgess?

Dr. Burgess. No.

The Clerk. Mr. Burgess, no.

Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus?

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Rogers?

[No response.]

The Clerk. Mrs. Myrick?

Mrs. Myrick. No.

The Clerk. Mrs. Myrick, no.

Mr. Murphy?

Mr. Murphy. No.

The Clerk. Mr. Murphy, no.

Mrs. Blackburn?

[No response.]

The Clerk. Dr. Gingrey?

Dr. Gingrey. No.

The Clerk. Dr. Gingrey, no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta, no.

Mrs. McMorris Rodgers?

[No response.]

The Clerk. Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance, no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy, no.

Mr. Guthrie?

Mr. Guthrie. No.

The Clerk. Mr. Guthrie, no.

Mr. Barton?

Mr. Barton. No.

The Clerk. Mr. Barton, no.

Mr. Upton?

Mr. Upton. No.

The Clerk. Mr. Upton, no.

Mr. Pallone?

Mr. Pallone. Aye.

The Clerk. Mr. Pallone, aye.

Mr. Dingell?

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Towns?

Mr. Towns. Aye.

The Clerk. Mr. Towns, aye.

Mr. Engel?

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mrs. Capps?

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

Mr. Gonzalez?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin, aye.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Weiner?

[No response.]

The Clerk. Mr. Waxman?

Mr. Waxman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mr. Pitts. Any other members wishing -- Mr. Weiner?

The Clerk. The gentleman is not recorded.

Mr. Weiner. Aye.

The Clerk. Mr. Weiner, aye.

Mr. Pitts. Are there any other members wishing to be recorded?

If not, the clerk will report the result.

The Clerk. Mr. Chairman, 9 ayes, 14 nays.

Mr. Pitts. The amendment is not agreed to.

Are there any other members wishing to offer amendments?

The gentlelady, Ms. Baldwin, is recognized to offer an amendment.

Ms. Baldwin. Yes, thank you, Mr. Chairman. I have an amendment at the desk.

Mr. Guthrie. Mr. Chairman, I reserve a point of order.

Mr. Pitts. The gentleman reserves.

The Clerk. Amendment to the amendment --

Mr. Pitts. Without objection --

Ms. Baldwin. I ask unanimous consent that the amendment be considered as read.

Mr. Pitts. Without objection, so ordered.

[The information follows:]

******** INSERT 3-5 ********

Mr. Pitts. The gentlelady is recognized for 5 minutes.

Ms. Baldwin. Thank you, Mr. Chairman.

You know, there is one question that every woman in America should be asking right now and that is why, instead of creating jobs and bolstering the economy, is the new majority so intent on taking away our rights and our choices?

With unemployment at 9.4 percent nationally, what my constituents and Americans nationwide need right now is jobs. Nearly 6 million women are unemployed. However, instead of creating jobs for millions of women looking for work, the new majority's top priority is launching an attack on women's rights.

Women comprise half of the workforce but are paid only 77 cents for every dollar that a man makes. So rather than working to close the pay gap that affects half of the American workforce, Republicans' top minority is undermining women's equality.

Despite promises from the new majority that this Congress would focus on creating jobs and bolstering the economy, this bill that we are considering today fails to deliver on that promise, and in fact, this bill could further exacerbate the problem by causing millions of Americans and small businesses to face tax increases.

Members can all agree that this will not help bolster our economy or create jobs. If there is one message that I have heard loud and clear from my colleagues on the other side of the aisle,

it is that tax hikes result in jobs lost.

We can also all agree that small businesses are the engines of our economy. Over the past 17 years, small businesses generated 65 percent of new jobs in this country. This is a trend that we must work to foster and not hinder.

Let us not put these businesses in a situation where they have to decide between providing comprehensive health coverage for the women they employ or hiring new workers.

Mr. Chairman, although I oppose this extreme legislation for so many reasons, I believe the least the majority can do is ensure that small businesses and families will not face tax increases during these very difficult, economic times. And my amendment is focused on doing just that.

I yield back the balance of my time.

Mr. Pitts. The chair thanks the lady.

The gentleman, Mr. Guthrie, is recognized.

Mr. Guthrie. Mr. Chairman, the amendment is clearly nongermane. House precedent is firmly established at this point. An amendment that makes the effectiveness of a bill conditioned upon a matter unrelated to the underlying bill is nongermane. Here the amendment relates to taxes, which are outside the scope of the bill before us in a matter -- for that matter, outside the scope of the committee's jurisdiction. So I insist on my point of order.

Mr. Weiner. Mr. Chairman, may I be heard on the point of

order?

Mr. Pitts. The gentleman insists on the point of order. Is there anyone else wishing to speak on the point of order.

Mr. Weiner. Mr. Chairman, I do.

Mr. Pitts. The gentleman from New York is recognized.

Mr. Weiner. Mr. Chairman, first of all, I think it is incumbent on us to work every day to try to reclaim the jurisdiction this committee deserves. We have a tradition in this committee that goes back -- Mr. Dingell and Mr. Barton -- in a bipartisan way. We have always scratched and clawed and fought to keep the jurisdiction of this committee.

I think anything that deals with health care, anything at all, should be in the proper jurisdiction of this committee. And by the way, anything that deals with finance, anything that deals with currency, anything that deals with the planet earth should be in the jurisdiction of this committee.

And I think it is one thing that unifies us in a bipartisan way; we have always fought to increase the jurisdiction.

And I also find it interesting that the point of order would even be raised. We can go ahead and agree there is only a point of order if someone raises it. I see no reason why we should not want to insist in every piece of legislation that we don't raise taxes. We should be interested in making sure we don't increase regulation. That should be something we all agree upon.

I would say to the maker of the objection, does he want to be

on record against language that makes sure taxes don't go up. I find that to be contrary to many of the statements that the gentleman has made and my colleagues have made.

I think we should -- every piece of legislation, in fact, we should try to make sure that taxes don't go up. We stand here in favor of taxes staying down. To object to that would be in favor of taxes going up. I don't quite understand how my colleagues on the Republican side think they are going to stay in the majority being in favor of taxes going up. That is simply just inconsistent with being in the majority in this Congress.

I think it is clear, we on this side who are offering this language, are in favor of taxes being lowered. That is what this says. And they are objecting. You are objecting to the idea of taxes going down. That is outrageous.

Ms. Baldwin, I am with you. I think taxes should go down. Taxes are too high. We should try to reduce them. I cannot imagine anyone would object to that. And I hope the chair doesn't uphold on behalf of the majority the idea that you want taxes to go up.

Mr. Pitts. Will the gentleman state his point of order?

Dr. Burgess. Just that the remarks should be confined to the existing argument.

Mr. Weiner. Forgive me. You are exactly right. Let's remind our colleagues -- I am sorry. I get a little bit excited.

Mr. Barton. Mr. Chairman, the gentleman never started the

clock. You have let the distinguished gentleman of New York speak without the clock starting.

Mr. Weiner. My remarks have a way of bending the time-space continuum anyway I would say to Mr. Barton.

Look, let's get to the bottom line of what this is about. Ms. Baldwin is offering language to certify that this doesn't make taxes go up. That is a good thing. That is a good thing and well within the rules, well within the rules.

And the gentleman who is making the objection is saying I don't want that, we don't want that. The majority side doesn't want that. And I think that we should rule this in order so that we can be on record saying we don't want this to increase the taxes of working Americans. That is why I think that we should find this to be properly in order, debate it, pass it and have it proceed.

We are in favor of having a consideration of something that is well within the rules. If it is not in the rules and we can keep taxes low, we should change the rules so it is. We want to keep taxes low on this side of the aisle.

Mr. Shimkus. Yeah.

Mr. Whitfield. Mr. Chairman, I just want to say that we are delighted that Mr. Weiner has finally seen the light and is now opposed to increasing taxes.

Mr. Pitts. The chair thanks the gentleman.

The chair will now consider the point of order.

As the gentleman noted in Clause 7 of Rule 16 of the Rules of the House, prohibits the committee from considering nongermane amendments.

The precedents of the House set forth several general tests for germaneness: First, an amendment must concern itself with the same subject as the underlying proposition; second, the amendment must have the same fundamental purpose; and finally, the amendment must be within the jurisdiction of the committee.

Having reviewed the amendment and listened to the arguments, the chair finds that the amendment does not meet the test for germaneness as set forth for the Rules and precedents of the House. Therefore, the chair must sustain the point of order.

Are there further amendments to be offered?

If not, the question occurs on the amendment in the nature of a substitute.

All those in favor shall signify by saying aye.

All those opposed, no.

The ayes appear to have it.

The ayes have it, and the amendment is agreed to.

The question now occurs on favorably reporting the bill, as amended.

Mr. Pallone. Mr. Chairman, we would ask for a roll call on the final passage.

Mr. Pitts. On this final passage.

Mr. Pallone. Yes.

Mr. Pitts. The clerk will call the roll. Final passage.

The Clerk. Mr. Burgess.

Dr. Burgess. Aye.

The Clerk. Mr. Burgess, aye.

Mr. Whitfield?

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield, aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus, aye.

Mr. Rogers?

[No response.]

The Clerk. Mrs. Myrick?

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick, aye.

Mr. Murphy?

Mr. Murphy. Aye.

The Clerk. Mr. Murphy, aye.

Mrs. Blackburn?

[No response.]

The Clerk. Mr. Gingrey?

Dr. Gingrey. Aye.

The Clerk. Mr. Gingrey, aye.

Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta, aye.

Mrs. McMorris Rodgers?

[No response.]

The Clerk. Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance, aye.

Mr. Cassidy?

Dr. Cassidy. Aye.

The Clerk. Mr. Cassidy, aye.

Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie, aye.

Mr. Barton?

Mr. Barton. Aye.

The Clerk. Mr. Barton, aye.

Mr. Upton?

Mr. Upton. Aye.

The Clerk. Mr. Upton, aye.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone, no.

Mr. Dingell?

Mr. Dingell. No.

The Clerk. Mr. Dingell, no.

Mr. Towns?

Mr. Towns. No.

The Clerk. Mr. Towns, no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel, no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps, no.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky, no.

Mr. Gonzalez?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. No.

The Clerk. Ms. Baldwin, no.

Mr. Ross?

Mr. Ross. Aye.

The Clerk. Mr. Ross, aye.

Mr. Weiner?

Mr. Weiner. No.

The Clerk. Mr. Weiner, no.

Mr. Waxman?

Mr. Waxman. No.

The Clerk. Mr. Waxman, no.

Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts, aye.

Mr. Pitts. Are there any other members wishing to be recorded?

If not, the clerk will report the result.

The Clerk. Mr. Chairman, 14 ayes, 9 nays.

Mr. Pitts. The bill, as amended, is agreed to and favorably reported. The chair now calls up the bill H.R. 525 and asks the clerk to report.

[The information follows:]

******** COMMITTEE INSERT ********

RPTS DOTZLER

DCMN HOFSTAD

[12:15 p.m.]

The Clerk. H.R. 525, to amend the Public Health Service Act to enhance and increase the number of veterinarians --

[The bill follows:]

******** INSERT 4-1 ********

Mr. Pitts. Without objection, the first reading of the bill is dispensed with. The bill will be open for amendment at any point.

So ordered.

Are there any amendments to the bill?

Ms. Baldwin. Mr. Chairman, I move to strike the last word.

Mr. Pitts. The gentlelady is recognized for 5 minutes.

Ms. Baldwin. Mr. Chairman, thank you.

I really appreciate your willingness to bring up H.R. 525, the Veterinary Public Health Amendments Act, before the subcommittee today. And I look forward to working with you this Congress on this and other vital issues facing our health-care workforce, because we certainly need to be focusing on jobs.

Although we may not know it, our human health depends, in part, on a small army of veterinarians working in public health disciplines. Their role has never been clearer than during the H1N1 virus breakout. We now see that diseases can travel from animals to humans, sometimes seemingly overnight.

Public health veterinarians are our front line of defense against another outbreak. They inspect our slaughterhouses, prevent foot-and-mouth disease outbreak from devastating our economy and our agricultural industry, and protect our citizens against the threat of bioterrorism.

Unfortunately, our current workforce cannot meet these public

health challenges. Over the next 20 years, experts predict a shortage of 15,000 veterinarians. And between 2006 and 2016, the Bureau of Labor Statistics predicts that the demand for veterinary services will increase by 35 percent.

Something must be done to protect our national health by preventing and controlling infectious diseases, ensuring the safety and security of our Nation's food supply, promoting health environments, and providing health care for animals.

H.R. 525 will help ensure that we have a more robust veterinary public health workforce. This bill has two main components: loan repayment for veterinarians who commit to teaching or working in public health and a new fellowship program for public health veterinarians.

I also want to thank the Association of American Veterinary Medical Colleges and the American Veterinary Medical Association for their tireless work on behalf of public health veterinarians.

This bill is identical to the Veterinary Public Health Amendments Act that passed the Energy and Commerce Committee with bipartisan support and passed the House by voice vote last Congress.

I urge my colleagues to support this critical bill to ensure that our veterinary workforce is prepared to meet our public health needs.

And I yield back my remaining time.

Mr. Pallone. Could I ask the gentlelady to yield before

she --

Ms. Baldwin. Certainly, Mr. Pallone.

Mr. Pallone. Just very briefly, I want to express, again, my support for this bill. I know that in the Energy and Commerce Committee and in the Health Subcommittee, a lot of times Members are not even aware of the fact that we have jurisdiction over veterinary care, but it is a very important part of our jurisdiction.

And I know that a lot of work went in, both on the Democrat and the Republican side, to try to come up with legislation, this legislation, so that we could move it. And I do think it is very important for veterinary hospitals and for public health, as the gentlewoman said.

So I just want to thank, again, the chairman for bringing this up today.

And I yield back to the gentlewoman.

Mr. Pitts. The chair thanks the gentleman.

Is there any discussion on the bill?

Dr. Gingrey. Mr. Chairman?

Mr. Pitts. Dr. Gingrey is recognized.

Dr. Gingrey. Mr. Chairman, thank you very much, and I will be brief. I just wanted to commend Ms. Baldwin in regard to this bill and her passion in regard to this issue.

I was very pleased last year when Ms. Baldwin introduced a bill to suggest that we add food animal veterinarians to the bill.

And she graciously agreed with me and accepted that as an amendment to the bill, because food animal veterinarians play a -- large animals play a vital role in public health, and experts have said there is a major shortage.

So that was a real important addition to the bill, and I was very proud to work in this Congress with the now original author of the bill, the original author in the 111th. So I am glad to be on the bill with Ms. Baldwin, and I support it wholeheartedly.

And I yield back.

Mr. Pitts. The chair thanks the gentleman.

Any other discussion on the bill?

If not, the question now occurs on favorably reporting the bill.

All those in favor, signify by saying, "Aye."

The opposed, "No."

The ayes appear to have it. The ayes have it, and the bill is reported favorably.

The chair now calls up the bill H.R. 528 and asks the clerk to report.

The Clerk. H.R. 528, to require the submission of a report --

[The bill follows:]

******** INSERT 4-2 ********

Mr. Pitts. Without objection, the first reading of the bill is dispensed with. The bill will be open for amendment at any point.

So ordered.

Are there any amendments to the bill?

If not, is there any discussion on the bill?

Dr. Burgess. Mr. Chairman?

Mr. Pitts. The chair recognizes the vice chairman, Dr. Burgess.

Dr. Burgess. Yes, sir. In the last Congress, I expressed some reservations with the inclusion of one of the diseases on the list, specifically trichomoniasis. I would just ask that perhaps we could work on this a little bit before this bill goes to the full committee.

Mr. Pitts. The chair recognizes Dr. Gingrey.

Dr. Gingrey. Mr. Chairman, yes, and I rise again to support this bill. Hank Johnson, who is not on the committee but a colleague of mine from Georgia and we have worked together on other bipartisan issues -- and I was glad to be an original cosponsor of his bill.

I think the point that Dr. Burgess makes is a good one. And we may very well want to look at that. That was added to the bill.

But, overall, I think it is a good piece of legislation, a

good piece of bipartisan legislation by a good Member of the House of Representatives. And any time we can do things in a bipartisan way, I am all for it. So I am on this bill as an original cosponsor, and I certainly endorse it.

Mr. Pitts. The chair thanks the gentleman and recognizes the full committee chairman, Mr. Upton.

The Chairman. Thank you, Mr. Chairman.

I just would like to say that our intention is that, when we finish all four bills today, we would like to go to full committee markup probably on Tuesday next week. So if the gentleman has an amendment that he wants to work on as it relates to this, please start soon to reach out and figure it out, as we intend to go Tuesday at 10:00.

I yield back.

Mr. Pitts. The chair thanks the gentleman.

Is there any other discussion on the bill?

If not, the question now occurs on favorably reporting the bill.

All those in favor, signify by saying, "Aye."

Those opposed, "No."

The ayes appear to have it. The ayes have it, and the bill is favorably reported.

The chair now calls up the bill H.R. 570 and asks the clerk to report.

The Clerk. H.R. 570, to amend the Public Health Service Act

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[The bill follows:]

******** INSERT 4-3 ********

Mr. Pitts. Without objection, the first reading of the bill is dispensed, and the bill will be open for amendment at any point.

So ordered.

Are there any amendments to the bill?

Seeing none, is there any discussion on the bill?

Dr. Burgess. Mr. Chairman?

Mr. Pitts. Dr. Burgess is recognized.

Dr. Burgess. This is a simple, little piece of legislation that actually incorporates dentistry into the Federal disaster response framework. No new Federal money, no new restrictions on moneys now being spent. It simply allows the States, at their option, to incorporate dentists and dental facilities into their planning.

I am certainly grateful for the support of Mr. Towns during the development of this legislation. And I encourage its adoption.

I yield back.

Mr. Pitts. I thank the gentleman.

Is there any other discussion on the bill?

If not, the question now occurs on favorably reporting the bill.

All those in favor, signify by saying, "Aye."

Those opposed, "No."

The ayes appear to it. The ayes have it, and the bill is reported favorably.

Without objection, the staff is authorized to make technical and conforming changes to all of the bills approved by the subcommittee today.

Hearing no objection, so ordered.

Is there any further business to come before the subcommittee?

If not, the chair thanks all Members and staff.

The subcommittee stands adjourned, subject to the call of the chair.

[Whereupon, at 12:26 p.m., the subcommittee was adjourned, subject to the call of the chair.]