



March 31, 1998

Executive Offices, Ordway Building

The Honorable John D. Dingell
2328 Rayburn House Office Building
Washington, D.C. 20515-2216

Dear Congressman Dingell:

The introduction of the "Patient Bill of Rights" authored by Congressman John Dingell, along with other bills directed to establishing national standards, reflects public attention to the need for national standards for health plans. Kaiser Permanente believes that many HMOs and other managed care plans have made and are making important contributions to moderating health care cost increases and improving health care quality. The best practices of these plans provide comprehensive coverage, coordinated health care, and increased measurement and accountability for quality. However, the shift to managed care has been rapid, and a combination of private sector and public actions are needed to increase public confidence and improve practices among all plans.

To instill confidence of our members and the general public, Kaiser Permanente has embarked on a variety of efforts - all directed to guarantee that we add important and worthwhile value to our society. One of our efforts has been to develop a set of uniform, legally enforceable national standards for health plans which we have done with two sister HMOs and national consumer organizations. Public regulatory efforts to implement such standards should be constructed in a manner that reduces the likelihood of unnecessary, costly regulation and promotes standards which provide real benefit to consumers. It is in this light we comment on the Dingell bill.

The Dingell bill contains provisions that are generally consistent with our consumer protection principles and we applaud these. The bill also contains other substantive provisions with which we have concerns, and the bill does not address mechanisms to streamline the regulatory process, by applying federal standards that would pre-empt other local standards, and thus reduce the cost of health coverage.

Nearly all of our principles are included in the Dingell bill. The provisions of the bill that address our principles are generally consistent with our principles. We believe that adoption of these principles through appropriate mechanisms would contribute to improved public confidence and consumer protection. Consumers must

have confidence that when they face a medical emergency, their plan will be responsible for that care. Plans must ensure patients with complex medical needs can be seen by a specialist without going through unnecessary and complicated referral procedures. Women must be certain that their care may be provided by their Ob/Gyn without any artificial gate keepers. All patients must have the comfort of knowing that it is their physician who is deciding what prescription drug is best for them and the physician is not inappropriately influenced by the plan through payment or employment or obscure rules. Consumers must have available enough information about the plan, its medical delivery system and how it operates so that the plan best able to meet the family's health care needs is chosen. Women in their second trimester of pregnancy should be able to remain with her physician through having her child even when her physician or plan is no longer available. The Patient Bill of Rights does address these issues.

Kaiser Permanente, however, is concerned about other elements of the Dingell bill. As we've noted elsewhere we believe medical decisions must be made by a physician (or other health care provider) in consultation with the patient. Health plans shouldn't make those decisions. Legislators shouldn't make those decisions. We do not believe the Congress should continue to adopt legislation mandating clinical practices such as minimum lengths of stay.

Expanding liability of health plans will drive up health care costs, and could contribute to increased plan involvement with medical decision making. We do not believe it will contribute to reducing medical errors or improving quality. We note that other bills proposing national standards have not proposed expanding liability.

While Kaiser Permanente supports an appropriately designed program allowing external review of medical necessity decisions by health plans, we believe that additional provisions are needed to assure that such a program does not impair the ability of organized systems of care to promote high quality, evidenced based medical care.

Finally, we note that the Dingell bill proposes federal standards but allows additional, perhaps conflicting standards to be applied to state regulated health plans at the state level. If there are to be national standards for health plans, we believe they should be applied in a way that reduces the likelihood of duplicative, costly regulation. The Dingell bill anticipates using HIPAA as its enforcement mechanism. HIPAA is a new enforcement tool designed and enacted by Congress that involves an interplay between the states and several federal agencies. We are still learning about its effectiveness. There may well be other mechanisms that could be used successfully to ensure health plans meet appropriate consumer protection and enhancement standards. We strongly encourage policy makers to consider a variety of tools, including publicly chartered private accreditation organizations.

We are pleased that the Dingell bill embraces many very important provisions reflected in our principles which if implemented would raise the confidence of the 140 million Americans who seek and receive their health care through managed care plans. We remain concerned about other provisions in the bill, as well as the need for implementing mechanisms that would eliminate dual regulation and make greater use of publicly chartered private accreditation organizations.

Yours truly,

A handwritten signature in cursive script that reads "Steve Zatkan".

Steve Zatkan, Senior Vice President,
Government Relations