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4 H.R. 4771, THE "HEALTH ACT OF 2016";
5 AND H.R. 4676, "THE PREVENTING CRIMES
6 AGAINST VETERANS ACT OF 2016"
7 Tuesday, March 22, 2016
8 House of Representatives,
9 Committee on the Judiciary,
10 Washington, D.C.

11 The committee met, pursuant to call, at 10:15 a.m., in
12 Room 2141, Rayburn House Office Building, Hon. Bob
13 Goodlatte, [chairman of the committee] presiding.

14 Present: Representatives Goodlatte, Sensenbrenner,
15 Chabot, Issa, Franks, Gohmert, Jordan, Poe, Marino,
16 DeSantis, Walters, Buck, Trott, Bishop, Conyers, Nadler,
17 Johnson, Chu, Deutch, Richmond, Jeffries, and Peters.

18 Staff Present: Shelley Husband, Staff Director; Branden
19 Ritchie, Deputy Staff Director/Chief Counsel; Zachary
20 Somers, Parliamentarian & General Counsel; Kelsey Williams,
21 Senior Legislative Clerk; Paul Taylor, Chief Counsel,

22 Subcommittee on the Constitution and Civil Justice; Robert
23 Parmiter, Counsel, Subcommittee on Crime, Terrorism,
24 Homeland Security and Investigations; John Manning,
25 Professional Staff Member; Minority Chief Counsel, Chief of
26 Staff, Staff Director; Danielle Brown, Minority
27 Parliamentarian and Chief Legislative Counsel; Arron Hiller,
28 Minority Chief Oversight Counsel; Joe Graupensperger,
29 Minority Chief Counsel, Subcommittee on Crime, Terrorism,
30 Homeland Security and Investigations; and Veronica Eligan,
31 Minority Professional Staff.

32 Chairman Goodlatte. Good morning. The Judiciary
33 Committee will come to order, and without objection the
34 chair is authorized to declare a recess of the committee at
35 any time. Pursuant to notice, I now call up H.R. 4676 for
36 purposes of markup and move that the committee report the
37 bill favorably to the House. The clerk will report the
38 bill.

39 Ms. Williams. H.R. 4676, to amend Title 18 United
40 States code; to provide an additional tool to prevent
41 certain fraud against veterans and for other purposes.

42 [The bill follows:]

43 ***** INSERT 1 *****

44 Chairman Goodlatte. Without objection, the bill is
45 considered as read and open for amendment at any point, and
46 I will begin by recognizing myself for an opening statement.

47 H.R. 4676, the Preventing Crimes Against Veterans' Act
48 of 2016, was introduced by Congressman Tom Rooney of
49 Florida, a former member of this committee, and Congressman
50 Ted Deutch of Florida, a current member of this committee.
51 This legislation fixes a loophole in Federal law and
52 provides Federal prosecutors with an additional tool to go
53 after criminals who seek to defraud veterans.

54 In recent years, financial predators have increasingly
55 targeted veterans, particularly elderly veterans in low-
56 income housing, in an effort to defraud the veterans out of
57 their veteran's affairs benefits. These criminals offer to
58 help veterans with their cases, claimed to get their
59 benefits approved in record time, charge fees that are often
60 in the thousands of dollars, and then provide them with
61 little or no assistance.

62 Under current law, many of these fraudsters would be
63 vulnerable to prosecution under the mail or wire fraud
64 statutes, if they engage in this sort of fraudulent scheme by
65 calling a veteran on the phone, sending them an email,
66 mailing them a letter, or otherwise using the
67 instrumentalities of interstate commerce to commit fraud.

68 However, increasingly, these criminals are taking
69 advantage of a loophole in Federal law, by conducting in-
70 person seminars or meeting in person at a veteran's home or
71 assisted living facility. In at least one recent example, a
72 fraudster visited an assisted living facility in Florida and
73 asked the staff to take up all the veterans for a seminar.
74 This sort of conduct, swindling an elderly veteran out of
75 his or her benefits, is truly reprehensible and worthy of
76 Congress' attention. H.R. 4676, which has the support of
77 the Veteran's Service community addresses this conduct.

78 This vulnerable population has done its duty to protect
79 us from harm; it is our duty to help protect them, and I
80 urge my colleagues to support this important legislation.
81 And it is now my pleasure to recognize the ranking member of
82 the committee, the gentleman from Michigan, Mr. Conyers, for
83 his opening statement.

84 [The statement of Chairman Goodlatte follows:]

85 ***** COMMITTEE INSERT *****

86 Mr. Conyers. Thank you, Chairman Goodlatte. Members
87 of the committee, I am pleased to support H.R. 4676, the
88 Preventing Crimes Against Veterans Act. This legislation
89 provides an important additional tool for Federal
90 prosecutors to use to combat veteran's benefits fraud.
91 Because we honor their service, and because of the
92 sacrifices of our veterans and what they have made for us,
93 it is particularly important that we protect them from fraud
94 and ensure the integrity of the system of benefits we
95 provide for them.

96 Currently, there are about 21 million veterans of the
97 United States military: men and women who selflessly served
98 our Nation and in theatres of war from the Second World War,
99 Korea, and Vietnam, to more recent conflicts in Iraq and
100 Afghanistan. Unfortunately, many of our veterans as a
101 result of their service, have physical and mental scars;
102 there are well over a million American veterans with
103 service-connected disabilities.

104 The suicide rate among veterans, believe it or not, is
105 300 percent above the national average. And it is estimated
106 that about 30 percent of all Vietnam veterans and 20 percent
107 of veterans of the recent Middle East conflicts suffer from
108 post-traumatic stress disorder in a given year.

109 In addition, veterans are more likely than non-veterans

110 to become homeless. They comprise, believe it or not, 17
111 percent of our homeless population. On any given night, an
112 estimated 50,000 veterans are sleeping on America's streets.

113 In recognition of the extreme sacrifice by our veterans
114 and the hardships many of them continue to face after their
115 military service, it is our duty to provide to the best of
116 our ability an appropriate measure of compensation for them;
117 particularly for those in need.

118 For instance, we provide disability payments to those
119 with service-connected disabilities, pensions for veterans
120 with limited incomes, education, and training under the G.I.
121 Bill, and also various life insurance benefits. This is the
122 least that we can do and it is still not enough.

123 There continue to be issues with the medical care we
124 provide our veterans and problems about some benefits never
125 being processed and paid because of the loss of claims by
126 the Veteran's Benefits Administration. Although most of the
127 issues are beyond the reach of the Judiciary Committee, we
128 are able to take action with respect to instances of fraud
129 involving veteran's benefits.

130 H.R. 4676 would make it a crime to knowingly engage in
131 any scheme to defraud a veteran of his or her veteran's
132 benefits, or to knowingly engage in fraud in connection with
133 obtaining veteran's benefits. Anyone convicted of such a
134 crime could be fined, imprisoned, or be subject to both

135 penalties.

136 Those who defraud veterans and the system of veteran's
137 benefits harm the victims and diminish resources required to
138 pay the claims and fund the programs that are needed to help
139 those who have served their country.

140 And, accordingly, I join with the chairman in support
141 of H.R.4676. And I thank the gentleman from Florida, Ted
142 Deutch, for his leadership on this important measure. I
143 yield back.

144 [The statement of Mr. Conyers follows:]

145 ***** COMMITTEE INSERT *****

146 Chairman Goodlatte. The chair thanks the gentleman and
147 is pleased to recognize the gentleman from Florida, Mr.
148 Deutch, the lead Democrat co-sponsor of the legislation for
149 his opening remarks.

150 Mr. Deutch. Thank you, Mr. Chairman. Thank you
151 Chairman Goodlatte and Ranking Member Conyers, for your
152 commitment to our veterans and for bringing this legislation
153 before our committee, today.

154 Briefly, I would like to recognize my Florida colleague
155 and veteran, Tom Rooney. First, for his service to our
156 country, but also to thank him for his ongoing commitment to
157 his fellow veterans through the Preventing Crimes Against
158 Veterans Act that we introduced together.

159 The legislation before us today was borne out of the
160 recognition that current law has not kept pace with the
161 growing sophistication of scam artists and fraudsters
162 seeking to take advantage of American veterans. I want to
163 thank Greg Dover of Palm Beach County Veteran's Services,
164 who really brought this issue to my attention and has helped
165 make the case for this important legislation.

166 I have heard too many stories of my own constituents;
167 veterans, survivors, and families, who have been taken
168 advantage of through so-called pension poaching scams
169 targeting the supplemental Aid and Attendance pension
170 benefit. In one case, a veteran responded to a solicitation

171 offering additional pension benefits. A sales
172 representative then visited the veteran at home, and used
173 high-pressure tactics to convince the veteran to apply for
174 benefits that they did not want, and were not eligible for.

175 In addition to filing the claim, the scammer told the
176 veteran that he was required to enter into a long-term home
177 health care contract to receive the benefits. Pension
178 poachers in south Florida hold briefings in senior
179 communities to find targets.

180 In one case, after attending a briefing, a scammer
181 filed inaccurate claims on behalf of a veteran that did not
182 include spousal income. After the veteran paid excessive
183 filing fees of over \$600 for a service that VSOs provide for
184 free, the V.A. eventually learned that the veteran was not
185 eligible, and billed the veteran for nearly \$50,000 in
186 overpayments. Meanwhile, the scammer had disappeared and
187 could not be contacted.

188 As our senior populations continue to grow, more and
189 more aging veterans will require assistance with activities
190 of daily living that Veteran's Aid and Attendance benefit
191 can provide. The application and financial eligibility
192 requirements give scam artists an opening to take advantage
193 of our older Americans with empty promises and with hidden
194 consequences.

195 Aging veterans and their families are often tasked with

196 working through difficult health and financial issues and to
197 do it in stressful circumstances. The need for assistance
198 with navigating the process of applications and appeals can
199 make veteran survivors and their families attractive marks
200 to sophisticated fraud artists. Companies and individual
201 scammers seek to build trust in a moment of need in order to
202 sell financial products with no real value.

203 In the end, veterans are left with all of their assets
204 and their lifesavings out of reach, while earned, additional
205 benefits are routed directly to the scammer.

206 The Federal Trade Commission and Florida Division of
207 Consumer Services provide public awareness resources to
208 assist veterans and their families and Veteran's Service
209 Organizations, as well, to help them avoid known scams. But
210 there are currently no criminal penalties imposed on
211 scammers violate prohibitions against charging fees for
212 benefit assistant services. This leaves law enforcement and
213 consumer protection agencies with limited resources to
214 combat these schemes.

215 This legislation will provide law enforcement with the
216 tools necessary to fight back against pension poachers and
217 other scammers. It will protect our veterans from falling
218 victim to these ploys and it is one small, but important,
219 way for Congress to be there for our veterans after they
220 have dedicated themselves to protecting all of us and our

221 constituents.

222 I urge my fellow committee members to support this
223 legislation. Chairman, again, I thank you, and I yield
224 back.

225 [The statement of Mr. Deutch follows:]

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

226 Chairman Goodlatte. The chair thanks the gentleman.
227 Without objection, all of our members' opening statements
228 will be made a part of the record.
229 [The information follows:]

230 ***** COMMITTEE INSERT *****

231 Mr. Conyers. Mr. Chairman?

232 Chairman Goodlatte. What purpose does the gentleman
233 from Michigan seek recognition?

234 Mr. Conyers. I have an amendment at the desk and ask
235 that it be reported.

236 Chairman Goodlatte. The clerk will report the
237 amendment.

238 Mr. Conyers. Thank you.

239 Ms. Williams. Amendment to H.R. 4676 offered my Mr.
240 Conyers. Page 2, Line 3 --

241 [The amendment of Mr. Conyers follows:]

242 ***** COMMITTEE INSERT *****

Chairman Goodlatte. Without objection, the amendment is considered as read and the gentleman is recognized for 5 minutes on his amendment.

Mr. Conyers. Thank you. Mr. Chairman and colleagues, my amendment would ensure that the bill protects not only veterans with respect to veteran's benefits fraud, but also punishes those who defraud the dependents and survivors out of benefits they are owed due to the service of a veteran.

Going back in history, President Abraham Lincoln, in his second inaugural address toward the end of the Civil War in 1865, eloquently explained the need for our country to guarantee the welfare of our veterans. He called for the Nation to, "Care for him who shall have borne the battle and for his widow and his orphan."

My amendment will help us live up to the full challenge issued long ago by President Lincoln. The Veteran's Benefit Administration of the Department of Veteran's Affairs, administers \$95 billion in benefits each year. But these programs include more than the benefits provided directly to

the veterans themselves.

In addition to benefits that veterans receive, the many of these programs provide benefits to surviving spouses and dependent children. For instance, some surviving spouses receive monthly tax-free dependency and indemnity compensation payments including additional payments for dependent children. And a surviving spouse or the children of a deceased veteran with war-time service may also receive a survivor's pension. And surviving spouses and dependents of veterans with permanent and total service-connected disabilities receive reimbursement for most medical expenses under the Civilian Health and Medical Program of the Department of Veterans Affairs. And some dependents of veterans receive educational assistance benefits, and, finally, surviving spouses of veterans may receive certain V.A. home loan benefits.

Just as we have an interest in protecting the veterans themselves from fraud, we should extend any additional protection offered by the bill to these types of benefits and the dependents of surviving spouses of veterans. In so doing, we honor the sacrifices that the families of veterans have made in connection with the service of their family member. I reiterate my support, of course, for the underlying bill and ask the H.R. 4676 be strengthened by these changes.

287 I hope my colleagues will support my amendment and I
288 yield back the balance of my time, Mr. Chairman. Thank you.

289 Chairman Goodlatte. The chair thanks the gentleman and
290 recognizing himself in support of the gentleman's amendment.
291 I appreciate Mr. Conyers offering this amendment. This
292 amendment extends the provisions in H.R. 4676 to cover fraud
293 against other individuals such as a veteran's dependents or
294 surviving spouse. The intent of this bill is to give
295 Federal authorities an additional tool to use against
296 criminals who are committing fraud in connection with
297 veteran's benefits. I believe this amendment is in line
298 with that intent; it is entirely reasonable for Congress to
299 extend the protections of this bill to other individuals who
300 may be recipients of veteran's benefits including dependents
301 and surviving spouses since they also rely on those
302 benefits.

303 This amendment recognizes that individuals other than
304 veterans can be victims of this criminal activity and
305 broadens the bill's scope to ensure that the bill covers
306 those situations. I support the amendment and urge my
307 colleagues to do the same.

308 The question is on the amendment offered by the
309 gentleman from Michigan.

310 All those in favor respond by saying aye.

311 Those opposed, no.

312 Opinion of the chair, the ayes have it and the
313 amendment is agreed to.

314 Are there any further amendments to H.R. 4676?

315 Given the lack of a reporting quorum, further
316 proceedings on H.R. 4676 will be postponed.

317 Pursuant to notice, I now call up H.R. 4771 for
318 purposes of markup and move that the committee report the
319 bill favorably to the House. The clerk will report the
320 bill.

321 Ms. Williams. H.R. 4771, to improve patient access to
322 health care services and provide improved medical care by
323 reducing the excessive burden the liability system places on
324 the health care delivery system.

325 [The bill follows:]

326 ***** INSERT 2 *****

Chairman Goodlatte. Without objection, the bill is considered as read an open for amendment at any point, and I will begin by recognizing myself for an opening statement.

The bill before us today, known as the "HEALTH Act," is modeled on California's highly successful litigation reforms that have lowered health care costs and made health care much more accessible to the people of that State. Because the evidence of the effects of those reforms on lowering health care costs is so overwhelming, the Congressional Budget Office has estimated that if the State reforms were applied at the Federal level, they would save \$44 billion over a 10-year period; and because the evidence that those reforms increase access to health care is so overwhelming, they are supported by a huge variety of public safety and labor unions, community clinics and health centers, and

342 organizations dedicated to disease prevention all of whom
343 have seen the beneficial effects of these reforms in
344 California.

345 So popular are these reforms among the citizens of
346 California, that a valid initiative to raise the damages cap
347 backed and funded by trial lawyers was defeated by an over 2
348 to 1 margin in 2014. The bill before us today is identical
349 to what was reported out of this committee two Congresses
350 ago; and the HEALTH Act has passed the House many times
351 because the need for it persists.

352 The HEALTH Act's common-sense reforms, including a
353 \$250,000 cap on non-economic damages and limits on the
354 contingency fees lawyers can charge. They allow courts to
355 require periodic payments for future damages instead of
356 lump-sum awards. So bankruptcies in which plaintiffs would
357 receive only pennies on the dollar can be prevented. They
358 include provisions creating a Fair Share Rule, by which
359 damages are allocated fairly in direct proportion to fault
360 and reasonable guidelines, but not caps on the award of
361 punitive damages.

362 And the HEALTH Act does all this without in any way
363 limiting compensation for 100 percent of plaintiff's
364 economic losses, which include anything to which a receipt
365 can be attached including all medical costs, lost wages,
366 future lost wages, rehabilitation costs, and any other

367 economic out-of-pocket loss suffered as a result of a health
368 care injury.

369 Far from limiting deserved recoveries in California,
370 these reforms have led to medical damages awards in
371 deserving cases in the \$80 million and \$90 million dollar
372 range. The HEALTH Act also does not preempt any State law
373 that otherwise caps damages. It is well within Congress'
374 power to enact litigation reforms, and there are many
375 established precedents for doing so.

376 For example, that is what Congress did when it passed
377 the Protection of Unlawful Commerce in Arms Act in 2006,
378 which provides protection from excessive litigation to those
379 in the firearms industry. That Federal law was upheld in
380 Federal court as coming well within Congress' Commerce
381 Clause authority.

382 And when President Ronald Reagan established a special
383 task force to study the need for Federal tort reform, that
384 task force concluded as follows: "In sum, tort law appears
385 to be a major cause of the insurance availability and
386 affordability crisis, which the Federal Government can and
387 should address in a variety of sensible and appropriate
388 ways."

389 Indeed, the Reagan task force specifically recommended
390 "eliminate joint and several liability," "provide for
391 periodic payments of future economic damages," "schedule,

that is, limit contingency fees" of attorneys, and "limit non-economic damages to a fair and reasonable amount."

All these recommended reforms are part of the HEALTH Act. I urge my colleagues to support this legislation to enact common sense litigation reforms in the health care context.

And it is now my pleasure to recognize the ranking member of the committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

[The statement of Chairman Goodlatte follows:]

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

Mr. Conyers. Thank you, Chairman Goodlatte. Members of the committee, today's markup of H.R. 4771 is the 11th time since 1995 that we have considered legislation intended to deny medical malpractice victims the ability to be made whole and to hold wrongdoers accountable.

Notwithstanding the fact that this measure has repeatedly failed to become law because of its many problems, the rushed consideration and timing of this markup, to me, are not a coincidence. We are taking up this bill because so many of the members of the majority cannot

413 keep its members together on what to do about the Federal
414 budget.

415 To begin with, H.R. 4771 is a solution in search of a
416 non-existent problem. Although the bill's proponents claim
417 too many medical malpractice lawsuits are driving up medical
418 malpractice premiums, the facts do not support this claim.
419 It is not the frequency of legislation or the size of the
420 jury awards that determines medical malpractice insurance
421 premiums. Rather, insurance premiums are largely driven by
422 the investment practices of insurance companies that invest
423 premium dollars for maximum return. So when the stock
424 market plummets or interest rates drop, insurers sharply
425 increase premiums and reduce coverage.

426 H.R. 4771 does nothing to address this boom and bust
427 cycle in the investment practices of the insurance industry;
428 and it does nothing to address the McCarran-Ferguson Act on
429 justified and interest exemption or "business of insurance,"
430 repeal of which would go a long way towards stabilizing the
431 medical malpractice insurance market.

432 There is simply no evidence that premiums are going up
433 because of malpractice lawsuits. While not addressing the
434 real harm, this bill would cause real harm by severely
435 limiting the ability of victims to be made whole.

436 The bill would cause real harm by severely limiting the
437 ability of victims to be made whole. For instance, it

438 imposes an unjustifiably low cap on non-economic damages.
439 The bill's \$250,000 limit for non-economic damages, an
440 amount established more than 40 years ago, pursuant to a
441 California statute, would have a disparately adverse impact
442 on women, children, the poor, and other vulnerable members
443 of society. These groups are more likely to receive non-
444 economic damages in medical malpractice cases, because they
445 are less able to establish lost wages and other economic
446 losses.

447 For instance, women recover lower amounts in economic
448 damages than men, because they receive lower overall wages.
449 And not surprisingly, they are 3 times more likely than men
450 to receive non-economic damages. Women are also more likely
451 to suffer non-economic loss, like disfigurement or loss of
452 fertility, or to be the victim of conduct that is likely to
453 lead to punitive damages, such as sexual assault.

454 These harms are further heightened by the bill's new
455 burdens on proving punitive damages and its expensive
456 application to all health care lawsuits, not just medical
457 malpractice suits.

458 Whatever the short-term savings, the bill would impose
459 broad social and financial costs in the long term, including
460 the additional strains on Medicare, Medicaid, and other
461 programs caused when malpractice victims are denied full
462 restitution.

463 And finally, the bill represents a deep intrusion into
464 State sovereignty. As any beginning law student knows, tort
465 law is supposed to be the domain of the States. Yet this
466 bill preempts medical malpractice and product liability in
467 all 50 States, to protect insurance companies, providers,
468 pharmaceutical manufacturers, all at the expense of victims.

469 And so, accordingly, I oppose H.R. 4771 for these many
470 reasons and hope that the committee will join me in
471 rejecting this bill. Thank you, Mr. Chairman.

472 [The statement of Mr. Conyers follows:]

473 ***** COMMITTEE INSERT *****

474 Chairman Goodlatte. The chair thanks the gentleman.
475 Are there any amendments to H.R. 4771?

476 Mr. Conyers. Yes, sir. I have an amendment.

477 Chairman Goodlatte. I am sorry. The chair recognizes
478 the gentleman from Arizona, the chairman of the Constitution
479 Subcommittee, for his opening statement.

480 Mr. Franks. Well, thank you, Mr. Chairman. Mr.
481 Chairman, I think you have very adequately discussed the
482 policy basis for the bill before us today. But as chairman
483 of the House Subcommittee on the Constitution and Civil
484 Justice, I would like to take a moment to discuss how the
485 HEALTH Act furthers the goals of the Founders who supported
486 the authority of Congress under the Constitution, to break
487 down State-imposed barriers to trade nationwide.

488 The principal architects and advocates of the Federal
489 Constitution, James Madison and Alexander Hamilton, made it
490 clear in the Federalist Papers that Congress has the
491 constitutional authority to enact legislation that breaks
492 down the types of barriers to trade and free enterprise
493 caused by excessive and abused State tort laws.

494 In a letter to Thomas Jefferson, James Madison called
495 the Federalist Papers "the most authentic exposition of the
496 text of the Federal Constitution, as understood by the body
497 which prepared it, and the authority which accepted it."

498 And what did Hamilton and Madison have to say in the
499 Federalist Papers about the proper understanding of the
500 Constitution's Commerce Clause, which grants Congress the
501 power to regulate commerce among the several States?

502 The Commerce Clause, they wrote, was necessary to allow
503 Congress the ability to provide for the free flow of goods
504 and services nationwide.

505 As Hamilton wrote in Federalist #11, "an unrestrained
506 intercourse between the States themselves will advance the
507 trade of each by an interchange of their respective
508 productions. The veins of commerce in every part will be
509 replenished and will acquire additional motion and vigor
510 from free circulation of the commodities of every part."

511 In Federalist #12, Hamilton wrote that the Congress'
512 authority to protect the free flow of services nationwide

513 was necessary for, and I quote, "multiplying the means of
514 gratification it serves to vivify and invigorate the
515 channels of industry and to make them flow with greater
516 activity and copiousness. The assiduous merchant, the
517 laborious husbandmen, the active mechanic, and the
518 industrious manufacturer, all orders of men, look forward
519 with eager expectation and growing alacrity to this pleasing
520 reward of their toils."

521 Further, Mr. Chairman, the Commerce Clause was
522 necessary to allow Congress to counter, not only the sorts
523 of State-imposed barriers that increased prices in existence
524 at that time, namely State-imposed duties on things that
525 came within their borders, but also future trade barriers,
526 the nature of which would change with time.

527 As Madison wrote in Federalist #42, "We may be assured
528 by past experience that such a practice would be introduced
529 by future contrivances," if Congress did not have the
530 authority to break down barriers to trade imposed by the
531 States.

532 Now, Mr. Chairman, how does all of this relate to
533 modern tort law? In Federalist #42, Madison wrote the
534 Commerce Clause is necessary to allow Congress to counter
535 "future contrivances in the States that limit the free flow
536 of goods and services nationwide."

537 One such future contrivance is the vast expansion of

tort liability in the States, along with its abuse and the adverse economic effects of such an expansion that has occurred since 1789.

As legal historian, Lawrence Freedman, describes the current situation, "the dramatic extension of the tort system in the 20th century is unquestionably real. The people brought lawsuits which would have been unthinkable in the 19th century, or even in the early part of the 20th."

State tort law has dramatically and negatively affected interstate movement of individuals with valuable skills. Studies show that medical liability laws have a significant effect on the movement of medical professionals from State to State. Not surprisingly, studies also show that Mississippi and Texas, two States that enacted medical tort reforms recently, have experienced a significant rise in the number of doctors practicing there.

Congress has the clear authority under the Commerce Clause to enact Federal tort reform that facilitates the free movement of medical professionals throughout all 50 States, unimpeded by the deterrent effects of excessive tort liability.

Such excessive tort liability also costs Federal taxpayers billions of dollars. The Congressional Budget Office pronounced that a legal reform package modeled on the HEALTH Act would reduce the Federal budget by tens of

billions of dollars over the next 10 years; and, of course, Mr. Chairman, that is a conservative estimate.

According to another CBO report, CBO estimates that, under the HEALTH Act, premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent below what they would have been under current law. That would translate into many more doctors nationwide. And for those and other reasons, Mr. Chairman, I would urge all my colleagues to support this vital legislation.

[The statement of Mr. Franks follows:]

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

Mr. Nadler. Mr. Chairman?

Chairman Goodlatte. What purpose does the gentleman from New York seek recognition?

Mr. Nadler. Strike the last word.

Chairman Goodlatte. The gentleman is recognized for 5 minutes.

Mr. Nadler. I just want to comment briefly on some of

581 the remarks we just heard. Essentially, what we just heard
582 is that the expansion of tort law inhibits -- if I
583 interpreted it correctly -- inhibits the free flow of
584 doctors from State to State, and, presumably, inhibits the
585 number of doctors in practice and therefore harms society in
586 general.

587 Now, no evidence is offered for this assertion. One
588 might think that there are other barriers to practice, like
589 licensing requirements and education requirements, which
590 might have an impact on this. And before evaluating the
591 assertions we hear today, one might have to take a look at
592 that.

593 And then finally, we heard, and this brings back an
594 earlier series of debates in this committee, that if we pass
595 this legislation, medical costs would go down by 25 percent.
596 I remember sitting here in this very room dealing with 8
597 years with bankruptcy legislation. And we were told if we
598 passed the bankruptcy legislation, which unfortunately we
599 did, in 2005, that the average consumer would save \$400 a
600 year in lower interest costs because the banks would pass on
601 the savings as a result of the bankruptcy legislation. They
602 would not be giving money to all these moochers, all these
603 middle-class moochers, and they would pass on the savings in
604 the form of lower interest rates.

605 Well, what happened? We severely injured lower- and

606 middle-class people in extremist and bankruptcy situations.
607 I do not recall any lowering of interest rates by banks,
608 even when the prime rate went way down. I do not recall
609 that consumers benefited in the form of lower interest rates
610 at all.

611 I offered an amendment, when we were considering that
612 legislation, to mandate that a certain percentage of the
613 savings be passed on in the form of lower interest rates;
614 and, of course, that amendment was defeated.

615 But when I hear an argument now, unsupported by facts
616 or evidence, that the cost of medical care will go down by X
617 percent, 25 percent, if we only pass this tort reform
618 legislation, I am very much reminded of the failure, the
619 predicted failure, of the bankruptcy legislation to reduce
620 costs for consumers, and I think this is just as much
621 nonsense as that. I yield back.

622 Mr. Chabot [Presiding]. Gentleman from Texas is
623 recognized for 5 minutes.

624 Mr. Poe. I thank the gentleman. I want to make some
625 comments about this legislation and the way that I see it.
626 The legislation does not deal with the Federal Government's
627 power to regulate lawsuits in Federal courts, which we have
628 jurisdiction to do. What this legislation does is goes and
629 tells 15 States that, since you do not have a limit on
630 punitive damages, we are going to impose a limit on punitive

631 damages in your State whether you like it or not.

632 In one State -- and the gentleman from New York can
633 correct me if I am wrong -- I believe New York has in their
634 constitution that there will be no limits on punitive
635 damages in lawsuits. I believe that is correct; you can
636 correct me if I am wrong.

637 But, in any event, I think the Commerce Clause is being
638 overly used. I would like to quote Justice Clarence Thomas,
639 regarding the Obamacare law; it is a different issue, but it
640 was the Commerce Clause. And he made the comment, as I have
641 previously explained, the courts' continued use of this test
642 has encouraged the Federal Government to persist in its view
643 that the Commerce Clause has virtually no limits. And this
644 is yet another example of that.

645 The Commerce Clause, it means what we say it means, and
646 in any nexus whatsoever, the Federal Government can come
647 sweeping in and control those States. And so I believe that
648 this issue should be left up entirely, in the State courts,
649 to the States, not to the Federal Government.

650 Whether it is a good issue or a bad idea to have limits
651 on punitive damages and on tort, on lawsuits and attorneys'
652 fees, that is an issue for the States. You know, Texas has
653 done tort reform. We have changed the whole dynamics, as
654 has been mentioned here. But other States, 15 I believe
655 there are, have no limits on punitive damages. That is the

656 right of those people in that State, to make that decision,
657 and the Federal Government, this court, or this committee,
658 should not, in my opinion, pass legislation that harms State
659 courts, and decisions made in State courts because the
660 people of those States do not want limits on liability
661 regarding punitive damages; and that is their decision to
662 make.

663 So I am opposed to this legislation because of this
664 provision. It is a states' decision, states' rights
665 decision, if you want to use that phrase. And has the
666 gentleman from New York verified my comment about New York?
667 I will yield to the gentleman.

668 Mr. Nadler. Thank you. Let me say I agree with your
669 comments on federalism. I do not know if the New York State
670 constitution has such a provision.

671 Mr. Poe. Reclaiming my time. We will find out that
672 issue. But, in all due respect to those who are sponsoring
673 this legislation and our discussions about constitutional
674 law, the bottom line is, we can make the Commerce Clause
675 apply to any situation where we want to change the law in
676 some State. This is another example of that. I am opposed
677 to the legislation, it violates the States' prerogative to
678 make that decision on their own. And I will yield back to
679 the chairman.

680 Mr. Nadler. Will you yield?

681 Mr. Poe. Yes, I will yield to the gentleman from New
682 York.

683 Mr. Nadler. I now have an answer to your question.
684 New York has a provision that says, "The Constitution says
685 the right of action now existing to recover damages for
686 injuries resulting in death shall never be abrogated, and
687 the amount recoverable should not be subject to any
688 statutory limitation." That is in the State constitution.

689 Mr. Poe. Regaining my time, I thank the gentleman for
690 verifying that. It shows I have absolutely no life. I read
691 the New York constitution. So I will yield back to the
692 chairman.

693 Mr. Chabot. The gentleman yields back. The gentleman
694 from Georgia is recognized for 5 minutes.

695 Mr. Johnson. Thank you, Mr. Chairman. I wish to
696 associate myself with the remarks and comments of my friend,
697 Judge Poe, from the great State of Texas and also anticipate
698 the remarks of my friend Judge Louie Gohmert from the great
699 State of Texas. If I had the time, I would associate myself
700 with his remarks. And I expect that Judge Gohmert will have
701 the same spirit consistent with Judge Poe; and those are
702 consistent with their long-held beliefs that have been
703 demonstrated throughout the time that I have known them in
704 Congress as strong proponents of States' rights with respect
705 to issues such as this.

706 The proponent of this legislation contends that in
707 order to produce more doctors and the free flow of doctors
708 around the United States, we have to have Federal tort
709 reform that would impose a cap on State laws that protect
710 patients from medical errors. Each State has the
711 prerogative to have its own laws and processes by which it
712 protects its citizens. Georgia is one of the 17 States that
713 court rulings have come down opposed to caps on medical
714 malpractice damages.

715 What this legislation would do would be to replace
716 those State laws with a Federal law and it would do so under
717 the Commerce Clause. This is a usurpation of States'
718 rights; it is not consistent with Republican philosophy and,
719 quite frankly, it is an appalling overreach by the Federal
720 Government which I think all Republicans as well as
721 Democrats should be against.

722 And so, for that reason, I am opposed to this bill and
723 will be submitting an amendment in just a few seconds that
724 will try to protect and preserve the States' 10th Amendment
725 rights to create legislation protecting their citizens from
726 bad apples. And with that I will yield back.

727 Mr. Chabot. The gentleman yields back his time. The
728 gentleman from Texas is acknowledged for 5 minutes.

729 Mr. Gohmert. Thank you and I want to thank my friend
730 from Georgia. I take it as a great compliment when you

731 invoke my name in saying that you would expect that I would
732 take a consistent position with what I have taken in the
733 past. I take that as a compliment and I thank the
734 gentleman; and you actually happen to be right.

735 In fact, I was just handed a quote from me back May
736 12th of 2012; it is in the congressional record. The quote
737 -- and I remember saying this, "I also know that if the
738 Congress decides we need to start dictating to every State
739 what their State court system can or cannot do, then when a
740 far more liberal Congress comes in, they will be able to
741 say, 'Look, you so-called conservative Republicans dictated
742 to the States what their State tort law should be, so now we
743 are going to dictate to the States what we think it should
744 be,' and it ends up being a Federal takeover of something
745 that is entirely a State system."

746 And I echo the comments of my friend, Judge Poe, so I
747 will not have to repeat them. But you know, there is
748 supposed to be a Federal nexus and we do not have an
749 adequate Federal nexus other than the Commerce Clause. And
750 in fact, the bill says, "Congress finds that health care and
751 insurance industries are industries affecting interstate
752 commerce and the health care liability litigations systems
753 existing throughout the United States are activities that
754 affect interstate commerce by contributing to the high cost
755 of health care and premiums for health care liability

756 insurance purchased by health care providers."

757 And actually, I do not have Judge Robert's opinion
758 directly in front of me. And hopefully it is obvious to
759 people that Chief Justice Roberts has been very inconsistent
760 in his rulings. But in the case on Obamacare, I do not have
761 to quote from a dissenting opinion, the majority opinion --
762 Chief Justice Roberts pointed out that if you take the
763 Commerce Clause to say that because health care and
764 insurance are so widespread that that gives us right under
765 the Commerce Clause to dictate law about it, then you are
766 extending the Commerce Clause too far, basically.

767 I like what we did in the way of tort reform in Texas.
768 We had lost doctors in the valley of south Texas. We had
769 lost health care providers, and there were major verdicts
770 that were getting out of hand and they were preventing
771 people from getting the health care they needed. So the
772 Texas legislature did a very responsible thing in my
773 opinion: they passed tort reform, med mal reform, and
774 doctors came back, hospitals came back, and people began to
775 get health care more like what they needed.

776 So I applaud the Texas legislature for doing that. I
777 have been asked here before, "Well, do you not want the
778 other States to have the benefits that Texas got after it
779 did tort reform?" Well, of course I do, but that is up to
780 the States. And as I have said before, if you have a very

781 liberal State that wants to have such liberal tort laws that
782 it runs every doctor out of the State, I bet you that
783 eventually they will figure out, "We need to change the law
784 in our State so that some of those doctors that fled to
785 Texas will come back." But that is up to the State.

786 And so I appreciate -- because I know the proponents of
787 this bill, I know their heart, and I know they want to do
788 well, and they want to help the lives of people that are
789 suffering. That is who they are. But because of my beliefs
790 about federalism, and the 10th Amendment, and the little
791 part that Justice Roberts got right in the Obamacare
792 decision, that the Commerce Clause did not extend that far,
793 I think this is a bill too far. Though I applaud the
794 proponents and look forward to moving forward. Thank you,
795 Mr. Chairman. I yield back.

796 Mr. Chabot. The gentleman yields back. Are there any
797 other folks on this side of the aisle that seek recognition?

798 Mr. Johnson. Mr. Chairman, I have an amendment at the
799 desk.

800 Mr. Chabot. Right, we have not gotten to that point
801 yet, but the gentleman from Louisiana I think indicated --
802 the gentleman is recognized for 5 minutes from Louisiana.

803 Mr. Richmond. Thank you, Mr. Chairman. I really hope
804 not to take all of it but this is a really important issue,
805 and to some extent, I understand the goal. But I think in

806 the process we do some things that: one, States have already
807 commented and started acting on. But when you have the
808 American Bar Association and its 400,000 members and the
809 National Conference of State Legislatures, which I was a
810 member of for 11 years voicing concern, I think we ought to
811 stop a minute and heed their concerns.

812 But one of the things I just want to say is when you
813 look at the cap on damages, what we are talking about is
814 that we are going to treat people differently. So if you
815 were in a car accident and you had to have your leg
816 amputated, we will let you recover all the damages that a
817 jury awards to you; but if a doctor is the wrongdoer, we are
818 going to cap your damages at \$250,000.

819 So just because I lose my leg in a hospital because of
820 malpractice or I lose it in a car accident, nonetheless, I
821 lost my leg and damages are damages, but we as a Congress
822 will come in and arbitrarily set a value to the person who
823 is harmed by medical malpractice; and I am not sure that we
824 want to pit people against each other.

825 And then I will just close with the big concern: is
826 that if there are noneconomic damages, we cap it, if they
827 have a lifetime of needs whether it is paralysis, whether it
828 is brain damage, at some point the taxpayers are going to
829 foot the bill for something that someone else did; and I
830 know that at least in Louisiana, you know, that is not

831 something that we pride ourselves on. If someone harms
832 someone, they are responsible to make that person whole, not
833 the taxpayer that was at home or at work minding their own
834 business.

835 So I just think from a policy standpoint we are going
836 down a road that we should not go down. We should not pit
837 two Americans against each other and treat them differently
838 based on who is the wrongdoer or the party at fault. And I
839 just do not think that we should put a cap that would put
840 the taxpayers, the American taxpayers, on the hook for
841 making someone whole for something that someone else did.
842 So I just think we ought to take our time and be really,
843 really careful about what we are attempting to do.

844 And I have not touched the argument, I think
845 Congressman Johnson did a good job of, the fact that we are
846 really grasping, I think, and making a stretch to go in and
847 overrule what our States are doing. So with that, Mr.
848 Chairman, I would yield back. Thank you.

849 Mr. Chabot. Thank you. The gentleman yields back.
850 The chair will recognize himself for 5 minutes and I will
851 yield to the gentleman from Arizona, Mr. Franks.

852 Mr. Franks. And I certainly thank the chair. Mr.
853 Chairman, I am very sensitive to the arguments that are made
854 on behalf of the 10th Amendment here. I think that there
855 are some legitimate cases that are being made here.

I guess there is two things I would like to point out here: number one, some of the language here in the bill itself seeks desperately to protect the States' rights.

Page 23 says, "Any issue that is not governed by any provision of law established by or under this Act, including the States' standards of negligence, shall be governed by otherwise applicable State or Federal law. Also, this Act shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this Act or create a cause of action."

And then finally, "No provision of this Act shall be construed to preempt any State law, whether effective before, on, or after the date of enactment of this Act, that specifies a particular monetary amount of compensation, or compensatory or punitive damages, or the total amount of damages that may be awarded in a health care lawsuit regardless of whether such monetary amount is greater or less than provided for under this Act."

I just wanted to make sure, Mr. Chairman, everyone knew about that. And it is important, I think, to point out that -- and all due respect to the legitimate arguments that have been made here. The last time we voted on this exact language, every Republican on this panel voted yes. And

881 while I want more than I know how to express to protect our
882 Constitution and its 10th Amendment, I think what has
883 created the disparity here is not the Federal Government or
884 the States themselves but the abuse of the tort system in
885 general. And that is what this bill seeks to address that.
886 And with that I yield back.

887 Mr. Johnson. Would the gentleman yield for a question?

888 Mr. Franks. I will yield for a question.

889 Mr. Johnson. Yes. Is it a fact --

890 Mr. Franks. I cannot yield. This is not my time. I
891 am sorry. I will have to -- it is not my time.

892 Mr. Chabot. I am reclaiming my time. I will be happy
893 to yield to the gentleman from Georgia.

894 Mr. Johnson. Well, I would ask a question of my
895 friend, the proponent of this legislation: is it not true
896 that the exclusions that you just pointed out protect health
897 care providers only and not the patients?

898 Mr. Franks. Well, the patients' circumstances are
899 really protected under the general law as it is anyway.
900 This is just the punitive damages. And it just says that if
901 States have enacted punitive damage situations that this
902 would not go further than that. And with that, Mr.
903 Chairman, I am going to have to yield back.

904 Mr. Chabot. Okay, the gentleman yields. I will
905 reclaim my time. I will yield back and I will now recognize

906 the gentleman from California, Mr. Peters, for 5 minutes.

907 Mr. Peters. Thank you, Mr. Chairman. I just wanted to
908 say that California is one of the States that has dealt with
909 this issue. It was on the ballot as recently as last year
910 and it has imposed some limits on recovery in cases of
911 medical malpractice.

912 And I would like to say that I sympathize with the
913 comments of Mr. Gohmert and Judge Poe. I do not see this,
914 however, as an issue of Congress' authority to do this but I
915 do see it as an issue of deference; and I think each State
916 is better equipped to handle these State law claims than
917 Congress is. So for that reason, I would oppose this
918 legislation. I yield back.

919 Chairman Goodlatte. Who seeks recognition? Are there
920 any amendments to H.R. 4771? What purpose does the
921 gentleman from Georgia seek recognition?

922 Mr. Johnson. I have an amendment at the desk.

923 Chairman Goodlatte. The clerk will report the
924 amendment.

925 Ms. Williams. The amendment to H.R. 4771 offered by
926 Mr. Johnson Page 23 --

927 [The amendment of Mr. Johnson follows:]

928 ***** COMMITTEE INSERT *****

Chairman Goodlatte. Without objection, the amendment is considered as read and the gentleman is recognized for 5 minutes on his amendment.

Mr. Johnson. Thank you, Mr. Chairman. My first amendment would preserve States' 10th Amendment right to create legislation to protect its citizens against bad actors in the health care industry. I would point out that this legislation would impose a Federal cap on medical malpractice damages awards for noneconomic losses; and the problem is that that is a matter of State law. And in fact, there are 17 States that have declared their medical malpractice damage caps that were imposed by the State legislatures themselves as being unconstitutional.

And those States are as follows: Alabama, no limitations; Arizona, no limitations; Arkansas, no limitations; Georgia, my home State, no limitations; Florida, no limitations; Illinois, no limits; Kentucky, no limitations; Missouri, no limits; New Hampshire, no limits; New York, Ohio, Oklahoma, no limits; Oregon, no limitations; Pennsylvania, no limitations; Washington, no limitations; Wisconsin, no limitations; and last but not least, Wyoming, no limitations.

These are States that have no limitations on these

952 kinds of damages being awarded. And this legislation would
953 take authority away from those States and impose a one-size-
954 fits-all approach that is rammed down the throats of the
955 States in contravention of the 10th Amendment.

956 This is wrong. It is a power grab; it is a hostile
957 takeover of State law. And who will suffer other than the
958 people themselves? Nobody but the people themselves who are
959 living under those State laws would suffer. And I would
960 just like to point out the fact that Representative Morgan
961 Griffith from West Virginia Stated it eloquently when he
962 said about adopting the California model and impose it, he
963 says completely reversing 400 years of Virginia law -- he
964 says there are ways to have tort reform without making it
965 one-size-fits-all from Washington. I could not agree more.

966 Professor Randy Barnett -- or Randy Barnett referring
967 to fair-weather Federalists, as he calls them. He said,
968 "But tort law, the body of rules by which persons seek
969 damages for injuries to their person and property, has
970 always been regulated by States, not the Federal
971 Government."

972 Hans von Spakovsky of the Heritage Foundation has
973 stated that Congress has no business and no authority under
974 the Constitution telling States what rules should be
975 governing medical malpractice claims.

976 And also, Ken Cuccinelli, former Virginia Attorney

977 General commenting on a section in a 2011 Senate Republicans
978 job bill, he stated, "With Senate Bill 197, legislation that
979 would have the Federal Government dictate how State judges
980 are to try medical practice cases and cap what State courts
981 may award, several Republican senators have reminded us that
982 Federal impositions on States that run contrary to the U.S.
983 Constitution and to the spirit of federalism have never been
984 the sole prerogative of just Democrats."

985 He is reminding his Republican friends to be consistent
986 with their legislative offerings; to be consistent with
987 Republican philosophy.

988 Senator Mike Leigh commenting on that same bill, Senate
989 Bill 197. He said "There was one portion of this Republican
990 jobs package that would have told State courts applying
991 State law, reviewing State causes of action, that they were
992 subject to certain limits, all in the name of interstate
993 commerce, all because these things, like everything else,
994 have a substantial effect on interstate commerce. I wanted
995 to vote for the bill. Were I a member of the State
996 legislature in the State of Utah I would have voted for that
997 kind of tort reform but I couldn't do it because it's not
998 within my power."

999 And so we have noted conservatives who have
1000 consistently opposed this kind of legislation that is the
1001 same as H.R. 4771; and I think in order to be consistent,

1002 Republicans on this panel should vote against this
1003 legislation which, as I say, hurts patients.

1004 Bottom line: 98,000 patients die every year from
1005 medical errors, and many more are injured. This bill
1006 replaces State laws that make whole those families who have
1007 lost a loved one due to the delay of an HMO. They protect
1008 workers who have lost wages, due to defective medical
1009 devices and spouses left to bear costly medical bills, due
1010 to negligence of their health care provider.

1011 That is what my amendment will do, is to protect those
1012 people, and I would ask that the members of this panel
1013 support that amendment. With that, yield back.

1014 Mr. Goodlatte. What purpose does the gentleman from
1015 Arizona seek recognition?

1016 Mr. Franks. Mr. Chairman, I would like to speak to the
1017 amendment. Mr. Chairman, I believe this amendment should be
1018 rejected as ultimately it would largely gut the bill. The
1019 health act appropriately addresses a National problem
1020 because doctors are moving from State to State, based on
1021 which States have enacted reasonable legal reforms. Doctors
1022 should be able to practice anywhere there are patients; not
1023 just where certain States have enacted reasonable legal
1024 reforms and allow them to practice.

1025 As over 20 State supreme courts have judicially
1026 nullified reasonable litigation management provisions

1027 enacted by State legislatures, many of which sought to
1028 address the crisis in medical professional liability that
1029 reduces patient's access to health care.

1030 Consequently, in such States passage of Federal
1031 legislation by Congress is the only means of addressing the
1032 States' current crisis in medical, professional liability
1033 and restoring patient's access to health care.

1034 As over 20 State supreme courts have judicially
1035 nullified legal reforms under their State constitutions and
1036 many more may do so unless Congress acts under its Supremacy
1037 Clause and Commerce Clause authority to let doctors treat
1038 patients wherever they are, not just where States have
1039 enacted the legal reforms that can be upheld under their
1040 State constitutions.

1041 It is precisely many State constitutional provisions
1042 that State judges are using to deny State citizens the legal
1043 reforms they have demanded from their State legislature, but
1044 which State judges have thwarted through the judicial
1045 system.

1046 Mr. Chairman, the Commerce Clause allows Congress to
1047 enact uniform rules regarding commercial activities, whether
1048 or not a State provision is in its constitution or in its
1049 statutory code. Adopting this amendment would result in a
1050 hopeless patchwork of rules that would gut the health care
1051 cost savings of the bill, and I would urge all my colleagues

1052 to oppose the amendment.

1053 Mr. Goodlatte. The chair thanks the gentleman. What
1054 purpose does the gentleman from New York seek recognition?

1055 Mr. H. Move to strike the last word.

1056 Mr. Goodlatte. The gentleman is recognized for 5
1057 minutes.

1058 Mr. Nadler. Yeah, I will not take 5 minutes. I just
1059 want to observe a couple of things. We have heard
1060 repeatedly that doctors are moving from State to State
1061 because of various tort laws in the States. We have seen no
1062 documentation of this, no evidence of this; just the bald
1063 assertion, and coming from a State where there are
1064 reasonable tort laws in New York, I have no any evidence of
1065 that, number one.

1066 Number two, the fact that a State has in its
1067 constitution -- I'm sorry, the fact that State courts have
1068 enforced their State constitutions is not an argument for
1069 overruling their State constitutions in an area that the
1070 Federal Government should not get into.

1071 You know, I agree that it may be constitutional; this
1072 legislation may be constitutional under the Commerce Clause;
1073 it does not mean that it is wise. It does not mean that we
1074 should grant State law in local areas unless there is a very
1075 good showing of a nationwide or an extra-State effect of
1076 which there has been no showing at all.

1077 So the fact that State courts have used State
1078 constitutions to nullify State laws just shows that the
1079 State courts are doing their job and is not an argument for
1080 the Federal courts or the Federal Government step in and
1081 say, "We want to overrule these State constitutions." I
1082 yield back.

1083 Mr. Goodlatte. The chair recognizes himself for the
1084 purpose of placing on the record this document. It says,
1085 "Medical tort laws have a dramatic effect on the movement of
1086 medical professionals between the States. A study by Mr.
1087 Chou and Mr. Lo Sasso Practice Location Choice by New
1088 Physicians, the Importance of Medical Malpractice Premiums
1089 Damage Caps and Health Professional Shortage Area
1090 Designation: 44 Health Services Research, 1271." Without
1091 objection, will be made a part of the record.

1092 [The information follows:]

1093 ***** COMMITTEE INSERT *****

1094 Mr. Conyers. Mr. Chairman?

1095 Mr. Goodlatte. What purpose the gentleman from
1096 Michigan seek recognition?

1097 Mr. Conyers. I rise in support of the amendment. The
1098 Johnson Amendment exempts any State constitutional
1099 provisions from preemption. I support this motion because
1100 it would prevent the preemption of any State constitutional
1101 provisions that might preempted by this bill. And this
1102 measure, like many of the several justice bills we have
1103 considered represents a deep intrusion into State
1104 sovereignty, and demonstrates a strong disrespect for
1105 federalism.

1106 And I would like unanimous consent to put into the
1107 record from the American Bar Association their concerns
1108 regarding this measure 4771.

1109 Mr. Goodlatte. Without objection, it will be made a
1110 part of the record.

1111 [The information follows:]

1112 ***** COMMITTEE INSERT *****

1113 Mr. Conyers. And in addition, my colleagues, I would
1114 like you to examine the fact that myself and Chairman
1115 Goodlatte have received notification from 30 different
1116 organizations that oppose 4771, starting with the Alliance
1117 for Justice, and going all the way through, alphabetically,
1118 to U.S. PIRG and I would like that to be in --

1119 Mr. Goodlatte. Without objection, it will be made a
1120 part of the record.

1121 [The information follows:]

1122 ***** COMMITTEE INSERT *****

1123 Mr. Conyers. And then I would like the members of the
1124 committee to know that the National Conference of State
1125 Legislators have also gone on record as opposing this
1126 measure, and we think that it is important that you know
1127 that their opposition will extend to any bill or amendment
1128 that preempts any State law governing the awarding of
1129 damages by mandatory uniform amounts for the awarding of
1130 attorney fees.

1131 And so this, to me, is an overwhelming consensus among
1132 those in our legal associations, in our legislatures who
1133 have examined this measure before us and have found that it
1134 is not appropriate; and I ask unanimous consent that The
1135 National Conference of State Legislators have their
1136 opposition to the measure included in the record.

1137 Mr. Goodlatte. Without objection, it will be made a
1138 part of the record.

1139 Mr. Conyers. And I will yield back the balance of my
1140 time.

1141 Mr. Goodlatte. The chair thanks the gentleman. Who
1142 seeks recognition? The committee does not have a working
1143 quorum and so we will stand in recess until 1:00.

1144 [Recess]

1145 Mr. Franks. The meeting will come to order.
1146 Unfortunately, due to a number of scheduling conflicts, it
1147 does not appear that we will be able to reach a working or
1148 reporting quorum this afternoon in order to resume the
1149 committee's business on the two bills under consideration
1150 today.

1151 Accordingly, I would ask unanimous consent that the
1152 committee do now adjourn. Hearing no objection, the
1153 committee now stands adjourned.

1154 [Whereupon, at 1:04 p.m., the committee adjourned
1155 subject to the call of the chair.]

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