The Reincarnation Of Clinton Care

May 9, 1996 by Phyllis Schlafly

One of the most obnoxious features of the Clinton health care plan (which died the death of a thousand cuts in 1994) was its creation of a long list of new federal "Health Care Crimes." It now appears that the Republicans, in their eagerness to manifest their total capitulation to President Clinton, have included an equally obnoxious crime section in their so-called Health Reform bill (H.R.3160).

Somehow this section (Title II), which parallels the discredited and (we thought) defunct Clinton bill, was passed by the House without anybody discovering its far-reaching ramifications. Then, Dr. Jane Orient, executive director of the Association of American Physicians and Surgeons (AAPS), read the bill and discovered that much of this health crime section was copied from the Clinton bill.

AAPS is the organization whose lawsuit against Hillary Rodham Clinton forced her to comply with federal law and make the records of her Health Care Task Force public. After two years of litigation, Hillary's lawyers had to admit that they had lied to the court in asserting that all members of the Task Force were federal employees when, in fact, the Task Force included outside special-interest groups with a direct financial interest in passing the Clinton health care bill.

The Republican Health Reform bill (H.R. 3160) criminalizes what are called "federal health care offenses." The definition is excruciatingly broad: a violation or conspiracy that involves "any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual." "No proof of specific intent to defraud is required."

The bill specifies monetary penalties of "up to $10,000 for each instance" of "failure to comply with statutory obligations," for "incorrect coding," or for providing "a medical or other item or service that a person knows or should know is not medically necessary." Big Brother will decide what health services are "necessary."

The new crime of "health care fraud" carries fines plus imprisonment of up to ten years. "If the violation results in serious bodily injury," imprisonment can be up to 20 years, and if death results it can be "for any term of years or for life."

A person who "intentionally misapplies" any assets of a health care benefit program "shall be fined under

this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the value of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both."

Did you get that? If you misapply a benefit that has a value of less than $100, you can spend one year in prison and be fined, too.

"Whoever" makes a false statement to a health care plan is liable to a five-year prison term. "Whoever" can mean anybody, patient or provider.

"In any investigation relating to any act or activity involving a Federal health care offense, . . . [the Attorney General] may require the production of any records that may be relevant." The Republicans' passion to turn over more and more power to Janet Reno (which started with the Anti-Terrorism bill) is a curiosity to behold.

Failure to provide health information, "oral or recorded in any form or medium," to a criminal investigator from any government agency carries a five-year prison term. Information extracted under this provision can be used against the patient if "the action or investigation arises out of and is directly related to the receipt of health care or payment for health care."

The bill's exotic forfeiture provisions put health care offenses on a par with racketeering and drug dealing, and are actually broader than under the Clinton bill. "The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense."

The bill requires the Federal Government to "establish a national health care fraud and abuse data collection program" and specifies that "the information in this database shall be available to Federal and State government agencies and health plans" pursuant to any procedures set by the Secretary of Health and Human Services (that's Donna Shalala). This will empower the Federal Government to use medical records to prosecute almost anybody.

These provisions mean the end of patient privacy and confidentiality of the physician-patient relationship. Dr. Orient asserts that they lay the foundation for forcing all medical professionals to submit electronic information on every medical encounter to a central computer, a practice that is already required by a new

Maryland law that takes effect this July.

The Maryland law will require all health care professionals to disclose to the government the details of every patient encounter, including diagnosis, test results, therapy, charges, and 32 pieces of demographic data on every patient.

The only Republican part of the Health Reform bill is the section on Medical Savings Accounts. The rest of it is ClintonCare. So, why are the Republicans fronting for Bill Clinton and Ted Kennedy?