

Representative Louise M. Slaughter (NY-28), Chair of the House Committee on Rules, spoke on the House floor in favor of repealing the health insurance industry's antitrust exemption, arguing that doing so will encourage competition, reduce health insurance premiums and increase coverage.

Tomorrow, Slaughter will attend the White House Health Care Summit, a bipartisan meeting with President Obama and select members of the House and Senate.

Slaughter has been a long advocate of repealing McCarran-Ferguson Act and has been very involved in getting H.R. 4626, Health Insurance Industry Fair Competition Act to a vote today. Background on her efforts and the legislation are included in her remarks below.

[Click here to view video of her floor statement.](#)

### **Congresswoman Slaughter's Remarks on the House Floor**

Mr. Speaker, like all of my colleagues, I spend a lot of time talking with people in my district about health care and what is happening to them. They were no way prepared for the influx of incredible rate increases that seem to come out of nowhere and fall like rain upon them to the extent that most of them really are not sure they can even stay insured.

Invariably the conversation turns to health insurance. I hear about the increases. I hear about insurers that deny coverage. I hear from a father who just had a child that was born with a child that would make him uninsurable for the rest of his life. I listen to someone tell me that her husband's new coverage won't cover her because she has pre-existing conditions or just won't cover her. Now the Congress is on the brink of some commonsense changes to the health insurance industry that will be to level the playing field a bit between ordinary Americans and giant corporations that exert such power over our day-to-day lives.

And I say “our” because I personally am caught in the same trap as many of my constituents. I don't have any kind of special coverage because I am a member of Congress. I have always been on my husband's policy at home from Kodak that has covered us since he retired but will no longer cover spouses. We are halfway through dropping and all benefits for spouses were taken away four years ago. It's not the best plan, but not the worse either.

The insurance companies will no longer be able to deny insurance coverage based on pre-existing conditions or increase premiums based on gender, which they do. You may not know that women are charged 48% more for health insurance, or for their occupation. They wouldn't be able to drop coverage if they get sick. I was talking to a man just this morning who talked about all the money he had paid in health insurance and when he made his first claim at the age of 30 they decided already he was going to be trouble and denied his claim. It costs too much to take care of your child. Insurance companies would have to publicize their rates and no longer charge older Americans twice as much as younger ones.

There is one part of our reform package that is simple to explain, easy to justify, and 60 years overdue. And that part is to repeal the antitrust exemption given to the health insurance industry in 1945 by Congress and that's why we are here today. There is no reason any industry in the United States, including baseball, which is exempt as well, should be exempt from the one consumer protection that the federal government gives everybody against inclusion, rate setting. Even though the broader effort to pass the final health care bill is under way, we have an opportunity today to make a simple straightforward statement about how we think health insurance should operate in this country.

By repealing this unjustifiable exemption we will enable -- this is very important. People do not understand that during the 60 years the Justice Department has not been able to enforce anything against them because they were exempt. This will enable the Justice Department to begin aggressively enforcing the laws that protect the consumers against the cartel of health insurance who wheel outside influence in the health care industry.

As it stands now the insurance industry is allowed to fix prices, engage in other anti-competitive behavior. There is very little prospect for an average family to price shop. It's truly tempting to not cheat a little bit. Moreover, regulating insurance industry is left up to individual states, most of them will tell you that they really are not up to it, which often suffer from a lack of resources to effectively crack down on abuses.

Each of the 50 states and the District of Columbia has its own regulatory framework. This leads to a spotty patchwork of enforcement. In fact, according to a report from the Center for American progress, there has been only extremely limited state enforcement by state insurance commissioners throughout the 60 years.

Insurance companies have engaged in anti-competitive behavior resulting in some insurance premiums costing as much as 70%. As a result, this exemption thwarts premarket pricing. It is impossible to defend today or any other time. What we will be doing by removing this exemption is tell the health insurance industry that they need to start behaving like every other industry. We tell them colluding and conspiring to set prices at a certain level could harm -- to harm consumers is not going to work in America anymore.

As I said the history of this provision dates back to 1944 when some insurance companies went to court to challenge the notion that the federal government could enforce antitrust laws. Despite their best efforts, the supreme court ruled that the insurance business was subject to antitrust laws just like everybody else. I'm happy with that decision. The insurers effectively got congress to invalidate the ruling of the top court. it was an amazing piece of legislation.

Mr. Speaker. Both houses, Senate and House, passed legislation giving the insurance industry a three-year transition period while they moved to be covered by what everybody else is covered by, antitrust. And both bills passed, and when it came out of conference, the exemption was made permanent. Over the years, we have been stymied. The last serious effort was led by representative Jack Brooks in 1991 who tried and failed to change the law. Last year when we again started in a serious effort to change the law, the industry stood up for a big fight. We heard from the Insurance Association and the American Academy of Actuaries among others who argued that changing this law would somehow cost consumers more money. Other interest groups claim the provision was poorly written, too broad, or solution in search of a problem.

Interestingly, some lobbyists have quietly begun to whisper that this provision will not have impact on their rates. They say it is too narrow in scope and frankly I would much have preferred to lift this exemption from the entire insurance industry instead of just health, but they are firmly opposed, make no doubt about that, and are lobbying to prevent it which makes me wonder if they are whistling past the graveyard.

Let's look back for a minute at the last major investigation of the health industry. Two years ago the attorney general from the state of New York Andrew Cuomo investigated the collusion of

health insurers. They were using a billing data clearing-house to set rates even though the company is owned by one of them. The evidence showed the insurers were conspiring together to oppress the reasonable and customary charges reimbursed to health care providers which shifted additional cost to the policyholder. In the face of a threat from Cuomo, the clearing-house agreed to disband and insurance companies pay a sizable sum to resolve the charges.

As recently as this week there were fresh news reports out of California about abuses by a major insurer there. It is important to remember that many people assume that conspiring to set rates is illegal in our country. I suppose most people believe that. Every high school student in America is taught about the Sherman Antitrust Act and the creation of the Federal Trade Commission came about to level the playing field. Part of the motivation was to make sure the small businesses that make up the backbone of our economy would have a chance against the big corporate interest. These creative producers needed confidence they would not be pushed out of the market by the big boys. Sadly that's exactly what happened. In many states and regions across the country there are often just a couple of health insurance companies operating.

Many states have it even worse, including our neighbor of Vermont where two companies have 90% of the market share. Of course some people will continue to say the government should stay out of the business. My colleagues on the other side say no government is the best government and free market works best if there is no attempt to regulate it. I would argue that is far outweighed by the benefit we gain by having more competition, less concentration, and the assistance of a powerful watchdog. I strongly encourage all of my colleagues to join me today in supporting the repeal of the act. I reserve the balance of my time.