Mental Health Liaison Group

July 12, 2000

Honorable Don Nickles U.S. Senate Washington, DC 20510

Dear Senator Nickles:

As members of the Mental Health Liaison Group, we are writing to express our opposition to the current version of the Patients' Bill of Rights Plus Act, passed by the Senate under your sponsorship on June 29 (S.Amd. 3694).

We are especially concerned that the definition of "substantial harm" in Section 231 could be interpreted to exclude mental injury such as depression that deteriorates even further due to denied treatment. While the debate continues about the extent to which managed care reform legislation should give patients access to the courts, persons with mental disorders are presently given no ability to seek managed care legal accountability under S.Amd. 3694, despite the extremely serious consequences that may result from failure to treat these disorders. For example, if an individual's depression worsens to the point that he or she cannot work, a real injury would have been suffered for which there would be no access to the legal system.

This same problem was present in the Goss-Coburn-Shadegg managed care amendment rejected by the House in October 1999. Some at that time made the argument that the term bodily injury includes mental injury. But "bodily" or "physical" injury is commonly and legally understood to mean only physical injury, an injury separate and distinct from mental or psychological injury. Therefore this definition discriminates and excludes patients from the right to seek judicial remedies for a wide array of potentially life threatening and severely disabling mental injuries related to the negligent provision of their benefits. In order to avoid excluding mental injury, the legislative language must include it. If the final bill uses this substantial harm definition, we urge that you add to it language specifically including mental injuries.

We are also concerned that the placement of dollar caps on noneconomic damages may so restrict the remedies available to consumers, especially women not in the work force and children, that health plans may have little incentive to provide clinically necessary care.

We regret that your current reform proposals are not more supportive of the interests of people with mental disorders, but we would be pleased to work with you to significantly strengthen this and other consumer protections contained in S.Amd. 3694 as the Congressional debate continues. Thank you for consideration of our views.

Sincerely,

Alliance for Children and Families

American Academy of Child and Adolescent Psychiatry

American Association for Geriatric Psychiatry

American Association for Marriage and Family Therapy
American Association of Children's Residential Centers
American Association of Pastoral Counselors
American Association of Private Practice Psychiatrists
American Board of Examiners in Clinical Social Work
American Counseling Association
American Family Foundation

American Federation of State, County and Municipal Employees American Group Psychotherapy Association

American Mental Health Counselors Association

American Nurses Association

American Occupational Therapy Association

American Orthopsychiatric Association

American Psychiatric Nurses Association

American Psychoanalytic Association

American Psychological Association

American Society for Clinical Psychopharmacology

Anxiety Disorders Association of America

Association for the Advancement of Psychology

Association for Ambulatory Behavioral Healthcare

Bazelon Center for Mental Health Law

Children and Adults with Attention-Deficit/Hyperactivity Disorder Clinical Social Work Federation

Federation of Behavioral, Psychological & Cognitive Sciences Federation of Families for Children's Mental Health International Association of Psychosocial Rehabilitation Services

MentalHealth AMERICA, Inc.
National Association for Rural Mental Health

National Association of Anorexia Nervosa and Associated Disorders (ANAD)

National Association of County Behavioral Health Directors

National Association of Protection and Advocacy Systems

National Association of Psychiatric Treatment Centers for Children

National Association of School Psychologists

National Association of Social Workers

National Association of State Mental Health Program Directors

National Council for Community Behavioral Healthcare

National Depressive and Manic-Depressive Association

National Foundation for Depressive Illness, Inc.

National Mental Health Association