

ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

**Statement of Rep. Henry A. Waxman**  
**Ranking Member, Committee on Energy and Commerce**  
**Full Committee Markup of**  
**H.R. 4701, H.R. 5214, H.R. 4067, H.R. 3522, H.R. 3670, H.R. 5161, H.R. 1575**  
**July 29, 2014**

Before I discuss the merits of the seven bills before us, I want to make a few comments on the process.

Last week, Chairman Upton and Subcommittee Chairman Walden issued a press release complaining that the Federal Communications Commission was using an “irregular process.” I disagree with the Chairmen’s assessment, but the title of the release left an impression on me. It read: “The Process Is Clearly Broken, and Something Smells Rotten on the 8<sup>th</sup> Floor.” The chairmen stated, “Process rules are in place for a reason. . . . Instead, a troubling pattern of process neglect is emerging, leaving a commission that too often shrouds its work in secrecy and takes shortcuts to impose its desired policies.”

By their standard, something is broken in our Committee room today. Of the bills we are considering, only one has been through regular order. Some are being considered with no subcommittee markup; others with no hearings. Before we point fingers elsewhere, we must strive to ensure we operate in an open, transparent manner ourselves.

One lesson I learned long ago from John Dingell is that bad process can produce bad results. That’s certainly the case before us today.

H.R. 4701, would create a new working group to review efforts on Lyme disease and other tick-borne diseases within HHS. I support efforts to advance research and public input in this area and believe the bill we passed in Subcommittee met those goals. But today, we are presented with a new draft of this legislation. We need to ensure that this version would not politicize federal activities on Lyme disease or jeopardize the ability of HHS to make decisions supported by a strong, scientific evidence.

H.R. 5214 dealing with registries appears to be solving a problem that does not exist. Robust public-private collaboration is underway to develop and maintain registries, including at the American Medical Association and at the Agency for Healthcare Quality Research. The issue is lack of funding, not lack of guidance.

H.R. 4067 would suspend enforcement of the current Medicare rules relating to physician

supervision of staff in rural and critical access hospitals. Medicare beneficiaries should be guaranteed a facility meets some basic standards for having supervisory physicians available if an emergency arises. And that is all the rules require.

H.R. 3522 would allow any group health insurance plan on the market in 2013 continue to be sold in perpetuity. This legislation would weaken key ACA consumer protections for workers and small businesses. It is bad policy.

Two of three communications bills, the Anti-spoofing Act of 2013 and the E-LABEL Act, are commonsense. So while they were not voted on in Subcommittee, I support their passage today.

The Kelsey Smith Act, is the most complicated and controversial bill of the three. Ironically, it skipped both Subcommittee hearings and markup. As a result, many complex issues, such as consumer privacy regarding call location data and due process involving warrantless search and seizure, have not been publicly vetted in an open forum, guided by experts.

Nevertheless, I am pleased the two sides have in the last few days tried to work together to improve the bill. It is not perfect, but progress has been made. The amendment in the nature of the substitute includes new protections to ensure a request made under this bill must be accompanied by a sworn written statement on the probable cause for such an emergency disclosure and that a court order must be sought within 48 hours after the request is made.