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4 MARKUP ON H.R. 3522, EMPLOYEE HEALTH CARE PROTECTION ACT;

5 H.R. 4701, THE LYME AND TICK-BORNE DISEASES ACT OF 2014;

6 H.R. 4067, AND A BILL TO PROVIDE FOR THE EXTENSION OF THE

7 ENFORCEMENT INSTRUCTION ON SUPERVISION REQUIREMENTS FOR

8 OUTPATIENT THERAPEUTIC SERVICES IN CRITICAL ACCESS AND SMALL

9 RURAL HOSPITALS THROUGH 2014;

10 H.R. \_\_\_\_, A BILL TO REQUIRE THE SECRETARY OF HEALTH AND HUMAN

11 SERVICES TO PROVIDE FOR RECOMMENDATIONS FOR THE DEVELOPMENT

12 AND USE OF CLINICAL DATA REGISTRIES FOR THE IMPROVEMENT OF

13 PATIENT CARE;

14 H.R. 3670, ANTI-SPOOFING ACT OF 2013;

15 H.R. 5161, E-LABEL ACT; AND

16 H.R. 1575, KELSEY SMITH ACT

17 TUESDAY, JULY 29, 2014

18 House of Representatives,

19 Committee on Energy and Commerce

20 Washington, D.C.

21           The Committee met, pursuant to call, at 4:04 p.m., in  
22 Room 2123 of the Rayburn House Office Building, Hon. Fred  
23 Upton [Chairman of the Committee] presiding.

24           Members present: Representatives Upton, Barton, Pitts,  
25 Walden, Gingrey, Latta, Olson, Griffith, Waxman, Pallone,  
26 Green, and Schakowsky.

27           Staff present: Nick Abraham, Legislative Clerk; Clay  
28 Alspach, Chief Counsel, Health; Gary Andres, Staff Director;  
29 Ray Baum, Senior Policy Advisor/Director of Coalitions; Mike  
30 Bloomquist, General Counsel; Sean Bonyun, Communications  
31 Director; Matt Bravo, Professional Staff Member; Karen  
32 Christian, Chief Counsel, Oversight; Noelle Clemente, Press  
33 Secretary; Andy Duberstein, Deputy Press Secretary; Paul  
34 Edattel, Professional Staff Member, Health; Gene Fullano,  
35 Detailee, Telecom; Kelsey Guyselman, Counsel, Telecom; Sydne  
36 Harwick, Legislative Clerk; Brittany Havens, Legislative  
37 Clerk; Robert Horne, Professional Staff Member, Health; Kirby  
38 Howard, Legislative Clerk; Peter Kielty, Deputy General  
39 Counsel; Grace Koh, Counsel, Telecom; Katie Novaria,  
40 Professional Staff Member, Health; David Redl, Counsel,  
41 Telecom; Charlotte Savercool, Legislative Clerk; Heidi  
42 Stirrup, Health Policy Coordinator; Ziky Ababiya, Democratic

43 Staff Assistant; Michelle Ash, Democratic General Counsel;  
44 Jen Berenholz, Democratic Chief Clerk; Eddie Garcia,  
45 Democratic Professional Staff Member; Kaycee Glavich,  
46 Democratic GAO Detailee; Hannah Green, Democratic Policy  
47 Analyst; Margaret McCarthy, Democratic Professional Staff  
48 Member.

|  
49           The {Chairman.} Committee will come to order, and the  
50 Chair recognizes himself for an opening statement.

51           This Committee has worked to advance three primary goals  
52 of promoting job creation and economic growth, transforming  
53 Washington to create a smaller, modernized government for the  
54 innovation era, and protecting families, communities, and  
55 civic initiatives. We have enjoyed great bipartisan success,  
56 with over 60 bills through the House, over 15 public laws.  
57 Just this week three more bills passed the House. Two of our  
58 bills are currently awaiting the President's signature as  
59 well.

60           But our work is not done, and with this markup, we build  
61 upon our record of results, as we consider seven bills.  
62 First take up three bipartisan telecommunication bills, the  
63 Anti-Spoofing Act, authored by Reps Ming, Barton, and Lance,  
64 extends existing truth in caller ID laws to apply to text  
65 messages, in addition to voice calls. This Act protects  
66 consumers by preventing bad actors from asking their identity  
67 as a means to gather sensitive personal information.

68           The E-Label Act, sponsored by Reps Latta and Welch, is a  
69 bipartisan, bicameral effort to streamline government regs by  
70 embracing modern technology. The bill allows manufacturers  
71 to use digital labels for smartphones and other devices with

72 screens, instead of the traditional etched labeling that is  
73 currently mandated. Consumers still are able to access  
74 important FCC certification information, but manufacturers  
75 are able to take advantage of the technology inherent to  
76 their equipment, saving money, creating a more visually  
77 pleasing device.

78         Finally, the Kesley-Smith Act, authored by Reps Yoder  
79 and Pompeo, will enable law enforcement to use cell phone  
80 location data as a life-saving tool in times of serious  
81 emergencies. This bill allows service providers to hand over  
82 this data when requested by an officer without fear of  
83 liability, a measure that could help prevent tragic outcomes  
84 by helping locate users in real danger.

85         Next we will consider a slate of health bills. For  
86 years President Obama said if you like your health care plan,  
87 you can keep it, and as millions of Americans lost their  
88 individual coverage last year, the Administration insisted it  
89 was only 5 percent. Those who purchased health care on the  
90 individual market would lose their coverage. The Employee  
91 Health Care Protection Act, authored by Dr. Cassidy, would  
92 help American workers trying to keep their health care  
93 coverage, and would offer better choices to small businesses  
94 struggling to find affordable choices under the law.

95         The Tick-borne Disease Research Accountability and

96 Transparency Act of 2014, authored by Mr. Gibson, is a  
97 critically important bill to address the growing threat of  
98 Lyme disease. This bill is going to establish a working  
99 group in the Department of HHS that would prepare a report  
100 summarizing federal activities related to Lyme disease,  
101 identifying the latest scientific advances, and making  
102 recommendations to the secretary and to the Congress. The  
103 report would also inform HHS on the development of a  
104 strategic plan that would improve prevention, diagnosis, and  
105 treatment of Lyme disease.

106         Next consider a bill introduced by Representative  
107 Jenkins that would provide more certainty to the patients and  
108 providers in rural communities. The bill has already been  
109 approved by unanimous consent in the Senate. It would help  
110 ensure that patients, including Medicare patients across the  
111 country, particularly in rural communities, have access to  
112 the health care that they need.

113         And finally, we will consider H.R. 5214, championed by  
114 Reps Olson and Sessions, requiring the HHS to publish  
115 specific recommendations for the development of clinical data  
116 registries, a tool that we have learned, through the  
117 committee's efforts to replace the broken SGR formula, that  
118 indeed will hold great promise. However, we believe that HHS  
119 needs to work more collaboratively with interested parties on

120 how to facilitate successful registries. Therefore, this  
121 legislation would encourage the development and dissemination  
122 of best practices designed to support registry development  
123 that works for patients, provider groups, and other  
124 stakeholders.

125 I want to thank all of our members and staff on both  
126 sides of the aisle for their work. Together we are making a  
127 difference, that is for sure.

128 [The prepared statement of Mr. Upton follows:]

129 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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130           The {Chairman.} And now I will recognize Mr. Waxman for  
131 5 minutes for an opening statement.

132           Mr. {Waxman.} Thank you, Mr. Chairman. Before I  
133 discuss the merits of the seven bills before us, I want to  
134 make a few comments on the process. Last week Chairman Upton  
135 and Subcommittee Chairman Walden issued a press release  
136 complaining that the Federal Communications Commission was  
137 using an ``irregular process''. I disagree with the  
138 Chairman's assessment, but the title of the release left an  
139 impression on me. It read, ``The process is clearly broken,  
140 and something smells rotten on the eighth floor.'' The  
141 Chairman stated, again quoting, ``Process rules are in place  
142 for a reason. Instead, a troubling pattern of process  
143 neglect is emerging, leaving a commission that too often  
144 shrouds its work in secrecy, and takes shortcuts to impose  
145 its desired policies.''

146           Well, by their standard, something is broken in our  
147 committee room today. Of the bills we are considering, only  
148 one has been through regular order. Some are being  
149 considered with no subcommittee markup, others with no  
150 hearings. Before we point fingers elsewhere, we must strive  
151 to ensure that we operate in an open, transparent manner  
152 ourselves. One lesson I learned long ago from John Dingell



153 is that bad process can produce bad results, and that is  
154 certainly the case before us today.

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

164 H.R. 5214, dealing with registries, appears to be  
165 solving a problem that does not exist. Robust public/private  
166 collaboration is underway to develop and maintain registries,  
167 including at the American Medical Association, and at the  
168 agency for health care quality research. The issue is lack  
169 of funding, not lack of guidance.

170 H.R. 4067 would suspend enforcement of the current  
171 Medicare rules relating to physician supervision of staff in  
172 rural and clinical access to the hospital. Medicare  
173 beneficiaries--meeting some basic standards for having  
174 supervisory physicians available if an emergency arises, and  
175 that is all the rule requires, yet this rule would be  
176 suspended.

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

181 Two of the three communications bills, the Anti-Spoofing  
182 Act of 2013, and the E-Label Act, are common sense, so while  
183 they were not voted on in subcommittee, I support their  
184 passage today.

185 The Kelsey-Smith Act is the most complicated and  
186 controversial bill of the three. Ironically, it skipped both  
187 subcommittee hearings and markup. As a result, many complex  
188 issues, such as consumer privacy regarding call location  
189 data, and due process involving warrant for search and  
190 seizure, have not been publically vetted in an open forum  
191 guided by experts. Nevertheless, I am pleased the two sides  
192 have, in the last few days, tried to work together to improve  
193 the bill. It is not perfect, but progress has been made.

194 The amendment in the nature of a substitute includes new  
195 protections to ensure a request made under this bill must be  
196 accompanied by a sworn written statement on the probable  
197 cause for such an emergency disclosure, and that a court  
198 order must be signed within 48 hours after the request is  
199 made.

200 Thank you, Mr. Chair. I look forward to the markup

201 continuing tomorrow. I yield back my time.

202 [The prepared statement of Mr. Waxman follows:]

203 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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204           The {Chairman.} Gentleman yields back. Chair would  
205 recognize the Chairman of the Health Subcommittee, Mr. Pitts,  
206 for an opening statement.

207           Mr. {Pitts.} Thank you, Mr. Chairman. I will focus my  
208 remarks on today's four health related bills. First, we have  
209 H.R. 3522, the Employee Health Care Protection Act,  
210 introduced by Dr. Cassidy. H.R. 3522 would permanently  
211 grandfather all group plans issued by health insurers that  
212 were in existence in 2013, allowing consumers to keep the  
213 coverage they like, and giving small businesses better  
214 options than ACA compliant plants.

215           Secondly, we have H.R. 4701, the Tick Borne Disease  
216 Research Accountability and Transparency Act of 2014,  
217 introduced by Representative Gibson. H.R. 4701 will help to  
218 improve understanding of and treatment for Lyme and tick  
219 borne disease by establishing a working group that will  
220 prepare a report for Congress and the Secretary that  
221 summarizes current federal activities, and identifies the  
222 latest scientific advances. That report will then inform an  
223 effort by the Secretary of HHS to develop a strategic plan to  
224 improve prevention, diagnosis, and treatment of Lyme disease.

225           Third is a bill from Representative Jenkins, H.R. 4067.  
226 This bill would continue to delay the enforcement of a 2009

227 Centers for Medicare and Medicaid Services rule that mandated  
228 direct physician supervisor of outpatient therapeutic  
229 services, such as drug infusions, blood transfusions, and  
230 cardiac and pulmonary rehabilitation services.

231         And, finally, we have H.R. 5214, introduced by  
232 Congressmen Olson and Sessions, to require the Secretary of  
233 Health and Human Services to provide for recommendations for  
234 the development and use of clinical data registries for the  
235 improvement of patient care. I urge all of my colleagues to  
236 support these bills, and I yield back the remainder of my  
237 time.

238         [The prepared statement of Mr. Pitts follows:]

239 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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240           The {Chairman.} Gentleman yields back. The Chair would  
241 yield 3 minutes for an opening statement to the Ranking  
242 Member of the Health Subcommittee, Mr. Pallone.

243           Mr. {Pallone.} Thank you, Mr. Chairman. In the  
244 interest of time, I am going to focus my comments on the four  
245 health bills under consideration today. Only of these bills  
246 has gone through regular order, and I think I made my views  
247 known yesterday when I objected to the subcommittee  
248 proceedings. But to quickly recap, regular order is not just  
249 a saying. It has meaning, and it has purpose.

250           Part of the committee's job, and one that I view as very  
251 important, is to thoroughly review policy, and make its best  
252 recommendations to the full House of Representatives on its  
253 implications. That includes having thorough input at all  
254 stages of the legislation, and value in shaping the bill.

255           The minority, or the subcommittee, had zero input into  
256 three of these bills being considered, and I have yet to hear  
257 a good reason for why we must bypass the legitimate  
258 legislative process for these bills today.

259           H.R. 4067 would reinstate an expired delay of  
260 enforcement at CMS. The policy proposed by CMS would ensure  
261 that physician supervision in states that require such  
262 supervision is followed. It is clear we have not examined

263 this policy in any way, and what implications of an  
264 additional delay would mean. Frankly, the likely result of  
265 such a bill would be confusion for the hospitals. CMS is  
266 currently enforcing this policy. It is already in place, and  
267 has been for 7 months. It remains unclear to me why an  
268 additional delay is needed, and simply telling me that the  
269 Senate passed this bill by unanimous consent in February is  
270 not sufficient.

271 H.R. 5214, which until late last night was a committee  
272 print, would set up a very prescriptive language for the  
273 Secretary of HHS to publish detailed recommendations on how  
274 to establish registries. Unfortunately, it can't be  
275 described as bipartisan or non-controversial.

276 We all agree that registries are a good thing. In fact,  
277 they were a big part of the discussion during the SGR  
278 process, and we remain committed to our efforts to enact  
279 those registry provisions, along with the SGR bill. This new  
280 bill, however, appears to duplicate current public/private  
281 efforts that are already in existence. Both the AMA, through  
282 the National Quality Registry Network, and the Agency for  
283 Health Care Quality Research, through its extensive  
284 public/private registry user guide, have already done exactly  
285 what this bill appears to be seeking to do, and that is  
286 provide detailed information on how to establish, operate,

287 and use registries for quality improvement and outcomes  
288 improvement.

289         So, Mr. Chairman, what we have learned from our work on  
290 registries is not that provider organizations don't know how  
291 to set up a registry. The real problem is lack of funding.  
292 That is why the bipartisan SGR bill included provisions that  
293 would incentivize the development and use of registries.  
294 There is no reason a committee bill on registries couldn't be  
295 bipartisan, but I can't support a bill that adds more  
296 bureaucracy and duplicates what is already out there.

297         And then we have H.R. 3352, which is just another  
298 political attack on the Affordable Care Act. It would allow  
299 insurance companies to discriminate against small businesses  
300 if they have older workforce, more women in the workforce, or  
301 if any of their employees or children have pre-existing  
302 health conditions.

303         Republicans are claiming that this is just an effort to  
304 help people keep the coverage they have. But let us be  
305 clear, if your insurance starts covering your child to the  
306 age of 26, you are not losing your old coverage. Your  
307 coverage is simply getting better. If your insurance starts  
308 covering preventive services, like annual physicals, and  
309 vaccinations, and cancer screening for free, that is not  
310 losing your old coverage, that is your coverage getting



311 better. There is no evidence employers are dropping coverage  
312 en masse, and so Republicans are left to claim people are  
313 losing their coverage, when the coverage is actually getting  
314 better. And I think that is misleading, and I oppose this  
315 bill.

316         And lastly, Mr. Chairman, H.R. 4701, Disease Research  
317 Accountability Act still does not have consensus. The goal  
318 is to advance research on Lyme disease, ensuring continuation  
319 of ongoing Health and Human Services efforts on Lyme disease,  
320 but staffs continue to work through our differences. And I  
321 am hopeful that the additional changes we have requested can  
322 be made so that I can lend my support to at least one of  
323 these health bills today.

324         But we all agree, Mr. Chairman, this Committee has  
325 proven it is capable of working in a bipartisan way. Under  
326 your leadership, and that of Ranking Member Waxman, we have  
327 got a great track record, and I hate to see it tarnished  
328 today by lopsided votes on health bills. I thank you.

329         [The prepared statement of Mr. Pallone follows:]

330 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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331           The {Chairman.} Chair thanks the gentleman. Now  
332 recognize gentleman from Oregon, Mr. Walden.

333           Mr. {Walden.} Thank the Chairman. Today we are marking  
334 up three important and bipartisan communications and  
335 technology bills. All of these bills aim to better the lives  
336 of Americans through the honest and effective use of modern  
337 technology. The most meaningful of these efforts we will  
338 consider today is the Kelsey-Smith Act, a bill that creates a  
339 tool for law enforcement in times of emergency where a person  
340 may be in grave danger.

341           Many of us carry a cell phone with us all the time.  
342 This bill allows that device to become a life saver when  
343 someone needs help most. Under this legislation, carriers  
344 are required to provide location data to law enforcement in  
345 situations where an officer has probable cause to believe  
346 that someone is at risk of serious injury or death. Current  
347 law permits carriers to release that information upon  
348 request, but, strangely, requires wireless carrier lawyers  
349 pass judgment on, and agree with good faith belief of the law  
350 enforcement officers in the field before they can provide the  
351 information.

352           Now, the provisions of the Kelsey-Smith Act take that  
353 decision out of the hands of carriers, and leave the law

354 enforcement officers that are best suited to understand the  
355 facts at hand to determine when emergency circumstances  
356 warrant expedience. As a Washington Post editorial pointed  
357 out, this law saves lives using existing technology, doesn't  
358 cost the taxpayers a dime. It is very similar to the law  
359 that New Jersey already has on the books.

360 Versions of this legislation have been passed in 14  
361 states, and it is time for it to move at the federal level.  
362 This is an example of how the technology that we use so often  
363 for the day to day of our lives, reading e-mail, checking  
364 social media, getting the score of games, can be put to a  
365 truly important use, a life-saving use, preventing tragedies,  
366 and helping law enforcement save lives.

367 I would like to thank my colleague, the gentleman from  
368 Kansas, Mr. Yoder, for his tireless work to move this bill,  
369 and make the Kelsey-Smith Act a reality. I also thank the  
370 minority for their willingness to work with us to produce the  
371 amendment in the nature of a substitute that we will consider  
372 at the markup. The amendment represents yet another example  
373 of our bipartisan work. It is indicative of the hard work of  
374 the Energy and Commerce Committee, and our staffs.

375 Next, the Anti-Spoofing Act of 2013 extends the  
376 important protection of the Truth in Caller ID Act of 2009  
377 from voice calls to include text messages, and certain Voice

378 Over Internet Protocol services. Now, as we discussed in  
379 last week's legislative hearing, there have been too many  
380 instances where bad actors have used technology to mask their  
381 identity when contacting unsuspecting recipients. Recipients  
382 are tricked into revealing sensitive and personal information  
383 to someone they thought was a trusted contact. Congressman  
384 Barton and Congresswoman Ming have worked together to produce  
385 a bipartisan solution that helps to protect American  
386 consumers from fraud on these important communications media,  
387 and I am happy to support the legislation.

388 Finally, the E-Label Act, sponsored by Subcommittee on  
389 Communications and Technology Vice-Chairman Bob Latta, and  
390 other members of the subcommittee, modernizes the FCC's  
391 equipment labeling rules for the 21st century. Specifically,  
392 it permits equipment manufacturers to take advantage of the  
393 technology available in the devices they create and display  
394 the FCC certification information on the screens of devices,  
395 rather than etching it into the device itself. Providing  
396 information through software on the device allows for more  
397 extensive up to date information, and even cost savings for  
398 manufacturers.

399 The FCC's old rules are simply outdated, and they don't  
400 have the flexibility that both manufacturers and consumers  
401 desire. Spent a great deal of time on our efforts to

402 modernize and streamline the agency and regulations by which  
403 it governs this incredibly dynamic and innovative sector, and  
404 this is a small but significant step towards that goal.  
405 Bipartisan, bicameral legislation is common sense reform that  
406 we can all support, and it is my hope that my colleagues will  
407 join me in supporting and voting for these three pieces of  
408 collaborative bipartisan legislation. And I yield back.

409 [The prepared statement of Mr. Walden follows:]

410 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
411           The {Chairman.} Chair thanks the gentleman, recognizes  
412 the gentleman from Texas, Mr. Green, for 3 minutes for an  
413 opening statement.

414           Mr. {Green.} Thank you, Mr. Chairman, for an  
415 opportunity to speak. I thought Ms. Schakowsky was here  
416 before me, though, if you want to--

417           The {Chairman.} All right. I had her afterwards, but  
418 go ahead.

419           Mr. {Green.} Okay. I want to defer to you.

420           The {Chairman.} Gentlelady from Illinois, Ms.  
421 Schakowsky.

422           Ms. {Schakowsky.} I really appreciate that. I thank  
423 both gentlemen. Thank you. I support the Anti-Spoofing Act  
424 and the E-Label Act, both common sense proposals that will  
425 benefit consumers. And I am also glad that several of my  
426 privacy concerns with regard to the Kelsey-Smith Act have  
427 been addressed, and I plan to support its passage tomorrow as  
428 well.

429           But I do want to associate myself with Mr. Waxman's  
430 concerns about process. I am growing increasingly concerned  
431 that we are having health legislation come before the full  
432 committee for markup that has not had a legislative hearing,  
433 nor, in some cases, a subcommittee markup. Legislative

434 hearings and subcommittee markups provide us the opportunity  
435 to get input from a wide variety of stakeholders to ensure  
436 that we are advancing thoughtful legislation. Failure to do  
437 so increasingly makes it difficult to appropriately review  
438 legislation being pushed through the committee.

439         For example, the lack of a legislative hearing on H.R.  
440 4067, and the bill to require the Secretary of HHS to provide  
441 recommendations for clinical data registries, leaves it  
442 unclear why both bills are needed, and whether the  
443 legislation being proposed is the best solution. I could  
444 understand, perhaps, the desire to advance H.R. 4067 before  
445 the enforcement of the supervision requirements went into  
446 effect, but I don't understand the need to delay the  
447 requirements just for the next 5 months after they have  
448 already been in effect for 7 months.

449         Similarly, I understand the promise of clinical data  
450 registries, but it is unclear that the Secretary needs to  
451 advance prescriptive guidelines to spur their development.  
452 Maybe both pieces of legislation are needed, but it remains  
453 unclear, since we did not have the opportunity to have our  
454 questions answered through legislative hearings.

455         I strongly oppose H.R. 5322 because it would allow  
456 insurance companies to once again be able to discriminate  
457 against small businesses with older workers, sicker workers,

458 and women workers. I support efforts to promote  
459 scientifically robust medical research into Lyme disease,  
460 another one of our bills, that spurs the discovery and  
461 development of more effective treatment for individuals with  
462 this condition. However, I have concern with some of the  
463 changes that were made to the version of H.R. 4701 that  
464 passed the subcommittee. I hope that we can continue to work  
465 together to alleviate those concerns before this bill reaches  
466 the floor. And I yield back.

467 [The prepared statement of Ms. Schakowsky follows:]

468 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



|  
469           The {Chairman.} Chair thanks the gentlelady. Now  
470 recognize the Chair Emeritus of the full committee, Mr.  
471 Barton, 3 minutes for an opening statement.

472           Mr. {Barton.} Thank you, Mr. Chairman. I appreciate  
473 the opening statement time today, and I appreciate that  
474 Chairman Upton of the full committee is going to offer these  
475 bills tomorrow. There are a number of health bills and Telco  
476 bills that will be marked up. On the health bills, H.R. 4067  
477 is important because in Texas there are many small and rural  
478 hospitals, and this bill would allow some of the critical  
479 access in small rural hospitals to continue to offer some of  
480 these therapeutic services. The needs and challenges of the  
481 smaller hospitals are often overlooked today, so I am glad  
482 that the committee will be taking that bill.

483           On the telecommunications side, I am happy to see that  
484 H.R. 3670, the Anti-Spoofing Act of 2014, which is a  
485 bipartisan bill, will be voted on tomorrow. Like I mentioned  
486 at the subcommittee hearing last week, it is my plan to offer  
487 an amendment in the nature of a substitute that would address  
488 concerns of various stakeholders. We have received input  
489 from such companies as Microsoft, Google, Vonage, U.S.  
490 Telecom, AT&T, and such groups as CTIA and NCTA. We are very  
491 happy to receive such input, and I believe that the amended

492 version that I will introduce tomorrow will go a long way  
493 towards making sure that H.R. 3670 continues to have the  
494 bipartisanship that it has had at the subcommittee level.

495         With that, Mr. Chairman, I appreciate your courtesy, and  
496 I yield back.

497         [The prepared statement of Mr. Barton follows:]

498 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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499           The {Chairman.} Chair thanks the gentleman. Now  
500 recognize the gentleman from Texas, Mr. Green, 3 minutes for  
501 an opening statement.

502           Mr. {Green.} Thank you, Mr. Chairman, for these opening  
503 statements. When we follow the process and put forward  
504 thoughtful and openly debated legislative proposals, we  
505 uphold the role of this committee, and the American people  
506 benefit. Clinical registries play a critical part in  
507 advancing medicine and public safety, and there is a great  
508 opportunity for us to work in a bipartisan fashion to further  
509 the adoption and use of the robust registries.

510           The American Medical Association's scientific experts  
511 are concerned about H.R. 5241, that it will actually be  
512 counterproductive to the ongoing private and public efforts  
513 in its face, and could lead to the inappropriate  
514 overregulation of clinical registries. It is likely that any  
515 resulting guidelines would be incorporated into current HHS  
516 efforts on quality, leading clinical registry stewards to  
517 build around Federal requirements, rather than the specific  
518 needs of the research, and the medical community, and the  
519 patients they serve. I believe the legislation on clinical  
520 registries should be passed by this committee with strong  
521 bipartisan stakeholder support, and I hope my colleagues will

522 revisit this issue in a thoughtful and deliberate manner.

523         While I support efforts to better coordinate federal  
524 activities in research related to Lyme's Disease, and other  
525 tick borne disease, I am concerned about the provisions in  
526 the substitute amendment on H.R. 4701. Recommendations from  
527 federal working groups and scientific advisory panels must be  
528 based on best available science. The lessons learned from  
529 other therapeutic areas, particularly vaccines, should not be  
530 quickly forgotten.

531         H.R. 5322, the so-called Employee Health Care Protection  
532 Act, would limit the access to consumer protections,  
533 including in the ACA, for many American workers. It is long  
534 past time to move beyond efforts to undermine, and repeal,  
535 and sabotage the Affordable Care Act, and start working  
536 together to improve and build upon the law's initial  
537 successes. I urge the Chairman to return to a process that  
538 is thoughtful and deliberate, and that best serves the  
539 American people.

540         The Anti-Spoofing Act, H.R. 3670, addresses a major  
541 consumer protection concern for my constituents, spoofing  
542 their calls, deliberately falsifying their caller ID  
543 information. Spoofing opens the door to con artists who can  
544 defraud and cause harm to unsuspecting phone users. Congress  
545 passed legislation in 2010 in order to bring an end to this

546 practice. Today's bill, and Mr. Barton's amendment in the  
547 nature of a substitute, are valuable improvements in the 2010  
548 law, and I intend to vote for it in this bipartisan  
549 legislation.

550 Similarly, I am voting in support of the E-Label Act,  
551 H.R. 5161. This bipartisan bill, introduced by  
552 Representatives Latta, Eshoo, Blackburn, and Welch will ease  
553 labeling regulatory requirements in certain electrical  
554 equipment that display the same information digitally,  
555 thereby lowering the regulatory burden on the nation's  
556 electronic manufacturers, while satisfying consumer  
557 protection needs.

558 The amendment in the nature of a substitute being  
559 offered by Mr. Walden on the Kelsey-Smith Act, H.R. 5075,  
560 addresses many of the privacy concerns I had with the  
561 underlying legislation. Though I would much prefer this  
562 legislation be considered under regular order and marked up  
563 in the Telecom Subcommittee, I will be voting for the support  
564 in the amendment and the legislation. And I yield back my  
565 time.

566 [The prepared statement of Mr. Green follows:]

567 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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568           The {Chairman.} Chair thanks the gentleman. I  
569 recognize the gentleman from Texas, Mr. Olson, 3 minutes for  
570 opening statement.

571           Mr. {Olson.} I thank the Chair for the start of this  
572 markup today, including my bill, H.R. 5214. My home State of  
573 Texas has had a crisis, a diabetes epidemic that must be  
574 stopped. We have talked about the immigration crises at our  
575 southern border, but there is another crisis on that border,  
576 an explosion of diabetes. Diabetes goes beyond Texas. It is  
577 a national problem. Currently one in 10 health care dollars  
578 are spent on diabetes. In Medicare, the numbers are worse.  
579 One in three dollars go to diabetes.

580           The diabetes epidemic must be addressed before it  
581 bankrupts an overstretched health care system, and that is  
582 why I introduced H.R. 1074, the National Diabetes Clinical  
583 Care and Convention Act. And while the bill we are marking  
584 up today is slightly different than H.R. 1074, H.R. 5214 does  
585 keep a few key components of H.R. 1074.

586           H.R. 5214 will use the clinical registries to evaluate  
587 care methods of managing a disease. H.R. 5214 will also  
588 support relevant data so that new therapies, like an  
589 artificial pancreas, can be covered. The data from these  
590 registries can be used to create best practices, new tools,

591 and educational resources. It requires the Secretary of  
592 Health and Human Services to integrate clinical practice  
593 guidelines or standards of care to improve patient care. It  
594 ensures that HHS consult with clinical experts to develop  
595 strong unified recommendations.

596 I am thankful for both Chairman Upton and his staff, and  
597 Chairman Pitts and his staff, the diabetes groups, and  
598 especially the American Association of Clinical  
599 endocrinologists for all your help with H.R. 5214. I urge  
600 support of this bill, and yield back.

601 [The prepared statement of Mr. Olson follows:]

602 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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603           The {Chairman.} Chair thanks the gentleman. Now  
604 recognize the gentleman from Virginia, Mr. Griffith, for 3  
605 minutes for an opening statement.

606           Mr. {Griffith.} Thank you, Mr. Chairman, I appreciate  
607 this opportunity. I am here today to speak on H.R. 4701, the  
608 Tick-borne Disease Research, Accountability, and Transparency  
609 Act of 2014. I would like to note that my good friend, and  
610 fellow Virginian, Representative Frank Wolf, is one of the  
611 champions of this legislation, and has worked tirelessly to  
612 raise the issue of Lyme disease as it continues to grow as a  
613 problem in Northern Virginia, and all across our great  
614 Commonwealth.

615           It also gives me an opportunity, Mr. Chairman, to speak  
616 on a matter which may appear to be small, but it is a step  
617 out of the wilderness for the Legislative Branch, the  
618 people's House, a wilderness that we in Congress, over the  
619 course of the last 50 or 60 years, have willingly wandered  
620 into. And while it may appear to be small, I would submit,  
621 before I go into it, that little things mean a lot, and that  
622 process does matter.

623           I would note that this bill, H.R. 4701, creates a new  
624 federal working group. I support these working groups and  
625 advisory committees, but these working groups offer us, in



626 the people's House, an opportunity to re-establish just a  
627 little bit of the influence of the Legislative Branch in our  
628 Federal Government. For too long Congress has yielded too  
629 much power over appointments to the Executive Branch, and I  
630 think it is time that we defend the prerogatives of the  
631 Legislative Branch. To do so, we must first change the  
632 culture in Washington, even in small ways, by allowing  
633 Congress to control some of the non-governmental appointments  
634 to working groups and advisory boards such as this one.

635 Now, I would advocate that it should be a majority of  
636 those people, but that may be for another day. If the  
637 legislature gets to appoint more members, then, when policy  
638 suggestions are made, the members will be more likely to  
639 involve the Legislative Branch of government, and not just  
640 represent the position of the Executive Branch.

641 Now, I am a legislator by nature. It is what I have  
642 always done. It is what I was called to do. And preserving  
643 the powers of the Legislative Branch, that branch of  
644 government closest to the people, is extremely important to  
645 me, and has always been important to me. I served for 17  
646 years in the Virginia State Legislature. I never thought  
647 about running for governor, or any other executive office,  
648 because I am a legislator. And defending our prerogatives--  
649 of the Legislative Branch are extremely important. And if

650 you don't believe me, just ask the governors that I served  
651 with, whether it was Governor Gilmore, or later Senator  
652 Allen, but governor at the time, or current Senators Warner  
653 and Kane.

654         Now, as a part of this process, Mr. Chairman, I have  
655 asked my staff to draft possible amendments for this bill to  
656 have even more legislative appointments because we must begin  
657 the process of standing up for the institution of the United  
658 States Congress as the people's House by reasserting our  
659 legislative powers over the executive branch and not having  
660 un-appointed, or, excuse me, unelected appointed officials  
661 selecting all these folks who are going to serve on these  
662 Boards.

663         With that said, Mr. Chairman, I appreciate your  
664 indulgence and your time, and I yield back.

665         [The prepared statement of Mr. Griffith follows:]

666 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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667           The {Chairman.} Chair thanks the gentleman, and now  
668 yields 3 minutes to the gentleman from Georgia, Dr. Gingrey.

669           Dr. {Gingrey.} Thank you, Mr. Chairman. And I want to  
670 thank you for calling today's markup on seven important  
671 pieces of legislation from both the Health and Communication  
672 and Technology Subcommittees. As a member of the Health  
673 Subcommittee, and former member of the Communication and  
674 Technology Subcommittee, all of the bills that we have before  
675 us address critical issues within those industries. Since my  
676 time is short, I am going to focus my remarks on H.R. 3522,  
677 the Employee Health Care Protection Act.

678           Before this committee even held its markup of the House  
679 version of the Affordable Care Act, President Obama made his  
680 first of many assurances to the American people, in June of  
681 2009 that, and I quote, ``If you like your health care, plan,  
682 you will be able to keep your health care plan, period. No  
683 one will take it away, no matter what.''

684           Unfortunately, Mr. Chairman, we have seen this to be  
685 nothing more than an empty promise that the President  
686 repeated on numerous occasions. Since the enactment of the  
687 health care law millions of Americans have been notified that  
688 their insurance plans have been cancelled.

689           Yesterday's Health Subcommittee hearing was designed to

690 examine this issue, and that is precisely why we need to pass  
691 H.R. 3522. This common sense legislation would simply allow  
692 health insurance issuers to offer group coverage that was in  
693 effect in 2013. And I commend our colleague from Louisiana,  
694 Dr. Cassidy, for his leadership on this legislation. If the  
695 President will not keep his promise to the American people  
696 that, quote again, ``If you like your health care plan, you  
697 will be able to keep your health care plan'', then we need to  
698 do it for him. H.R. 3522 will help us accomplish that goal.

699 Mr. Chairman, I ask all my colleagues to support this  
700 important legislation, as well as the other bills included in  
701 this markup. And I yield back the balance of my time.

702 [The prepared statement of Dr. Gingrey follows:]

703 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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704           The {Chairman.} Chair thanks the gentleman, now  
705 recognizes the gentleman from Ohio, Mr. Latta, 3 minutes for  
706 an opening statement.

707           Mr. {Latta.} Well, thank you very much, Mr. Chairman,  
708 and thank you for holding today's markup. The E-Label Act  
709 that I introduced is a bipartisan, bicameral proposal that  
710 marks a step forward in our efforts to modernize laws for the  
711 digital communications age. This measure streamlines the  
712 electronic device manufacturing process by allowing  
713 manufacturers of devices with screens, like smartphones and  
714 tablets, to display an electronic or digital label instead of  
715 a physical label to certify compliance with the FCC's  
716 equipment authorization standard.

717           By permitting e-labeling, it can help save tens of  
718 millions of dollars from manufacturers, and can enhance  
719 consumer welfare by expanding the access and availability of  
720 relevant device information. The E-Label Act complements the  
721 FCC's recent guidance on this issue by establishing a  
722 timeframe for moving with a rulemaking. This will ensure  
723 that the commission takes timely action on this issue and  
724 resolves any uncertainty that manufacturers might have in  
725 opting to use e-labels.

726           I thank Congressman Welsh, Congresswoman Blackburn, and

727 Ranking Member Eshoo for their support on this measure. I

728 urge my colleagues to support this legislation, and, Mr.

729 Chairman, I yield back the balance of my time.

730 [The prepared statement of Mr. Latta follows:]

731 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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732           The {Chairman.} Chair thanks the gentleman. That  
733 concludes the opening statements.

|

734 H.R. 3670

735           The {Chairman.} The Chair calls up H.R. 3670, and asks  
736 the clerk to report.

737           The {Clerk.} H.R. 3670, to amend the Communications Act  
738 of 1934 to expand and clarify the prohibition on provision--

739           [H.R. 3670 follows:]

740 \*\*\*\*\* INSERT 1 \*\*\*\*\*



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741           The {Chairman.} Without objection, the first reading of  
742 the bill is dispensed with. The bill will be open for  
743 amendment at any point. So ordered. For information of  
744 members, we are now on H.R. 3670. The committee will  
745 reconvene tomorrow at 10:00 a.m., and I remind members that  
746 the Chair will give priority recognition to amendments  
747 offered on a bipartisan basis. I look forward to seeing all  
748 of you tomorrow. Without objection, the committee stands in  
749 recess.

750           [Whereupon, at 4:43 p.m. the committee recessed, to  
751 reconvene at 10:00 a.m., Wednesday, July 30, 2014.]