CONSUMER PROTECTION LEGISLATION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1999

Mr. PAUL. Mr. Speaker, I rise to introduce my Consumer Protection Package—consisting of two pieces of legislation which will benefit consumers by repealing federal regulations. The first piece of legislation, the Consumer Health Free Speech Act, stops the Food and Drug Administration (FDA) from interfering with consumers' access to truthful information about foods and dietary supplements in order to make informed choices about their health. The second bill, the Television Consumer Freedom Act, repeals federal regulations which interfere with a consumers ability to avail themselves of desired television programming.

The Consumer Health Free Speech Act accomplishes its goal by making two simple changes in the Food and Drug Act. First, it adds the six words ''other than foods, including dietary supplements'' to the statutory definition of ''drug,'' thus allowing food and dietary supplement producers to provide consumers with more information regarding the health benefits of their products, without having to go through the time-consuming and costly process of getting FDA approval. This bill does not affect the FDA's jurisdiction over those who make false claims about their products.

Scientific research in nutrition over the past few years has demonstrated how various foods and other dietary supplements are safe and effective in preventing or mitigating many diseases. Currently, however, disclosure of these well-documented statements triggers more extensive drug-like FDA regulation. The result is consumers cannot learn about simple and inexpensive ways to improve their health. Just last year, the FDA dragged manufacturers of Cholestin, a dietary supplement containing lovastatin, which is helpful in lowering cholesterol, into court. The FDA did not dispute the benefits of Cholestin, rather the FDA attempted to deny consumers access to this helpful product simply because the manufacturers did not submit Cholestin to the FDA's drug approval process!

The FDA's treatment of the manufacturers of Cholestin is not an isolated example of how current FDA policy harms consumers. Even though coronary heart disease is the nation's number-one killer, the FDA waited nine years until it allowed consumers to learn about how consumption of foods and dietary supplements containing soluble fiber from the husk of psyllium seeds can reduce the risk of coronary heart disease! The Consumer Health Free Speech Act ends this breakfast table censorship.

The bill's second provision prevents the FDA's arbitrary removal of a product from the marketplace, absent finding a dietary supplement ''presents a significant and unreasonable risk of illness or injury.'' Current law allows the FDA to remove a supplement if it prevents a ''significant or unreasonable'' risk of disease. This standard has allowed the FDA to easily remove a targeted herb or dietary supplement since every food, herb, or dietary supplement contains some risk to at least a few sensitive or allergic persons. Under this bill, the FDA will maintain its ability to remove products from the marketplace under an expedited process if they determine the product causes an ''imminent danger.''

Allowing American consumers access to information about the benefits of foods and dietary supplements will help America's consumers improve their health. However, this bill is about more than physical health, it is about freedom. The first amendment forbids Congress from abridging freedom of all speech, including commercial speech.

My second bill, the Television Consumer Freedom Act, repeals federal regulations which interfere with a consumers ability to avail themselves of desired television programming. For the last several weeks, congressional offices have been flooded with calls from rural satellite TV customers who are upset because their satellite service providers have informed them that they will lose access to certain network television programs.

In an attempt to protect the rights of network program creators and affiliate local stations, a federal court in Florida properly granted an injunction to prevent the satellite service industry from making certain programming available to its customers. This is programming for which the satellite service providers had not secured from the program creator-owners the right to rebroadcast. At the root of this problem, of course, is that we have a so-called marketplace fraught with interventionism at every level. Cable companies have historically been granted franchises of monopoly privilege at the local level. Government has previously intervened to invalidate ''exclusive dealings'' contracts between private parties, namely cable service providers and program creators, and have most recently assumed the role of price setter. The Library of Congress, if you can imagine, has been delegated the power to determine prices at which program suppliers must make their programs available to cable and satellite programming service providers.

It is, of course, within the constitutionally enumerated powers of Congress to ''promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.'' However, operating a clearing-house for the subsequent transfer of such property rights in the name of setting a just price or ''instilling competition'' via ''central planning'' seems not to be an economically prudent nor justifiable action under this enumerated power. This process is one best reserved to the competitive marketplace.

Government's attempt to set the just price for satellite programming outside the market mechanism is inherently impossible. This has resulted in competition among service providers for government privilege rather than consumer-benefits inherent to the genuine free market. Currently, while federal regulation does leave satellite programming service providers free to bypass the governmental royalty distribution scheme and negotiate directly with owners of programming for program rights, there is a federal prohibition on satellite service providers making local network affiliate's programs available to nearby satellite subscribers. This bill repeals that federal prohibition and allows satellite service providers to more freely negotiate with program owners for programming desired by satellite service subscribers. Technology is now available by which viewers will be able to view network programs via satellite as presented by their nearest network affiliate. This market-generated technology will remove a major stumbling block to negotiations that should currently be taking place between network program owners and satellite service providers.

Mr. Speaker, these two bills take a step toward restoring the right of free speech in the marketplace and restoring the American consumer's control over the means by which they cast their ''dollar votes.'' In a free society, the federal government must not be allowed to prevent people from receiving information enabling them to make informed decisions about whether or not to use dietary supplements or eat certain foods. The federal government should also not interfere with a consumer's ability to purchase services such as satellite or cable television on the free market. I, therefore, urge my colleagues to take a step toward restoring freedom by cosponsoring my Consumer Protection Package: the Consumer Health Free Speech Act and the Television Consumer Freedom Act.

''AUDIOLOGIST'' FOR MEDICAID

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1999

Mr. WHITFIELD. Mr. Speaker, today I am introducing a bill with my good friend from Ohio, Mr. SHERROD BROWN, that would establish a Medicaid definition of ''audiologist'' used for Medicare reimbursement. Congress updated the definition of ''audiologist'' for Medicare reimbursement in 1994, but the same update has not yet occurred for Medicaid. The definition used by Medicare, and which I am proposing to be used for Medicaid purposes, relies primarily on state licensure or registration as the mechanism for identifying audiologists who are qualified to participate in the program.

Currently, under Health Care Financing Administration (HCFA) regulations, the Medicaid program uses a definition of ''audiologist'' that is nearly thirty years old and relies upon certification from third party organizations. HCFA's Medicaid definition has not kept pace with the significant changes that have occurred in audiology credentialing over the last three decades. The current definition also does not reflect the critical role that state licensure/registration now plays in assuring the quality of audiology services. State licensure/registration statutes currently exist in 49 of the 50 states.

Today, there are approximately 28 million Americans with some degree of hearing loss. While this number will grow along with the aging of the Baby Boomers, hearing loss is not exclusively an ''older'' person's problem. A recent article in the Washington Post entitled ''Hearing Loss Touches A Younger Generation'' points out that more and more Americans are suffering from various degrees of hearing loss at a younger age. The article refers to a Journal of the American Medical Association study which found that nearly 15% of children ages 6 to 19 who were tested showed some hearing deficit in either low or high frequencies. Audiologists are specifically trained and licensed to provide a broad range of diagnostic and rehabilitative services to persons

with hearing loss and related disorders (e.g. vestibular/balance disorders).

The legislation would not expand or change the scope of practice for an audiologist, or alter the important relationship that exists between audiologists and Ear, Nose and Throat physicians. There would be no new benefits or services under this legislation. The bill I am introducing today, while technical in nature, would help establish uniform professional qualifications for audiologists, and a more reliable standard for the more than 28 million people with a hearing loss who may use audiological services.

EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

SPEECH OF

HON. DAVID D. PHELPS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 800) to provide for education flexibility partnerships:

Mr. PHELPS. Mr. Chairman, I rise today to express my strong support for H.R. 800, the Education Flexibility Partnership Act, of which I am proud to be a co-sponsor. I have made the improvement of our nation's public education system one of my top priorities as a legislator, and I believe that the Ed-Flex bill represents an important step towards the fulfillment of this goal. This legislation should not be viewed as a solution to the myriad problems which plague our schools, but I wholeheartedly support it and hope that the valuable debate it generates will catalyze our continued efforts on critical education issues.

H.R. 800 extends to all 50 states the opportunity to participate in the ''Ed-Flex'' program, currently in place as a demonstration program in 12 states. Under Ed-Flex, the Department of Education allows states to grant local school districts waivers to certain federal regulations if the state believes such a waiver would enhance local school reform efforts. I believe it is important for those of us in Washington to recognize that local officials, parents, teachers and students are often in a better position to creatively and effectively address the particular educational issues being faced in their communities. H.R. 800 will allow localities the flexibility to begin responding to the unique needs of their school systems, and I embrace any measure that will help our children obtain the top-quality education they need and deserve.

I must voice some concern that the accountability provisions of H.R. 800 are not as strong as they should be. I am, for example, disappointed that this body did not agree to the Miller-Kildee amendment, which would have required states to have in place a viable plan for assessing student achievement, as well as concrete goals for such achievement. In addition, it must be clearly understood that, although Ed-Flex can be an important component of our education reform efforts this session, many critical issues remain to be addressed, such as class size, school safety and student discipline.

Mr. Chairman, I urge my colleagues to join me in supporting Ed-Flex today, not because it solves all of our problems, but because it represents a substantive bipartisan effort to begin addressing the many difficulties which plague our local school systems. I am pleased that we are getting an early start in meeting our obligations to America's students, and I look forward to confronting these crucial education issues as the 106th Congress continues.

EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

SPEECH OF

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 800) to provide for education flexibility partnerships:

Mr. CROWLEY. Mr. Chairman, I take this time to state for the record my reasons for voting against H.R. 800 the Ed-Flex bill.

Mr. Chairman, I am not opposed to the idea of flexibility in education. I laud my colleagues for their desire to work on the education issues facing our country. Ed-Flex has the potential to be a workable program that provides states and local school districts with the flexibility to improve academic achievements and the quality of education for their students.

However, I believe that we need to protect those students who come from families in need. The intent of Congress, through Title I of the Elementary and Secondary School Act, was to target funds toward low-income students, in order to help them have a chance at success in life. I could not vote for Ed-Flex unless I was sure that students from low-income families are not going to lose their funds through waivers. This is why I supported the Scott-Payne amendment, which would have required that only schools in which at least 35% of the students come from low-income families may seek a waiver to use their Title I funds to operate a school-wide program. For my New York City District, this provision is especially important. We have many students coming from low-income families in the Bronx and Queens, and I cannot support a program that does not have provision to prohibit funds being taken away from those needy students.

I am also concerned about the timing of this legislation. In the coming year, we need to reauthorize the Elementary and Secondary Education Act. It does not make sense to me that we pass legislation to waive the requirements that we have not even written yet! The best solution would have been to consider Ed-Flex and ESEA together. Then, we could have worked to alleviate my concerns, and those of my colleagues, regarding the targeting of ESEA funds under the provisions of the Ed-Flex program.

Finally, I would like to express my dismay that the majority did not allow class-size reduction and school construction initiatives to be attached to H.R. 800. Public schools are working hard to raise academic standards and improve student achievement, but in many schools their efforts are hampered by overcrowded classes and inadequate and deteriorating facilities. Smaller class sizes improve student learning and are effective in improving student achievement. But we cannot reduce class size without considering the condition and lack of space in school facilities. These issues go hand-in-hand. This is why I feel Ed-Flex should not have been considered now, but rather considered along with ESEA and school construction.

I strongly support bipartisan efforts to strengthen our school systems and help our students. I look forward to working with my colleagues on school construction legislation and on reauthorizing the Elementary and Secondary Education Act. It is with regret that I had to vote against the first education bill on the floor of the House in the 106th Congress and I thank you for allowing me the opportunity to outline my reasons for my opposition to H.R. 800.

HONORING REVEREND DR. H.M. CRENSHAW

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1999

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the work and achievements of a shepherd to our entire community, Reverend Dr. H.M. Crenshaw, a spiritual leader of enormous dimension. Reverend Crenshaw's 30 years of personal ministry to the Jerusalem Missionary Baptist Church congregation is to be recognized in a special celebration in Toledo, OH on March 13, 1999.

After his ordination as a minister in 1952, Reverend Crenshaw pastored in the First Baptist Church of Rossford, Ohio from 1953 until 1958. He then went on to First Baptist Church in Fostoria, OH, and during his decade-long tenure there he led the congregation in the building of a new church as well as the purchase of additional land. In December of 1968, Reverend Crenshaw was called to minister to the congregation of Jerusalem Missionary Baptist Church, where he remains today.

A true community leader, Reverend Crenshaw has guided his congregation through growth, property acquisition, and building expansion and enhancement. Through it all, he has been a revitalizing force both in the community and the church. Recognizing the deeper needs of the youth in the church's neighborhood, Reverend Crenshaw founded the Jerusalem Outreach Center in 1982. With a goal to motivate and direct young people not targeted by other programs to fully realize their greatest potential, Reverend Crenshaw and the Jerusalem Outreach Center staff have helped over 1,675 at-risk youth and their families. Working through referrals from the juvenile court and juvenile justice systems, the local school system and an area mentoring program, the Jerusalem Outreach Center has redirected the path for these young people and their families. Further, the center serves as a beacon in the neighborhood: a welcoming place for the youth.

Ever mindful of the need to provide stewardship to promising young people, Reverend and Mrs. Crenshaw established the Crenshaw Scholarship Fund in memory of their deceased daughter Marilyn. This fund has contributed over $12,500.00 toward the college education of students in the church.

The holder of a Bachelor of Theology from the International Bible Institute and Seminary,