

# EXTENSIONS OF REMARKS

## EXTENDING STRUCTURED SETTLEMENTS TO WORKERS' COMPENSATION

**HON. E. CLAY SHAW, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 1, 1997*

Mr. SHAW. Mr. Speaker, I am pleased to rise today, along with Mr. RAMSTAD and Mr. STARK and a broad group of my colleagues from the Ways and Means Committee from both sides of the aisle, to introduce this bill to extend structured settlements under section 130 of the Internal Revenue Code to workers' compensation.

I am a great believer in structured settlements. Structured settlements have been widely used in the tort area for many years to compensate tort victims who have suffered serious, long-term, often profoundly disabling injuries. A structured settlement provides the badly injured tort victim with important financial protections.

Under a structured settlement, the injured person receives damages in the form of a stream of periodic payments tailored to his or her specific future medical and basic living needs from a well-capitalized financial institution that assumes the liability from the defendant and funds the obligation with an annuity or U.S. Treasury obligations. Congress has adopted a series of special Internal Revenue Code rules in sections 130 and 104 to promote the use of structured settlements.

Extending these code section 130 structured settlement rules to the workers' compensation area would provide crucial financial security to workers who have suffered serious, long-term physical injuries. A seriously and permanently disabled worker who is to receive a stream of workers' compensation payments over the next 20 or 30 years has the same very real concerns as the tort victim over relying on the uncertain financial prospects of a self-insured employer which may no longer be in business a decade from now or a compensation carrier that is weak and threatens to become more so in the future. In some States structured settlements also would provide a means of resolving workers' compensation disputes that otherwise would be settled with a lump sum that could be prematurely dissipated by the injured worker.

Thus, extending the structured settlement tax rules to workers' compensation is fully consistent with the original purpose of code section 130 and merely adds a parallel class of physical injuries to that already covered by the statute.

The use of structured settlements in workers' compensation would be subject to the oversight of the States workers' compensation referee who would have to approve each section 130 structured settlement on a case-by-case basis as being in the best interest of the injured worker.

The Treasury Department has testified before the Ways and Means Committee in the

last Congress that Treasury does not oppose this proposal, reasoning that "[t]here appears to be no policy justification, apart from revenue considerations, for allowing less favorable tax treatment for work-related physical injury claims than other physical injury claims." The Joint Tax Committee estimated in the last Congress that the proposal would cost a total of only \$11 million over 5 years.

We look forward to consideration of this important legislation at the earliest possible opportunity.

## RECOGNITION OF LUISA SINIPATA

**HON. TOM LANTOS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday May 1, 1997*

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in commending Ms. Luisa Sinipata, a junior at Mercy High School in Burlingame and the recipient of the Congressional Youth Excellence Award in the 12th Congressional District of California.

Ms. Sinipata's contributions to our community are impressive. She coordinated publicity and entertainment for a recent neighborhood festival. She volunteered as a junior for the University of San Francisco's mock trials and as a child care volunteer at her church. Furthermore, as a member of the Peninsula YMCA Youth and Government Program, she has been an active promoter of San Mateo's teen curfew proposal, as well as an active participant in youth conferences.

In addition to this outstanding record of community service, Luisa has achieved an excellent academic record at Mercy High School. Luisa currently is taking courses in sociology and French at the College of San Mateo, in addition to her regular high school educational program. She has done this while working part time for a local San Mateo business.

Mr. Speaker, I invite my colleagues to join me in commending Ms. Luisa Sinipata for her outstanding service to our community and congratulating her for her academic achievements.

## TRIBUTE TO PHILANTHROPIST ALICE PETERS

**HON. GEORGE P. RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 1, 1997*

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Alice Peters. Mrs. Peters has demonstrated, time and time again, the ability to raise the spirits of people in the Fresno, CA, community. I want to honor her today for her service to Fresno.

As noted in a recent edition of the Armenian General Benevolent Union [AGBU] magazine, Alice Peters' family moved to Lynn, MA, from

Bitlis in 1907. After hearing that more Bitlistsies were residing in the Fresno area, the family moved to Del Rey, a small farming town outside of Fresno. In 1943, she met and married Leon Peters, who was a farmer by day and sold pumps for water at night. Their business grew and became one of the Nation's premier winemaking machinery plants. Eventually, the business grew to be as large as 300 employees before the couple sold it to begin pursuing other interests.

Perhaps even more significant to the region than the wine-making machinery business was the formation of the Leon S. Peters Foundation in 1959. Today, this foundation, with Mrs. Peters as the board chairman, supports many different educational causes in both the Fresno community and the world. Locally, the foundation aids humanitarian endeavors and university scholarships. Foundation guidelines require the money be kept in Fresno to help students locally. Internationally, the foundation sends funding to various organizations throughout Armenia, including supporting scholarships for students studying at the American University of Armenia and funding to assist children at the Nork Children's Center.

Promoting education is not where the work of Alice Peters ends. As one of the leading philanthropists in Fresno, Mrs. Peters was instrumental in starting the Fresno Metropolitan Museum of Art, and also is a principle fundraiser for the Fresno Zoo and the Boy and Girl Scouts of America. Together, Mr. and Mrs. Peters have shaped Fresno from a once small farming town into one of the largest and most thriving cities in California.

Mr. Speaker, as an active member of the Fresno community, Alice Peters has contributed to the growth and cultivation of new ideas and accomplishments of its residents. Together, she and her husband have faced the challenges and enjoyed the successes of the world of business. In turn, they have given back to the community that has become so important in their lives. I ask my colleagues to join me in tribute to a woman who strives each day to make the Fresno community as fulfilling a place for others as it has been for her.

## MORE UNFAIR COMPETITION: SUBSIDIZED BRIBERY

**HON. GERALD B.H. SOLOMON**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 1, 1997*

Mr. SOLOMON. Mr. Speaker, I would like to insert for the RECORD an article in the International Herald Tribune that outlines Germany's and France's opposition to making foreign bribery a crime.

I think most Americans would be shocked to learn that in Germany and France, not only is bribery of foreign officials not illegal, it qualifies as a tax deduction! Meanwhile, American firms trying to do business abroad operate under our Foreign Corrupt Practices Act, which

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makes bribery illegal and possibly punishable with a jail sentence.

This is yet another example of the unfair competition our firms face, Mr. Speaker, and we should be resolute in demanding that Germany, France, and other countries change their laws. This is absolutely critical to maintaining our industrial base, including our military industrial base in these times of declining defense budgets.

[From the International Herald Tribune]

FOREIGN BRIBERY SHOULD BE A CRIME

(By Reginald Dale)

WASHINGTON.—An American caught bribing a foreign official for commercial gain will be fined or jailed for violating U.S. law. Europeans who bribe the same official may well qualify for a tax deduction.

U.S. corporations are estimated to be losing contracts worth tens of billions of dollars because of corrupt practices by their competitors. It is hardly surprising that Washington is leading an aggressive campaign to crack down on international bribery and corruption.

What is surprising is that the campaign, dismissed as hopelessly naive and moralistic only a few years ago, is beginning to bear fruit.

At next month's ministerial meeting of the Organization for Economic Cooperation and Development in Paris, Washington hopes other industrial countries will commit themselves to making foreign commercial bribery a criminal offense, as the United States did in 1977.

Many developing and ex-Communist countries back the U.S. stand and are asking the major exporting nations to help them fight corruption.

The main holdouts are two close American allies, Germany and France. These two countries do not dispute that bribery is bad. Many international corporations say corruption is the main obstacle to business in places such as Russia, China and much of Southeast Asia.

Bribery, according to Alan P. Larson, a senior State Department official, denies developing countries access to the most efficient bidders, diverts funds that could have been spent on economic and social development, and corrupts fragile democratic institutions.

Washington is not too worried by the small sums often needed to persuade bureaucrats to do the jobs they are supposed to be doing anyway, such as issuing licenses or visas. The problem is big payments to induce an official to do something illegal—bribing a public employee to secure a contract is against the law all over the world.

Last year, Germany and France subscribed to a nonbinding OECD recommendation to end tax deductions for bribery abroad and agreed "in principle" to make it a criminal offense. The difficulty is persuading them to follow through. The two countries have not ended the tax deductibility, and they say they want to negotiate a binding international convention before criminalizing foreign bribery. Washington wants each OECD member simply to enact its own legislation next year.

France and Germany argue that without a watertight legal convention, other countries will cheat. This argument is "clearly a delaying tactic," says Frank Vogl, vice chairman of Transparency International, an independent group that monitors business corruption. Negotiating an international convention could take years.

But many Europeans also argue that U.S. military and political power gives American businesses an unfair advantage. Americans

say their country's leading role just as often sets them at a disadvantage—for example, when Washington puts pressure on China to improve its record on human rights and weapons proliferation and European governments seek commercial favors by keeping quiet.

The two issues are not comparable. A telephone call from President Bill Clinton is not the equivalent of a bribe—nor should it be an excuse for offering one.

The hope must be that European voters, increasingly disgusted by scandal and corruption in their own countries, will press governments to act on an international level. The European Union plans to criminalize bribery within the EU. That will have the bizarre effect of making it a criminal offense for a German, say, to bribe French officials but not Russian ones. Europeans, who pride themselves on their logic, must surely see the absurdity of that.

## MEDICARE MEDICATION EVALUATION AND DISPENSING SYSTEM

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 1, 1997

Mr. STARK. Mr. Speaker, on March 20, I introduced The Medicare Medication Evaluation and Dispensing System Act of 1997 [MMEDS]—a bill calling for implementation of a computerized information management program to review prescriptions for Medicare beneficiaries both before and after they are dispensed.

A recent study appearing in the American Journal of Public Health provides another reason MMEDS should be passed this Congress. Based on their findings, the authors concluded: "Increased involvement by pharmacists and physicians in systematic drug utilization review is warranted". Overall, the study found inappropriate drug prescribing and utilization among the elderly living in board and care facilities. Depending on the criterion applied, between 20 percent and 25 percent of residents had at least one inappropriate prescription. Approximately a quarter of elderly residents received at least one inappropriate drug.

Board and care facilities provide an alternative to nursing homes for the elderly; the homes usually do not provide nursing care, but assistance with activities of daily living—including drug management. Most board and care homes do not use pharmacists for drug-utilization review and do not computerize prescription drug data in a readily retrievable manner. Thus MMEDS is especially necessary to help bring an end to inappropriate drug prescribing for the elderly living in these facilities.

I would like to insert excerpts from the March, 1997, study on Inappropriate Drug Prescriptions for Elderly Residents of Board and Care Facilities into the CONGRESSIONAL RECORD:

[From the American Journal of Public Health, Mar. 1997]

## INAPPROPRIATE DRUG PRESCRIPTIONS FOR ELDERLY RESIDENTS OF BOARD AND CARE FACILITIES

(By Diana L. Spore, PhD, Vincent Mor, PhD, Paul Larrat, PhD, Catherine Hawes, PhD, and Jeffrey Hiris, MA)

### INTRODUCTION

Board and care facilities are community-based alternatives to nursing homes, housing

elders with physical limitations, cognitive impairment, mental health problems, and chronic physical health conditions. They provide protective oversight, personal care, and assistance with activities of daily living and instrumental activities of daily living in congregate settings. Most facilities do not provide nursing care, but do store drugs and provide assistance with drug-use management in many instances. Board and care homes have been criticized for a lack of medical supervision in drug administration and monitoring, nonexistent drug-management programs, and unskilled staff; however, inappropriate drug use in these settings has been largely unstudied. Use of inappropriate medications can have serious clinical consequences, ranging from adverse drug reactions that affect elders' functional independence and psychosocial well-being to an increased risk of mortality.

Using the largest multistate sample of board and care homes assembled to date, we examine the prevalence and correlates of inappropriate drug prescriptions among elderly residents. Given that on the long-term care continuum, board and care is midway between living in the community without assistance and residing in nursing homes, we apply the Stuck and Beers criteria to derive estimates of rates for presumptively inappropriate drug prescriptions.

### RESULTS

#### *Inappropriate Drug Prescriptions*

According to the Stuck and modified Stuck criteria, almost 18% of residents were prescribed at least one presumptively inappropriate drug. The most frequently prescribed inappropriate drugs included propoxyphene, long-acting benzodiazepines, dipyrindamole, and amitriptyline. Approximately 6.8% of elders were prescribed one or more presumptively inappropriate psychotropics.

Of those elders prescribed a drug included in the modified Stuck criteria, most (82.4%) were prescribed only one of the problematic drugs; 17.6% were prescribed two or three of the medications; and 38.5% were prescribed inappropriate psychotropics. Multiple prescriptions most frequently involved combinations of propoxyphene or a long-acting benzodiazepine with one other inappropriate drug (e.g., propoxyphene with amitriptyline).

According to the Beers criteria, almost 25% of residents had an inappropriate prescription. Of those with inappropriate prescriptions, 83.8% were prescribed an entirely contraindicated drug (regardless of dose); 19.3% were prescribed drugs that were problematic due to high dosages; and 40.5% were prescribed inappropriate psychotropics.

### DISCUSSION

Using a large, multistate sample of board and care homes, this study examined the prevalence and correlates of inappropriate drug prescriptions among elderly residents. Almost one in four residents had at least one presumptively inappropriate prescription. Of those elders prescribed any drugs, 20.2% to 27.4% had inappropriate prescriptions. Rates for inappropriate drug prescriptions are high, but lower than what has been reported for nursing home residents and relatively comparable to rates among community-dwelling elders.

Only a minority of elderly board and care residents were prescribed more than one inappropriate medication. However, such combinations can cause additive central nervous system effects—such as confusion, excessive drowsiness, and dry mouth—which tend to be more serious problems in the elderly.

For the most part, board and care homes do not use pharmacists as consultants for drug-utilization review, do not computerize