

effects is not made public . . . and that the more prescriptions hospitals issue, the greater their profits will be, because of the huge gap between the government-designated base prices and the market price."

The Nikkei Weekly reported that in April of 1997, the Japanese government proposed revision of the ". . . drug-payment system, which has been criticized for enabling doctors to line their pockets and causing over-prescription."

Based on these facts, it is highly likely that Medicare's Average Wholesale Price (AWP) system of paying doctors for certain medicines causes distortions in prescribing practices.

European countries, in contrast, have, in the last ten years, instituted practices to curb overutilization by eliminating some financial incentives. Italy, Germany, Sweden, Denmark and the Netherlands have introduced "reference pricing" as a financial disincentive for patients to accept and doctors to prescribe non-reference drugs. These countries are probably not the best examples of countries with overutilization. Japan is the best in this regard (we are still trying to find another clear cut case, like Japan).

It's interesting to note that, on the flip side, reimbursements for surgery are low in Japan and, as a consequence, one third as much surgery is done in Japan as the U.S.

#### COMMEMORATING THE THIRTIETH ANNIVERSARY OF AIR STATION CAPE COD

##### HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 28, 2000*

Mr. DELAHUNT. Mr. Speaker, I rise today to recognize the thirtieth anniversary of U.S. Coast Guard Air Station Cape Cod. For all of us who go to the sea, for pleasure or by profession, the Air Station has been an enormously reassuring presence all these years.

Since its commissioning in 1970, Air Station Cape Cod has performed more than 10,000 search-and-rescue missions, saved 3,500 lives and saved more than \$450 million in property—all this while safeguarding our natural resources and seizing shipments of illegal drugs bound for our shores. It's all in a long day's work—and often a long night's work as well—for the personnel of the U.S. Coast Guard.

While the breathtaking heroics of the men and women of the Air Station have recently been made famous by recent feature films, perhaps the most fitting tribute comes from the grateful communities served by the men and women of the Air Station. I am pleased to enter in today's CONGRESSIONAL RECORD the following words of appreciation from a recent edition of the Cape Cod Times newspaper.

[From the Cape Cod Times, Aug. 30, 2000]

AIR STATION CAPE COD TURNS 30

(By Kevin Dennehy)

AIR STATION CAPE COD—Ed Greiner won't soon forget the week last summer he moved his family to Cape Cod to assume his duty as executive officer at the local Coast Guard installation.

That same weekend, John F. Kennedy Jr.'s airplane dove into the Atlantic Ocean. And within hours, the tragedy sparked one of the largest Coast Guard searches ever undertaken off Cape shores, and a media swarm that enveloped the Upper Cape air station for several days.

But then, it was not that much different than what the Coast Guard does on a regular basis, Greiner says.

"Sure, it was hectic," he said yesterday. "But it was a large version of what we're trained to do, and do everyday."

They've been doing what they do at Air Station Cape Cod since August 1970. Yesterday, the Coast Guard marked its 30th anniversary with a quiet ceremony at one of the station's hangars.

It's been a busy three decades. Since 1970, pilots and crews have responded to more than 9,500 calls—nearly one search-and-rescue mission per day during that time. As of yesterday, they'd saved 3,312 lives and prevented the loss of \$455 million worth of property.

"For recreational boaters and those who use the water to make a living, it adds a measure of safety," Greiner said. "If folks get into trouble, we're always standing ready to assist."

One of the busiest of America's 24 air stations, Air Station Cape Cod started operating when Air Station Salem and Air Detachment Quonset Point, R.I., were consolidated in 1970.

About 400 employees work at the station, including 250 active-duty members.

And with more than 2,000 people—including those from other military branches—living in the nearly 700 units of Coast Guard housing, it's the largest continuous presence on the base.

These days, the Coast Guard uses four Jayhawks and four HU-25 Falcon jets to conduct nearly 300 rescue missions each year.

The Coast Guard also assists in law enforcement and fishing zone enforcement; is involved in drug interdiction; and repairs navigational aids throughout the northern Atlantic.

"It's a great job," said Lt. Bill Bellatty, who flies a HH-60 Jayhawk helicopter at the station. "It's always great when you save lives. It's when it's nasty out that it's terrible. That's when we earn our money."

#### FIFTIETH BIRTHDAY OF LINDA FAYE SOFFER

##### HON. JAY DICKEY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 28, 2000*

Mr. DICKEY. Mr. Speaker, I want to recognize one of my constituents, Linda Faye Soffer (nee Cook) of White Hall, Arkansas, who will be celebrating her 50th birthday on October 15, 2000. Linda was born on October 15, 1950 in Memphis, Tennessee to William Allen Cook and Dorothy Annice Cook (nee McGill) of Earle, Arkansas. I want to join Stu Soffer, her husband, in wishing her a Happy Birthday with best wishes for the upcoming year.

#### HONORING CHRIST LUTHERAN CHURCH FOR ITS 200TH YEAR OF SERVICE

##### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 28, 2000*

Mr. GOODLING. Mr. Speaker, I rise today to honor Christ Lutheran Church, Filey's Parish, for its 200th year of service to the Gospel in their community.

Christ Lutheran Church is a small country church in a growing area of Dillsburg, Pennsylvania. It was founded in 1800 by the New German community, and in 1811 a building was erected for worship and it also served as a school. In 1938 Jacob Filey donated the land on which the church is presently located. Today, the congregation is made up of 90 people that attend weekly services. The church houses a daycare, with a nursery school located nearby, named Filey's Nursery School.

I ask my colleagues to join me in recognizing the congregation of the Christ Lutheran Church for their 200th year of outstanding service to the community. I wish them continued strength and unity as their parish continues to grow and thrive.

#### IN HONOR OF MICHAEL ZONE, MARY ZONE, AND THE ZONE FAMILY

##### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 28, 2000*

Mr. KUCINICH. Mr. Speaker, I rise today to acknowledge the Neighborhood Social Club and Archives' posthumous recognition of former City of Cleveland Councilman Michael Zone and his surviving wife, former City Councilwoman Mary Zone for their contributions to the Italian American neighborhood that is part of the Mount Carmel West neighborhood. The organization will present the Giuseppe T. Focca Award to the Zone family on October 1.

Michael Zone, whose family immigrated from the region of Campania near the City of Caserta, was among the early Italian families to settle in this westside neighborhood. Michael was instrumental in the early development of the current Our Lady of Mount Carmel Church and School and the development of Villa Mercedes, a senior citizen assisted high-rise.

As a councilman, Michael Zone worked hard for the Italian American residents he represented. He helped many gain meaningful employment and assisted them with immigration and government services. He put his constituents first, and demonstrated that public service is a higher calling.

The Neighborhood Social Club and Archives was founded by Rose A. Zitiello in 1993 to preserve the Italian American history of the neighborhood. Association President Sherri Scarpina DeLeva has presided over the last three annual award presentations to Joseph T. Fiocca, Yolanda Craciun, and Father Vincent Caruso, who served as the parish's first pastor in 1926.

Mr. Speaker, I ask my fellow colleagues in the U.S. House of Representatives to join me in honoring Michael Zone, Mary Zone, and the Zone family who have contributed so much to Cleveland's Mount Carmel West neighborhood and the city as a whole. Please also join me in acknowledging the contribution that the Neighborhood Social Club and Archives is making toward preserving the great heritage that the Zones and the Italian American community of Cleveland has made and continues to make.

DRUG COMPANY ABUSE OF AVERAGE WHOLESALE PRICE SYSTEM: PUBLIC DESERVES RETURN OF BILLIONS OF DOLLARS

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2000

Mr. STARK. Mr. Speaker, I have today sent the following letter to the Pharmaceutical Research Manufacturers of America (PhRMA), the chief trade association representing U.S. pharmaceutical companies.

The letter details what I believe to be the bilking of the Medicare system by a number of large, powerful drug companies. The evidence I have been provided shows that certain drug companies are making enormous profits available to many doctors on the "spread" between what Medicare and other payers reimburse for a drug (the average wholesale price), and what that drug is really available for.

These companies have increased their sales by abusing the public trust and exploiting America's seniors and disabled. It is my firm belief that these practices must stop and that these companies must return the money to the public that is owed because of their abusive practices.

The letter follows:

COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON HEALTH,  
Washington, DC, September 28, 2000.

ALAN F. HOLMER,  
President, Pharmaceutical Research and Manufacturers of America, Washington, DC.

DEAR MR. HOLMER. I am writing to share with you evidence and concerns I have, that certain PhRMA members, are employing false and fraudulent marketing schemes and other deceptive business practices in order to manipulate and inflate the prices of their drugs. Drug company deception costs federal and state governments, private insurers and others billions of dollars per year in excessive drug costs. This corruptive scheme is perverting the financial integrity of the Medicare program and harming beneficiaries who are required to pay 20% of Medicare's current limited drug benefit. Furthermore, these deceptive, unlawful practices have a devastating financial impact upon the states' Medicaid Program.

As you may be aware, some state Medicaid administrators have been placed in the unenviable position of having to ration needed health care services to the poor due to a lack of funds. For example, major newspapers such as the Washington Post reported that the Administration abandoned its effort to extend Medicaid coverage for AIDS therapies due to the high cost of drugs needed to treat HIV patients (December 5, 1997).

The national media continues to report on the staggering cost of prescription drugs in the United States. By way of example, the shared Federal/State cost of providing a California Medicaid prescription drug benefit alone is now approximately \$2.4 billion dollars a year and that cost has risen by approximately 100% in the past four years. Through a Congressional subpoena, I have recently obtained internal drug company documents, together with documents from an industry insider, that explicitly expose the deliberate fraud that some of your PhRMA members are perpetrating on our nation's health care delivery system.

The evidence I have obtained indicates that at least some of your members have knowingly and deliberately falsely inflated

their representations of the average wholesale price ("AWP"), wholesaler acquisition cost ("WAC") and direct price ("DP") which are utilized by the Medicare and Medicaid programs in establishing drug reimbursements to providers. The evidence clearly establishes and exposes the drug manufacturers themselves that were the direct and sometimes indirect sources of the fraudulent misrepresentation of prices. Moreover, this unscrupulous "cartel" of companies has gone to extreme lengths to "mask" their drugs' true prices and their fraudulent conduct from federal and state authorities. I have learned that the difference between the falsely inflated representations of AWP and WAC verses the true prices providers are paying is regularly referred to in your industry as "the spread". The fraudulently manipulated discrepancies are staggering—for example in 1997 Pharmacia & Upjohn reported an AWP for its chemotherapy drug Vincasar of \$741.50, when in truth, its list price was \$593.20 (Exhibit #1 PHARMACIA 000867).

Exhibit #2 is a chart provided by an industry insider that lists a number of Medicare covered drugs where the Medicare beneficiaries' 20% co-payment exceeds the entire costs of the drug. These rogue drug companies then market their drugs to physicians and pharmacies based on this windfall profit which in reality is nothing more than a government funded kick-back to the provider.

The evidence is overwhelming that this "spread" did not occur accidentally but is the product of conscious and fully informed business decisions by certain PhRMA members. The following examples excerpted from the subpoenaed documents clearly indicate the companies' fraudulent efforts to manipulate Medicare and Medicaid reimbursements as contained in Composite Exhibit #3.

Pharmacia: "Some of the drugs on the multi-source list offer you savings of over 75% below list price of the drug. For a drug like Adriamycin, the reduced pricing offers AOR a reimbursement of over \$8,000,000 profit when reimbursed at AWP. The spread from acquisition cost to reimbursement on the multisource products offered on the contract give AOR a wide margin for profit." (000025)

Bayer: "Chris, if Baxter has increased their AWP then we must do the same. Many of the Homecare companies are paid based on a discount from AWP. If we are lowed [sic] than Baxter then the return will be lower to the HHC. It is a very simple process to increase our AWP, and can be done overnight". (BAY003101)

Alpha: "Pharmacy billing and management services can bill for product based on the published AWP and thereby net incremental margin with Venoglobulin S usage. Margin for the pharmacy is the difference between AWP and acquisition cost. (\$76.15/g-\$30.00/g=\$46.15/g margin)." (AA000529)

Fujisawa: "Many thanks to Rick and Bruce for adjusting the AWP on the five gram Vanco. This should lead to more business . . . I would have liked to see us match Abbott's AWP for our complete Vanco, and Cefazolin line. I will settle for the five gram at \$1 below Abbott but that means that we will still have to compete at the other end of the equation. For example, if Abbott's AWP is \$163 and their contract is \$30 and if our AWP is 162 we will have to be at least \$29 to have the same spread. Follow?" (F13206 & F13207)

Baxter: "Increasing AWP's was a large part of our negotiations with the large homecare companies" (0003153)

And the implications of the fraudulent manipulation of prices were clearly recognized by your member manufacturers who participated in this false pricing scheme. A series of memos from a pricing committee concerned with Glaxo's antiemetic, Zofran, show the

committee's development of an enhanced spread for Zofran through increases in AWP and decreases in net purchase price (Exhibit #4).

Glaxo: "If Glaxo chooses to increase the NWP and AWP for Zofran in order to increase the amount of Medicaid reimbursement for clinical oncology practices, we must prepare for the potential of a negative reaction from a number of quarters. . . If we choose to explain the price increase by explaining the pricing strategy, which we have not done before, then we risk further charges that we are cost shifting to government in an attempt to retain market share. Congress has paid a good deal of attention to pharmaceutical industry pricing practices and is likely to continue doing so in the next session. How do we explain to Congress an 8% increase in the NWP between January and November of 1994, if this policy is implemented this year? How do we explain a single 9% increase in the AWP? What arguments can we make to explain to congressional watchdogs that we are cost-shifting at the expense of government? How will this new pricing structure compare with costs in other countries? Is the [pharmaceutical] industry helping to moderate healthcare costs when it implements policies that increase the cost of pharmaceuticals to government?" (GWIG/7:00014 & 00015)

Internal documents from a contractor of SmithKline, (Glaxo's competitor) likewise reveal its recognition of the inflationary effect on government reimbursement of these pricing practices and the potential for an adverse counter-offensive (Exhibit #5):

" . . . highlighting the difference between the actual acquisition cost and the published AWP may not only increase attention to Glaxo's pricing practices, but may provide the impetus for HCFA to implement a system that could impact not only reimbursement of anti-emetics, but all pharmaceutical and biological products. The ramifications could extend well past Medicare to include Medicaid programs . . ." (SB01915)

Perhaps the most striking example of the manufacturers' recognition of the spread and the companies' fraudulent abuse it represents is found in a revealing exchange of correspondence between corporate counsel from Glaxo and SmithKline Beecham in which each accuse the other's company of Medicaid fraud and abuse (Exhibit #6).

Glaxo: " . . . In addition, a significant number of these pieces (see Exhibits F-J) contain direct statements or make references as to how institutions can increase their "profits" from Medicare through the use of Kytril. Some even go so far as to recommend that the medical professional use one vial of Kytril for two patients (see Exhibit F) but charge Medicaid for three vials. This raises significant fraud and abuse issues which I am sure you will want to investigate." (SB04075)

And SmithKline's response was (Exhibit #7):

SmithKline: "In an apparent effort to increase reimbursement to physicians and clinics, effective 1/10/95, Glaxo increased AWP for Zofran by 8.5%, while simultaneously fully discounting this increase to physicians. The latter was accomplished by a 14% rebate . . . The net effect of these adjustments is to increase the amount of reimbursement available to physicians from Medicare and other third party payors whose reimbursement is based on AWP. Since the net price paid to Glaxo for the non-hospital sales of the Zofran multi-dose vial is actually lower, it does not appear that the increase in AWP was designed to increase revenue per unit to Glaxo. Absent any other tenable explanation, this adjustment appears to reflect an intent to induce physicians to purchase Zofran based on the opportunity to