

EXTENSIONS OF REMARKS

IMPROPER TAXATION OF NATIVE AMERICANS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to highlight an ongoing injustice: state taxation of the income of Native American servicemen and women.

The law is clear that a state may not tax the income of tribal members who live on and derive their income from activity within the reservation. Similarly, a state may not tax the income of tribal members who serve in the military and claim their reservation as their home. Nevertheless, these tribal members continue to be taxed by several states. This practice has likely deprived thousands of Native Americans of millions of dollars.

By withholding federal wages of these Native American service personnel for state income taxes, the Department of Defense may unwittingly be assisting this improper taxation. To date, the burden has fallen on individual servicemen and women to press their claims and seek recovery of their federal wages from the states. To redress this wrong on a systemic basis. Mr. YOUNG of Alaska, Chairman of the Committee on Resources, Mr. SKELTON, Ranking Democratic Member of the Committee on Armed Services, and I have asked the Secretary of Defense to ensure that federal withholding procedures do not abet or perpetuate this practice.

I submit for the RECORD the letter to the Secretary of Defense:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, March 7, 2000.

Hon. WILLIAM S. COHEN,
Department of Defense, Office of the Secretary,
The Pentagon, Washington, DC.

DEAR SECRETARY COHEN: We are writing on behalf of Native American servicemen and women who, with the Department of Defense's (DOD's) aid, are subject to improper taxation by the states. As you know, Native Americans have a strong tradition of military service and have served their country in proportions greater than that of the general population. Nearly 16% of the Indian population 16 years and older—over 150,000 people—are veterans.

It is well-established that a state may not tax the income of tribal members who live on and derive their income from activity within the reservation. See, e.g., *Oklahoma Tax Commission v. Chickasaw*, 515 U.S. 450 (1995); *McClanahan v. Arizona Tax Commission*, 411 U.S. 164 (1973). The Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. §574, provides that service members do not lose their domicile for taxation purposes when on military assignment. Accordingly, tribal members who claim their reservation as their home when serving in the military are not subject to state income taxation. See *Fatt v. Utah State Tax Commissioner*, 884 P.2d 1233 (Utah 1994); *Turner v. Wisconsin Department of Revenue*, Tax Appeals Commission, No. I-9755 (June 19, 1986); *Beck v. North Carolina Depart-*

ment of Revenue, Opinion of the Tax Commissioner, No. 99-386 (January 25, 2000).

Although the law is clear, tribal members domiciled on the reservation who are serving their country continue to be taxed by several states. DOD is instrumental in facilitating this improper taxation by withholding federal wages for state income taxes pursuant to 5 U.S.C. §5517. That statute authorizes federal agencies to enter into agreements with states to withhold state income tax from the wages of federal employees.

We are writing to request that DOD review and revise the records of Native American service personnel to ensure that this practice of withholding federal wages for state income tax cease for those claiming the reservation as their home. Over the years, this practice has likely deprived thousands of Native American servicemen and women of millions of dollars. We note that while immediate action on your part will stop this unjust practice and inform states and tribal members of the law, it will not provide retroactive relief for tribal members.

Please let us know of the steps you plan to take to redress this wrong and your progress towards that goal. Thank you for your attention to this important matter.

Sincerely,

GEORGE MILLER,
Senior Democratic
Member,
IKE SKELTON,
Senior Democratic
Member,
Committee on Armed
Services,
DON YOUNG,
Chairman.

HONORING LEBANON CATHOLIC HIGH SCHOOL'S GIRLS' AND BOYS' BASKETBALL TEAMS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEKAS. Mr. Speaker, today I rise to recognize the incredible achievements of the girls' and boys' basketball teams of Lebanon Catholic High School in Lebanon, Pennsylvania. For the first time ever, the Lebanon Catholic Beavers have captured district basketball championships with both the boys' and girls' teams.

The boys' basketball team captured their first District Three Class A title after a come-from-behind victory of 51-45. The Beaver girls were also successful in their pursuit of the District 3 title. The girls' victory made Lebanon Catholic only the third school in the history of this district's playoffs to capture the title with both the boys' and girls' teams.

Their success was not bought with a short road to victory. The many hours of practice and hard work that these fine young men and women have invested has paid off as they celebrate not only successful seasons, but district championships as well. The athletes on these two extraordinary teams have, undoubtedly, learned valuable lessons of motivation, dedication, and team work.

These young athletes deserve the admiration of their families, teachers, and fellow students for their great accomplishments. I am proud to represent such a fine group of young people from Pennsylvania's 17th District. I know the entire House of Representatives joins me in congratulating this outstanding group of young people from Lebanon Catholic High School. Congratulations and continued success.

TRIBUTE TO THE EDWIN J. LEYANNA V.F.W. POST 671 HONOR GUARD IN DEWITT MICHIGAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. CAMP. Mr. Speaker, today I pay tribute to a group of noble veterans.

There is no more honorable cause or purpose than serving one's nation. As history illustrates, our nation has enjoyed unwavering support as millions of men and women have answered the call for duty. It is their sacrifice that has helped build and protect our great nation.

For many, service does not end at discharge. For them serving means honoring those Veterans who pass on. The Honor Guard at VFW Post 671 in DeWitt, Michigan, is composed of 35 selfless veterans who are quick to heed the call for their services when one of their compatriots passes on. Since the group was formed in 1986, these men have performed some 720 military funerals. Whether it rains or snows, these veterans—who average 69 years of age—answer the call to duty.

Appreciation for our military and for the many sacrifices of those who serve does not always get the attention it so richly deserves. Post 671's Honor Guard ensures that proper recognition will be accorded those who so bravely defended our freedom on the occasion of their final internment. Just as the brave men and women being remembered put their country before themselves, the Honor Guard places the needs of the area's veterans and their families ahead of their own.

Mr. Speaker, please join me and the proud citizens of DeWitt and surrounding communities in saluting these great patriots. I thank the Edwin J. Leyanna V.F.W. Post 671 Honor Guard for their dedication to the fallen heroes of this great nation.

SAVE MONEY FOR PRESCRIPTION DRUG RESEARCH ACT OF 2000

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. STARK. Mr. Speaker, I rise today to introduce the Save Money for Prescription Drug

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Research Act of 2000, a bill to deny tax deductions to drug companies for certain gifts and benefits, but not product samples, provided to physicians and to encourage use of such funds for pharmaceutical research and development. Rather than spending pharmaceutical dollars on these very questionable gifts, the industry should devote these billions of dollars to research and development of life-saving drugs. This bill will enable them to do so.

The magnitude of drug company bribes to doctors is staggering. In its January 19, 2000, issue, the *Journal of the American Medical Association (JAMA)* concluded that U.S. drug companies spend more than \$11 billion per year on drug promotion and marketing—an estimated \$8,000 to \$13,000 per physician. These “gifts” include free meals, travel subsidies, sponsored teachings, and even recreational benefits such as sporting event tickets and golfing fees, to name just a few. The *JAMA* article is attached.

JAMA's analysis warns that the present extent of these practices “appears to affect prescribing and professional behavior and should be further addressed at the level of policy and education.” The \$11 billion that drug companies spend lobbying doctors often leads to distorted, inappropriate, overprescribing of drugs.

Over the years, I have personally received numerous examples of drug company gift-giving to physicians. One physician has sent me many particularly outlandish examples of perks he has been offered. The number of gifts offered over the course of 1 week is staggering. One week included an invitation to the races—with a private suite, lunch, and open bar from noon to 3 p.m. Subsequent days of the week featured a free dinner at a fine restaurant where meals averaged \$25/plate and major league baseball tickets for the entire family.

I would also like to insert in the *RECORD* a March 9, 2000, *USA Today* article. This article describes a growing trend among advertising and marketing firms to sponsor physician continuing medical education courses that doctors in 34 States need to keep their licenses. These marketing firms are paid by drug companies and often hire faculty to teach courses and educate medical professionals about their sponsors' products. This provides drug companies with another opportunity to impact physician prescribing practice and increase their company profits—while giving doctors a free, questionable way to meet their recertification requirement.

Drug companies will claim that changes in tax treatment will directly decrease their investment in research. In fact, less than 4 months ago the nonpartisan Congressional Research Service (CRS) analyzed the tax treatment of the pharmaceutical industry. That analysis found taxpayer financed credits contribute powerfully to lowering the average effective tax rate for drug companies—by nearly 40 percent relative to other major industries between 1990 to 1996. With an effective tax rate so much lower than that of other industries, it's hard to feel their pain.

On top of their lowered tax rate, this industry already reaps billions and billions in profits every year. *Fortune* magazine rates the pharmaceutical industry as the most profitable business in America. The average compensation for 12 drug company CEO's was \$22 million in 1998. Likewise, CRS reported that

after-tax profits for the pharmaceutical industry averaged 17 percent—three times higher than the 5 percent profit margin of other industries.

U.S. drug companies claim their exorbitant profits are justified by the high cost of research and development. Yet pharmaceutical companies generally spend twice as much on marketing and administration as they do on research and development. In fact, some companies are guilty of spending even more than that. Merck & Pfizer spent 11 percent of revenues on R&D in 1997, while spending 28 percent on administration and marketing—including gifts and promotions aimed at physicians.

The pharmaceutical industry appears to have its priorities backward. Research and development is much more important than drug company promotions. Our nation has reaped great rewards as a result of pharmaceutical research; pharmaceutical and biotech research have led to the discovery of life-saving cures and treatments for ailments that would have cut lives short at one time. But drug companies can do more. Think of all the additional lives that could be saved if the pharmaceutical industry would dedicate the resources now spent on physician promotions to R&D.

The need for this bill is clear. Denying the pharmaceutical industry the ability to deduct expenditures for gifts (other than product samples) to physicians is a critical step in providing Americans with access to more life-saving drugs. This will discourage drug company gifts that have been shown to sway physician prescribing behavior and free up more pharmaceutical revenue for R&D. By redirecting drug company promotional expenditures to their R&D budgets, the American public would reap the benefit of increased medical breakthroughs. If the companies choose to keep the \$11 billion as company profits, then the additional tax revenue from these increases could be used to provide a much-needed Medicare prescription drug benefit. Any way you look at it, this bill is a winner for the American public.

I look forward to working with my colleagues in support of this legislation to encourage pharmaceutical research and development and to deny drug company tax deductions for gifts to physicians.

[From *JAMA*, Jan. 19, 2000]

PHYSICIANS AND THE PHARMACEUTICAL
INDUSTRY

IS A GIFT EVER JUST A GIFT?

(By Ashley Wazana, MD)

There are few issues in medicine that bring clinicians into heated discussion as rapidly as the interaction between the pharmaceutical industry and the medical profession. More than \$11 billion is spent each year by pharmaceutical companies in promotion and marketing, \$5 billion of which goes to sales representatives. It has been estimated that \$8000 to \$13000 is spent per year on each physician. The attitudes about this expensive interaction are divided and contradictory. One study found that 85% of medical students believe it is improper for politicians to accept a gift, whereas only 46% found it improper for themselves to accept a gift of similar value from the pharmaceutical company. Most medical associations have published guidelines to address this controversy. Perhaps the intensity of the discussion is related to the potential consequences were it confirmed that gifts influence prescription of medication that results in increasing cost or negative health outcomes.

This article addresses the question by way of a critical examination of the evidence.

Two review articles have addressed the factors affecting drug prescribing, but only 1 has focused on the impact of the physician-industry interaction on the behavior of physicians. This article critically examines the literature and highlights articles with rigorous study methods.

METHODS

Studies were identified by searching MEDLINE for articles from 1994 to the present, using the expanded Medical Subject Headings conflict of interest and drug industry, limiting the search to articles in English while excluding review articles, letters, and editorials; each identified study was cross-referenced; a database of 400 articles gathered by the Medical Lobby for Appropriate Marketing was searched; and 5 key informants were sought for their bibliographies on the topic.

A total of 538 studies that provided data on any of the main study questions were targeted for retrieval. Of the 29 studies that were published in peer-reviewed journals and identified as potentially relevant (containing quantitative data on 1 of 3 facets of physician-industry interactions), 10 were from MEDLINE and 19 from other sources. The data extractor (A.W.) was not blinded to the authors of the studies.

Those with an analytical design (having a comparison group) were considered to be of higher methodological quality.

Context. Controversy exists over the fact that physicians have regular contact with the pharmaceutical industry and its sales representatives, who spend a large sum of money each year promoting to them by way of gifts, free meals, travel subsidies, sponsored teachings, and symposia.

Objective. To identify the extent of and attitudes toward the relationship between physicians and the pharmaceutical industry and its representatives and its impact on the knowledge, attitudes, and behavior of physicians.

Data Sources. A MEDLINE search was conducted for English-language articles published from 1994 to present, with review of reference lists from retrieved articles; in addition, an Internet database was searched and 5 key informants were interviewed.

Study Section. A total of 538 of studies that provided data on any of the study questions were targeted for retrieval, 29 of which were included in the analysis.

Data Extraction. Data were extracted by 1 author. Articles using an analytic design were considered to be of high methodological quality.

Data Synthesis. Physician interactions with pharmaceutical representatives were generally endorsed, began in medical school, and continued at a rate of about 4 times per month. Meetings with pharmaceutical representatives were associated with requests by physicians for adding the drugs to the hospital formulary and changes in prescribing practice. Drug company-sponsored continuing medical education (CME) preferentially highlighted the sponsor's drug(s) compared with the CME programs. Attending sponsored CME events and accepting funding for travel or lodging for educational symposia were associated with increased prescription rates of the sponsor's medication. Attending presentations given by pharmaceutical representative speakers was also associated with nonrational prescribing.

Conclusion. The present extent of physician-industry interactions appears to affect prescribing and professional behavior and should be further addressed at the level of policy and education.

[From USA Today, Mar. 9, 2000]

WHO'S TEACHING THE DOCTORS?

DRUG FIRMS SPONSOR REQUIRED COURSES—AND
SEE THEIR SALES RISE

(By Dan Vergano)

At first glance, Harvard Medical School and advertising giant Omnicom Group seem to have little in common. But they share one trait: the right to award medical education credits that doctors need to keep their licenses in 34 states.

Omnicom, working through subsidiary Pragmaton, is one of a growing number of advertising and marketing firms that provide continuing medical education (CME) courses for physicians. The firms are fully accredited, but because the marketing firms often are working for pharmaceutical companies, the practice increasingly is setting off ethical alarms.

"It is unconscionable," says Catherine De Angelis, editor in chief of the Journal of the American Medical Association.

Marketing firms "advertise wares under the guise of medical education," she says.

But advocates say commercial CME courses use faculty from top medical schools, ensuring objectivity, while delivering updates on drugs to the medical community more quickly than academic educators.

"Companies live through education" to ensure new products are used appropriately, says Bert Spilker of the Pharmaceutical Research and Manufacturers of America in Washington, D.C.

Without commercial CME firms, "you won't find enough Mother Teresas to provide everything doctors need," says Michael Scotti, a CME official with the American Medical Association. His organization is one of the seven medical groups that charter the Chicago-based Accreditation Council for Continuing Medical Education (ACCME), the office that accredits courses nationwide.

The drug companies provide "unrestricted" grants to the marketers, who hire the course faculty. But growing numbers of critics say there's nothing unrestricted about the involvement of pharmaceutical companies.

They fear that CME firms, which widely refer to course sponsors as "clients," stack their programs with faculty physicians overly friendly to their sponsors' products. Sponsors get a chance to market their products directly to doctors in a venue disguised as education, critics say. In fact, one company, Indianapolis-based Eli Lilly, is directly accredited for CME, raising further concerns.

Regulations going into effect in June promise higher standards of separation between grant providers and course faculty, but critics say they are weak and unenforceable. Meanwhile, attempts to change the practice have been rebuffed even as the number of commercial providers has increased. Last spring, a resolution condemning accreditation of commercial CME firms, signed by educators from 47 medical schools, was offered to the Society for Academic Continuing Medical Education. In November, the document was tabled because of the "possibility or likelihood of grant money to universities being reduced by pharmaceutical companies," says one of its authors, Ruth Glotzer of Tufts University School of Medicine in Boston.

In February, a federal appeals court turned away the Food and Drug Administration's latest bid for oversight of the CME industry, reaffirming a decision made on freedom-of-speech grounds.

PATIENT'S BEST INTEREST?

The concern comes at a time when pharmaceutical influence on doctors is under

scrutiny. A January study in the Journal of the American Medical Association found that company-sponsored courses mentioned positive effects of the companies' drugs 2.5 to 3 times more often than other courses. Swayed by such marketing, doctors prescribed the sponsors' drugs 5.5% to 18.7% more often afterward, according to the study, without giving competitive products a similar bounce.

Critics fear that what's in the patient's best interest won't always be the determining factor when a doctor scribbles out a prescription.

They point to firms such as an accredited company called Interactive Medical Networks (IMN) of Rockville, Md., which promises pharmaceutical companies "a collaborative process with a provider who shares your expectations" on its Web site (www.cmemuscle.com). In translation, that means commercial grant providers can freely recommend faculty for courses, IMN head Jan Perez says. "If they're interested in Dr. Jones or Dr. Smith, we try to work with them."

Under current conditions, "it's up to doctors to identify who's shilling for a company," says cardiologist Richard Conti of the University of Florida at Gainesville, editor in chief of Clinical Cardiology.

Despite believing that the CME system works well overall, Conti wrote an editorial last year calling for all providers to have independent monitoring committees to ensure objectivity.

"We recognize that concern," says Murray Kopelow, head of the ACCME. Under the standards going into effect in June, parent companies of commercial CME firms must possess a mission "congruent" with medical education.

Kopelow says commercial course providers will meet the standards if they maintain a "firewall" between corporate departments whose mission is selling advertising to drug companies and the people preparing medical education courses.

PAYING FOR THE SYSTEM

Accredited course providers report about \$900 million in annual income to the ACCME. More than 40% of grant funding from drug and medical device firms goes to the 25% of those providers consisting of commercial organizations, not the medical schools and societies that control other aspects of physician training.

"We work the same way academic centers work", says Dennis Hoppe of Chicago-based Pragmaton. At the insistence of clients, employees involved with education cannot have a role in advertising activities. In addition, the company hires external doctors and pharmacists to review programs for objectivity.

Pragmaton has higher course standards than his hospital, says psychiatrist Michael Easton of Rush Presbyterian St. Luke's Medical Center in Chicago, a review board member.

If the accrediting group arbitrarily banned commercial firms from offering CME, it would result in a class-action lawsuit aimed not only at the organization, but also against critics, says Jack Angel, head of the Coalition for Healthcare Communication, an industry trade group. "As long as we meet the same standards, we have a right to participate," he says.

"Baloney," De Angelis says. "Show me one of their programs where (faculty) physicians push drugs not made by the sponsor."

On the industry side, Angel says academic providers may be complaining about commercial providers more for competitive than altruistic reasons. "They want more of the action."

FEW PHYSICIAN COMPLAINTS

In response to the dispute, Kopelow says, the ACCME has considered requirements that independent monitoring committees oversee all providers. But even with the new standards, critics note other potential problems with the group's oversight:

Providers get to pick in advance which monitors review courses for objectivity.

No requirements ensure that physicians take courses relevant to their specialties.

No explicit requirement exists for physician involvement in CME planning.

"We rely on faculty professionalism to a large extent," Kopelow says. Industry participation in medicine is standard practice, he says, citing such examples as for-profit hospitals and health maintenance organizations as "the way we do things in the United States." Private companies offering CME simply reflect that phenomenon, in his view.

The required disclosure of who finances a course and of any faculty ties to corporate sponsors goes a long way toward ensuring doctors who take CME courses know where advice is coming from, Kopelow says. "We have millions of eyes out there watching" in some 600,000 annual hours of accredited courses.

Over the past three years his organization has received 56 complaints about programs, 14 resulting in warning letters. But some point out that doctors who want to renew their medical licenses have little incentive to call into question a program that helps them reach that goal.

"Patients should be concerned about this," Glotzer says. "The job and responsibility of these firms is to market drugs, not to teach doctors."

Disputes over industry involvement in medicine extend into many areas, some physicians note.

"It's somewhat insulting to think that doctors don't have inquiring minds that can tell the good from the bad," says Dolores Bacon of New York Presbyterian Medical Center.

"There's a huge variability in commercial (CME) programs," she adds. "Ultimately, as physicians, our job is to be informed consumers."

HONORING THE AMERICAN ASSOCIATION OF DENTAL SCHOOLS (AADS)

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. NORWOOD. Mr. Speaker, today I recognize the tremendous work performed by a group of dedicated and tireless professionals: the members of the American Association of Dental Schools (AADS). Many members, including those from the 10th Congressional District of Georgia, are gathering at the AADS 77th Annual Meeting here in the nation's capital. I congratulate the AADS for its achievements. AADS is the one national organization that speaks exclusively for dental education.

Since 1923 the Association's institutional membership has trained the nation's oral health care providers. The Association has done exemplary work in leading the dental education community in addressing the issues influencing education, research, and the health of the public. Members of the Association including all of the dental schools in the United States, Puerto Rico, and Canada, allied dental