

would influence the decisions of healthcare providers submitting the Medicare and Medicaid claims. Indeed, Bristol did not falsify published prices in connection with other drugs, where sales and market penetration strategies did not include the arranging of such financial “kickbacks” to the healthcare provider.

In the case of the drugs for which Bristol sought to arrange a financial kickback at the expense of the government programs, the manipulated discrepancies between your company's falsely inflated AWP's and DP's versus their true costs are staggering. For example, in the 2000 edition of the Red Book, Bristol reported an AWP of \$1296.64 for one 20mg/ml, 50ml vial of Vepesid (Etoposide) for injection [NDC #00015-3062-20], while Bristol was actually offering to sell the exact same drug to Innovatix members a

In addition to Bristol's unconscionable price manipulation of Vepesid, I am also concerned about Bristol's newer drug Etopophos. As the following excerpts from Bristol's own documents reveal, Bristol's earlier participation in the false price manipulation scheme with respect to Etoposide (Vepesid) interfered with physicians medical decisions to use Etopophos:

“The Etopophos product profile is significantly superior to that of etoposide injection . . .”

“Currently, physician practices can take advantage of the growing disparity between VePesid's [name brand for Etoposide] list price (and, subsequently, the Average Wholesale Price [AWP]) and the actual acquisition cost when obtaining reimbursement for etoposide purchases. If the acquisition price of Etopophos is close to the list price, the physician's financial incentive for selecting the brand is largely diminished”.

Bristol thus acknowledges that financial inducements influence the professional judgment of physicians and other healthcare providers. Bristol's strategy of increasing the sales of its drugs by enriching, with taxpayer dollars, the physicians and others who administer drugs is reprehensible and a blatant abuse of the privileges that Bristol enjoys as a major pharmaceutical manufacturer in the United States.

Physicians should be free to choose drugs based on what is medically best for their patient. Inflated price reports should not be used to financially induce physicians to administer Bristol's drugs. Bristol's conduct, in conjunction with other drug companies, has cost the taxpayers billions of dollars and serves as a corruptive influence on the exercise of independent medical judgment.

Bristol employed a number of other financial inducements to stimulate the sales of its drugs at the expense of the Medicare and Medicaid Programs that were concealed from the Government. Such inducements included volume discounts, rebates, off invoice pricing and free goods designed to lower the net cost to the purchaser while concealing the actual cost of the drug from reimbursement officials. Bristol provided free Etopophos to Drs. Lessner and Troner in exchange for the Miami oncologist's agreement to purchase other Bristol cancer drugs. This arrangement had the effect of lowering the net cost of the cancer drugs to the oncologist and creating an even greater spread than would already result from the invoiced prices. The value of the free goods is often significant: Similarly, other exhibits show that Bristol provided free Cytopogards in order to create a lower than invoice cost to physicians that purchased other cancer drugs through the Oncology Therapeutic Network.

It is important to note that the above free good examples created financial incentives to the physicians that were over and above the spread created by the difference between

Bristol's reported prices and regular prices provided to the market.

Bristol's price manipulation scheme was directed at both the Medicare and Medicaid Programs. Bristol commonly reported prices directly to Medicare carriers as well as State Medicaid Programs. Exhibit 8, attached hereto, contains examples of Bristol's price reports that were routinely directed to State Medicaid Programs and Medicare carriers through Western Union Mailgrams.

This scheme is further illustrated by Bristol's fraudulent price representations about its drug Blenoxane. Bristol's AWP fraud with respect to Blenoxane is clearly demonstrated in Composite Exhibit 9, attached hereto, which consists of invoices relating to sales of the drug by Oncology Therapeutic Network to Jeffery N. Paonessa, MD, an oncologist practicing in St. Petersburg, Florida. In 1995, Bristol caused an AWP to be published of \$276.29 when it sold Blenoxane to Dr. Paonessa for \$224.22. In 1996, Bristol increased its reports of AWP to \$291.49, while continuing to sell the drug to Dr. Paonessa for \$224.27. In 1997, Bristol falsely reported that it had increased its AWP to \$304.60 when, in reality, it lowered the price to oncologists as reflected by its price to Dr. Paonessa of \$155.00. In 1998, Bristol again reported a false AWP of \$304.60 while reducing its price to oncologists as reflected by the \$140.00 price to Dr. Paonessa. The following chart summarizes this information:

Blenoxane 15—NDC#00015-3010-20

Year	Red Book AWP	Price to Florida oncologist	Spread
1995	\$276.29	\$224.22	\$52.07
1996	291.49	224.22	67.27
1997	304.60	155.00	149.60
1998	304.60	140.00	164.60

It is essential that the Health Care Financing Administration (“HCFA”) and other government reimbursement authorities receive truthful and accurate information from Bristol regarding drugs for which the government reimburses. The evidence uncovered by the Congressional investigations to date seems to reveal a conscious, concerted and successful effort by Bristol to actively mislead HCFA and others about the price of their drugs. I have forwarded this matter to the Department of Justice and request that Bristol's conduct be investigated under the Anti-Kickback and Prescription Drug Marketing Statutes.

Bristol's price manipulation has already caused the Medicare and Medicaid Programs unconscionable damage. The inflation index for prescription drugs continues to rise at a rate of more than twice that of the consumer price index. The American taxpayer, Congress and the press are being told that these increases are justified by the cost of developing new pharmaceutical products. Bristol and several other manufacturers are clearly exploiting the upward spiral in drug prices by falsely reporting that prices for some drugs are rising when they are in truth and in fact failing. This fraudulent price manipulation cannot be permitted to continue. I urge Bristol to immediately examine its corporate conscience, correct its behavior and make amends for the injuries it has caused government programs to date. It is time to earn your claims for social responsibility.

Please share this letter with your Board of Directors and in particular with the Board's Corporate Integrity Committee.

Sincerely,

PETE STARK,
Ranking Member.

BLACK HISTORY MONTH

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. BOYD. Mr. Speaker, the month of February is known as “Black History Month.” It celebrates, not only the black race, but also the spirit and contributions of African-American culture.

The beauty and strength of America is rooted in her people. Each ethnicity contributes to the diverse patchwork that is our nation. I find it particularly important that we recognize the history of black Americans during the month of February. From the egregious stories of abduction that brought so many ancestors to this nation, to Jackie Robinson tearing down the barriers of color in Major League Baseball, the story of black America, with its' highs and lows, is one that should be revived and remembered.

As Black History Month in the year 2001 comes to a close, I embrace the future with a stronger knowledge of the past and look forward to the day Dr. Martin Luther King dreamed of “when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, 'Free at last! Free at last! Thank God almighty, we are free at last!'”

CENTRAL NEW JERSEY RECOGNIZES DEFOREST B. SOARIES, JR. FOR HIS SERVICE TO OUR COMMUNITY

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. HOLT. Mr. Speaker, today I recognize Rev. Dr. DeForest B. Soaries, Jr., and his ongoing dedication to serving the needs of families throughout New Jersey. I join with the Metropolitan Trenton African American Chamber of Commerce in recognizing the many contributions he has made working to address the growing needs of our diverse community.

On January 12, 1999, Governor Christine Todd Whitman presented Rev. Soaries as New Jersey's Secretary of State. Secretary Soaries has since brought new energy to the Department of State and its mission to preserve and promote the story of New Jersey and its citizenry. With his broad experience and extensive abilities, Secretary Soaries oversees one of the leading departments of state government.

In his official capacity, Secretary Soaries oversees the Department of State's operating agencies consisting of the New Jersey State Museum; New Jersey Martin Luther King, Jr., Commission; and the Governor's Office of Volunteerism to name a few. Additionally, Secretary Soaries was charged with advancing a number of Governor Whitman's quality of life programs.

Secretary Soaries is an ordained minister and presently serves as the senior pastor of the very active First Baptist Church of Lincoln Gardens. Since joining the leadership of First Baptist, Secretary Soaries has worked to increase the congregation's membership. Secretary Soaries has aided in the development

of a number of economic, spiritual, and educational programs for church members and local residents.

Once again, I applaud the many ongoing contributions to our community made by New Jersey's Secretary of State DeForest Soaries and ask all my colleagues to join me in recognizing these commitments.

DISTINGUISHED DIRECTOR'S AWARD

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. LIPINSKI. Mr. Speaker, today I personally extend my warmest congratulations to United States Marshal James L. Whigham and the honorable men and women of the Northern District of Illinois' United States Marshals Service.

On February 28, 2001, Marshal James L. Whigham accepted the prestigious 2000 Director's Distinguished District Award on behalf of the Northern District of Illinois' United States Marshals Service. The outstanding achievements of Marshal James L. Whigham and the men and women of the Northern District have brought great pride to my district, and I commend their dedication and commitment to their service.

It is a great achievement and honor to be distinguished among the other United States Marshals Service districts. This honor has truly shown the strong leadership and exemplary performance of the United States Marshals in the Northern District of Illinois.

I am very proud of United States Marshal James L. Whigham and the men and women of the Northern District of Illinois. I wish them the best of luck in their future service to our community.

PERSONAL EXPLANATION

HON. DENNIS REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. REHBERG. Mr. Speaker, I was unavoidably detained due to travel delays and was not able to cast a vote on rollcall No. 16. Mr. Speaker, had I been present and not unavoidably delayed I would have voted "yea" on this important House Concurrent Resolution.

IN MEMORY OF CLARENCE MARVIN BLACKMAN, SR.

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. ETHERIDGE. Mr. Speaker, today I honor the life of Clarence Marvin Blackman, Sr. of Benson, North Carolina, who died December 20, 2000. In his passing, Benson lost one of its most outstanding citizens and a man who was instrumental in growing the town to its present state. He was the kind of citizen who had the best interest of his community in mind before he made any decision.

As one of his friends put it, "If anything good happened in Benson, it was a safe bet that C.M. Blackman would be one of the people behind it."

Born in Johnston County, Blackman was the son of the late Frank and Callie Altman Blackman. He came to Benson in 1934 to open a farm supply and grocery store with Alton Massengill. He later bought out his partner and in subsequent years added an insurance agency to the business he already owned. In 1950, Blackman and four other Benson men founded the Benson Livestock Market, putting a market in easy reach of the hundreds of farmers in Harnett and Johnston counties.

A man of great energy and widespread interests, Blackman served as a town commissioner for 29 years and was mayor from 1955 to 1959. He was named Citizen of the Year in 1962 and was a charter member of the Benson Lions and the Benson Businessman's Club, which later became the Benson Area Chamber of Commerce. He was also a member of the Benson Junior Order.

After being appointed to the Board of Directors of the Benson Annual Sing in the early 1940's, Blackman served as assistant manager. He also served as announcer for the competitions.

Blackman loved his family and friends and business associates. He hosted a Christmas breakfast for them every year for 31 years. In 1999, the breakfast was named in his honor as the Annual C.M. Blackman Christmas Breakfast.

Blackman's survivors include his wife, Pernella Massengill Blackman; a daughter, Jackie B. Smith of Fayetteville; two sons, C.M. Blackman, Jr., of Raleigh and Danny Blackman of Dunn; six grandchildren and eight great-grandchildren.

Mr. Speaker, C.M. Blackman, Sr. used every minute of his long and productive life to make the world a better place. He was a respected and successful businessman, a dedicated public servant, and a great North Carolinian. It is fitting that we honor him and his family today.

INTRODUCTION OF A BILL TO REPEAL THE 2-PERCENT EXCISE TAX ON PRIVATE FOUNDATIONS

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. STEARNS. Mr. Speaker, the United States is blessed with a deep spirit of philanthropy. Charitable organizations serve the interests of both the individual and the community. Private foundations, in particular, have made a measurable difference in the lives of Americans. From access to public libraries, developing the polio vaccine, and even leading in the creation of Emergency 911, each and every American has experienced the benefits of the tireless efforts of these foundations.

Currently, there are approximately 47,000 foundations in the United States. In 1998, foundations gave away an estimated \$22 billion in grants. These foundations were also forced to give the Federal Government a grant of \$500 million in 1999.

Under current law, nonprofit private foundations generally must pay a 2-percent excise tax on their net investment income. This requirement was originally enacted in the Tax Reform Act of 1969 as a way to offset the cost of Government audits of these organizations. However, since 1990, the number of IRS audits on private foundations has decreased from 1200 to 191. Yet, excise collections have grown from \$204.3 million in 1990 to \$499.6 million in 1999.

In addition, private foundations are bound by a 5-percent distribution rule. Foundations must make annual qualifying distributions for charitable purposes equal to roughly 5-percent of the fair market value of the foundation's net investment assets. The required 2-percent excise tax—payable to the IRS—actually counts as a credit to the 5-percent distribution rule.

So, what we have is a private foundation making a charitable grant to the Federal Government every year. Now, the last time I looked, the Federal Government was not in any dire need of charitable contributions. In fact, in the next 10 years, the Federal budget surplus is projected to be \$5.7 trillion. In 2002 alone, we are projected to have a \$231 billion surplus. Therefore, I believe that Americans have been more than "charitable" in giving the Government their hard-earned dollars. It is time that we begin the process of returning that money to the people.

President Bush is working to accomplish that goal with his reduction in tax rates, and allowing for the increased use of charitable deductions and credits. My bill goes one step further, it gives those charitable organizations relief from wasting \$500 million on the Federal Government and, instead, giving the money to those who truly need it.

I would also like to emphasize that former President Clinton proposed a reduction in the excise tax in his fiscal year 2001 budget. The Treasury Department noted, "Lowering the excise tax rate for all foundations would make additional funds available for charitable purposes." Common sense dictates that the elimination of this tax would spur additional charitable giving.

I want to thank Congressman CRANE for his support on this bill and ask our colleagues to lend their support as well.

VETERANS' OPPORTUNITIES ACT OF 2001

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. SMITH of New Jersey. Mr. Speaker, as Chairman of the Committee on Veterans' Affairs, today I am introducing on behalf of Mr. Evans, Mr. Hayworth, Mr. Reyes and myself the Veterans' Opportunities Act of 2001. This measure would make a number of needed improvements to VA benefits and services including memorial affairs, life insurance, the means-tested pension program, automobile and adaptive equipment and specially adapted housing for seriously disabled veterans. Five different transition and outreach services to servicemembers, veterans, and disabled veterans and their dependents are included in the bill, as well as provisions affecting various veterans' educational assistance programs.