

agreement, these pharmaceutical companies promised to offer pharmacies the same price discounts as favored customers like large HMOs if the pharmacies could show the same ability to move market share as the favored customers. On July 13, 1998, four additional drug manufacturers agreed to a settlement under similar terms.

Unfortunately, the results of this study cast doubt on whether these agreements are likely to end the price discrimination practices of the large pharmaceutical companies. Eight of the ten most popular prescription drugs in this survey—Zocor, Norvasc, Prilosec, Procardia XL, Relafen, Vasotec, Fosamax, and Zoloft—are covered by the agreement reached in 1996, and there is still large price discrimination for all of these drugs. Synthroid is also covered under the agreement, and this drug has a price differential of 1,512%.

The reason for the continued high price differentials may be that, unlike hospitals or HMOs, pharmacies cannot control decisions made by doctors about what drugs to prescribe, and thus are unable to demonstrate to the drug manufacturers that they can influence market share. The doubts raised by this study are consistent with the observations of other industry analysts, who note that "there is already intense skepticism among retail buying groups for independent drugstores about whether the smaller independents will have the ability to qualify for the potential windfall and pass the savings on to customers." *Wall Street Journal*, Drug Makers Agree To Offer Discounts For Pharmacies, July 15, 1998, p. B4, column 3.

¹⁹See 1998 Fortune 500 Industry List (www.pathfinder.com/fortune500/indlist.html).

²⁰Paul J. Much, Houlihan Lokey Howard & Zukin, Expert Analysis of Profitability (February 1988).

²¹USA Today, Drugmakers Have Healthy Outlook (July 20, 1998).

²²IMS America, Top 200 Drugs of 1997 (1998).

²³USA Today, *supra* note 22.

²⁴*Id.*, D1.

PRESCRIPTION DRUG PRICING

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. SANDERS. Mr. Speaker, I want to bring attention to a crisis in our nation. Our seniors are dying because they cannot afford the medication prescribed to them by their doctors. Either they don't take their medicine, or they stop eating in order to save money to fill their prescriptions. This is a travesty.

I am pleased to join my colleagues in supporting the Prescription Drug Fairness for Seniors Act, which will allow elderly Americans to purchase their prescriptions at a lower and fairer price. Currently, many large groups, such as HMOs, insurance companies, and hospitals, purchase drugs at a reduced price from the pharmaceutical companies. These are known as most favored customers. However, one group that makes up about one-third of the drug-buying market is left out of this discount—Medicare beneficiaries.

The Prescription Drug Fairness for Seniors Act will give Medicare beneficiaries a drug benefit card that they can use to purchase prescription drugs at reduced prices from participating pharmacies. The Government Reform and Oversight Committee estimates that seniors will be able to receive more than a 40-percent discount. This will be a much-needed, in fact, lifesaving, change for our nation's elderly citizens.

The average income for all seniors was \$17,000 in 1996. However, that number plummets to only \$13,000 per year for elderly women, or just over \$1,000 per month. Many seniors pay at least one-half that amount for prescription drugs. It is absurd to charge those individuals who can least afford it the highest

prices for their needed medication. I've heard from seniors in my state that they not only are paying a huge amount of their monthly income for prescriptions, but that they don't know how they can deal with the prices that continue to rise.

And our seniors are somewhat lucky in Vermont. There are two programs run by the state that give low-income seniors help with paying for their prescription drugs. One program, V-HAP, is for very low-income seniors who earn too much for Medicaid. This program allows seniors to pay just a few dollars a month for their drugs. The other program, VScript, has a higher income threshold and gives seniors with chronic illnesses a 50-percent discount on their prescriptions. And still, many seniors either do not know about these state programs, or they take advantage of them and still find it difficult to pay for their drugs, even with the 50-percent discount!

In two recent cases in Vermont, my constituents went to have their prescriptions refilled and found that the price had more than doubled in less than 2 months with no notice to them. This is ridiculous! One of the pharmacists even had the audacity to ridicule one of my constituents when she became upset at the huge increase in price and wondered how to pay for it.

Another of my constituents, Katherine Bentley, whose story is mentioned in my Vermont report on seniors' drug prices, was unable to pay her electric bill because she was paying almost \$600 per month—more than half her income—for her prescription drugs. This forced her out of her home and she still cannot afford all of her medication. Our seniors deserve to be treated much, much better than this.

In recent years, many Members of Congress, including myself, have advocated having Medicare cover prescription drugs. I still believe that this is a fair, solid proposal. However, why should the Federal Government take up the cost of this plan when the pharmaceutical companies, with annual profits in the billions of dollars, which put them on the Forbes 50 list annually, could and should offer the same discount to Medicare beneficiaries as they offer to HMOs and insurance companies? Who do we side with here? The multi-billion dollar pharmaceutical companies or poor, sick, elderly Americans who need prescription drugs? It is only fair to allow Medicare beneficiaries with their considerable buying power, to get the same discount on their drugs as large corporations.

In addition to allowing seniors to purchase drugs at this reduced rate, another solution to providing lower-cost drugs for all Americans, including the elderly, is to reinstate the reasonable pricing clause at NIH. This provision was repealed in 1995. It directed NIH to take into account the cost that a pharmaceutical company would charge future customers for a drug before agreeing to issue a cooperative research and development agreement (CRADA). I have introduced bipartisan legislation, along with Representatives ROHRBACHER, CAMPBELL, and PATRICK KENNEDY, to reinstate this provision. The bill is H.R. 3758, the Health Care Research and Development and Taxpayer Protection Act.

Let me detail how important the reasonable pricing clause is. Today, drug companies charge whatever they want for drugs. Taxpayers get hit twice—once when their tax dol-

lars go to develop these drugs at NIH and again when they have to buy the medication.

Here are some examples of how the taxpayers are gouged by the pharmaceutical companies: Taxol, a breast cancer treatment drug, costs its manufacturer, Bristol Myers Squibb, \$500. Bristol Myers Squibb turns around and charges \$10,000 for that drug. This drug makes the pharmaceutical company \$1 million every day. In this decade, two million women will be diagnosed with breast cancer—1/2 million of them will die. They are dying because they do not have \$10,000 for Taxol, which would save thousands of lives. Levamisole, which was sold by Johnson&Johnson as an anti-worm drug for sheep at six cents a pill, was found to treat colon cancer. With this discovery, Johnson&Johnson began charging \$6 a pill, a 100-percent markup. Colorectal cancer killed over 50,000 Americans in 1995. Again, seniors are dying because they cannot afford these ridiculously expensive drugs to treat their cancer.

I hope that we can pass both pieces of legislation quickly—both the seniors drug pricing legislation and the NIH reasonable pricing clause legislation—as many of my constituents have urged, so that no more seniors are forced out of their homes, or are forced to choose between food or medicine. This is disgraceful and we need to give seniors access to their medication at a fair price.

PRESCRIPTION DRUG PRICING

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. TIERNEY. Mr. Speaker, and I would first like to thank my good friend from Maine, Tom Allen, for his work to end the gouging of prices for prescription drugs by pharmaceutical companies.

We have heard horror stories about seniors forgoing food, electricity or other necessities in order to pay for their monthly medications. In some instances, seniors will choose one medication of the other, alternating each month, because they simply cannot afford to be buying everything they need. We have seen the profits of pharmaceutical companies skyrocket to nearly \$20 billion a year. And there profits will continue to grow, at the expense of our nation's seniors. It is time to end this cycle of discrimination.

In Massachusetts, we are fortunate to have a number of safety nets in place to help seniors with their prescription drug needs. Our state Medicaid system, MassHealth, protects the poorest of the poor. Our State Pharmacy Program provides up to \$750 a year in prescription drug coverage. The State Legislature even passed a law in 1994 to require all Medicare HMO's to provide an optional prescription drug benefit. Approximately 75 percent of the 211,000 beneficiaries in the state enrolled in Medicare HMO's benefit from this option.

However, there are many who fall through the cracks and for reasons beyond their control, are not eligible for any federal or state assistance.

For example, Georgia LaPine from North Andover, MA is a 74 year old retiree who is completely dependant on her monthly Social Security check. She is on numerous medications, including three different asthma inhalers,

thyroid pills, nitroglycerine for a heart condition, and Lorazepam for her nerves. She cannot afford to purchase all of these medications each month. Subsequently, she was forced to forgo her heart medication, and has had trouble affording groceries. Georgia tries to put money aside each month to buy the medication she needs, but each time she foregoes any medication or doesn't eat properly, her condition worsens. She constantly worries about her monthly prescription requirements and as a result, her asthma and anxiety problems have worsened.

And it is not only the seniors who suffer. Thousands of independent pharmacies go out of business each year because they simply cannot afford to purchase certain drugs from pharmaceutical companies. Pharmacists in my district care about their customers and have told me how painful it is to explain to a senior citizen why the medication that cost \$15 last month now costs \$65. But, if the pharmacy doesn't stock the medications, they will lose considerable business.

Jack Collins of Lynn Fells Pharmacy in Saugus, MA, stated "They know that we will expose them and their pricing policies . . . it's independent pharmacist who will take the time to explain to a senior citizen just how they are being ripped off. We are their enemies and they are determined to eliminate us." He goes on to say that, "If you and your colleagues in Congress don't stand up to this cartel and level the playing field on prescription pricing, the people in this country paying cash for their medicines will continue to neglect filling their prescriptions, necessitating more hospital visits and further driving the cost of health care through the roof."

It if becomes too late this session to act on legislation such as Mr. Allen's Prescription Drug Fairness for Seniors Act, I would urge my colleagues on both sides of the aisle to make this a priority for the 106th Congress. This is not a partisan issue. Every district has seniors like Georgia LaPine and independent pharmacists like Jack Collins. We constantly talk about protecting seniors and helping small businesses. We simply cannot continue to provide pharmaceutical companies with research and development funding and close our eyes to discriminatory pricing schemes that target seniors, among others, or their exorbitant price increases. This legislation that we have introduced would benefit seniors and pharmacies by allowing them to purchase low-cost prescription drugs by taking advantage of the purchasing power of existing Federal Supply Schedule prices.

This is a plan that is budget neutral, and which, given the drug manufacturers' uncommon profit margins, need not adversely affect prices in general. This is an effective and much-needed solution. I urge both the Republican and Democratic Leadership to make this issue a priority for the next session.

AUTHORIZING AWARD OF CONGRESSIONAL MEDAL OF HONOR TO THEODORE ROOSEVELT

SPEECH OF

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CLAY. Mr. Speaker, if there had been a recorded vote rather than a voice vote on H.R.

2263, a bill to confer the Congressional Medal of Honor on Colonel Theodore Roosevelt, I would have voted "no". To honor the former President some 100 years after his alleged act of bravery during the battle of San Juan Heights, Cuba, would be just another example of how American history is constantly and erroneously revised.

Common sense should dictate that if Mr. Roosevelt accomplished the great and valiant deeds of heroism that he (Mr. Roosevelt) claims, then he would have been awarded the medal many years ago. If Roosevelt's popularity immediately following the Spanish American War played a major role in his being elected governor of New York and helped his many friends in the highest places of government, why was he denied the honor?

Roosevelt enlisted the aid of his political powerful friend, Senator Henry Cabot Lodge to pursue the matter and still was rejected. The primary basis for the rejection was there were no eyewitnesses to Mr. Roosevelt's courageous actions. His superior officers, Generals Leonard Wood, Joseph Wheeler and William Shafter all submitted glowing endorsements of Roosevelt's "distinguished gallantry", but they were viewed with little merit as none of them actually witnessed his alleged heroic charge. The only credible eyewitness was Roosevelt's personal publicist, Richard Harding Davis, who accompanied Roosevelt to Cuba.

Hundreds of highly decorated units of black soldiers were among the first to be sent to Cuba in 1898 to fight in the Spanish American War, including the 9th and 10th Cavalry and the 24th and 25th Army Regiments. These heroic soldiers waged a furious battle, capturing El Caney and charging the enemy from the summit at San Juan Hill. Their acts of bravery enabled Colonel Roosevelt and his "Rough Riders" to win San Juan Hill the following day. According to an article which appeared in the *Washington Times* on February 8, 1991, "Neither Col. Theodore Roosevelt, whose name is most commonly associated with the battle of San Juan Hill, nor any other Roughrider reached the summit before the black calvary".

The Americans outnumbered the Spanish militia 10 to 1, but the undermanned Spaniard troops fought fiercely from their concrete blockhouses. American casualties were heavy. More than 200 were killed or injured. Five Negro soldiers won Congressional Medals of Honor for bravery in the battle at El Caney and San Juan Hill. They were Dennis Bell, Edward Baker, Fitz Lee, William Thomkins and George Wanton. Secretary of the Navy, Frank Knox, lauded them as being the "bravest men" he had ever seen.

Mr. Speaker, Teddy Roosevelt was no hero at San Juan and his insistence that he was is not sufficient to justify the House of Representatives authorizing the President to award him the Congressional Medal of Honor. This high distinction is reserved for those who have performed extraordinary fetes of bravery.

DESIGNATING OCTOBER 16TH AS "SAN DIEGO MAGAZINE DAY"

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 10, 1998

Mr. BILBRAY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to San

Diego Magazine on their 50th anniversary by joining the residents of San Diego in proclaiming October 16th "San Diego Magazine Day."

The San Diego publication has earned a reputation for remaining on the forefront of issues which are important to San Diegans. It is also known for articles which are always intelligently written, witty, and never cynical or disparaging. Throughout the years, the magazine has remained a source of unbiased and comprehensive coverage of local news and perspectives for its readers.

Since its debut in 1948, San Diego Magazine has followed matters which are still relevant today such as: the improvement of the downtown library; the San Diego airport which was designed to grow to meet the needs of the city; the need for an efficient public transportation system, and the need for better city planning in Mission Valley. In the last two decades, the magazine has also published stories addressing San Diego's exponential growth as a major business market, technology center, and tourist destination.

Fifty years of striving for excellence has paid off for San Diego Magazine. Its recent sweep of 17 Press Club Awards for high accomplishment in journalism, special publications, and art direction has made it a standard upon which many other regional magazines are modeling their publications.

Mr. Speaker, on behalf of my constituents, I extend my highest congratulations to San Diego Magazine on their Golden Anniversary. We look forward to many more years of forward-thinking and entertaining articles which beautifully reflect the character of the San Diego area.

LONG-TERM CARE PATIENT PROTECTION ACT OF 1998

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 10, 1998

Mr. TOWNS. Mr. Speaker, When a family makes the difficult decision to place an aging relative in a nursing home, they trust the institution to care properly for their loved one. However, over the last few years, numerous concerns have been raised about the quality of care and standards within the nursing home industry. At a time when this industry is experiencing explosive growth, I believe it is imperative that Congress institute safeguards to protect the most vulnerable members of our society.

As the Ranking Member of the Subcommittee on Human Resources, which has held numerous hearings examining our nation's nursing homes, I believe that introducing the Long-Term Care Patient Protection Act of 1998 today will take a pivotal step in the right direction. This bill represents part of the Administration's efforts to improve quality of care within the nursing home industry, and serves as a complement to H.R. 4686, a bill introduced by my esteemed colleague, Mr. Joseph P. Kennedy, II, of Massachusetts.

Specifically, the Long-Term Care Patient Protection Act of 1998, would allow qualified and trained paid staff other than nurses aides and licensed health professionals to provide feeding and hydration assistance to residents in nursing facilities participating in the Medicare and Medicaid programs. It would also