

The CHAIRMAN. Without objection, the gentleman from Virginia (Mr. WOLF) reclaims his time.

There was no objection.

Mr. WOLF. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. WOLF) has 5½ minutes remaining.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. SERRANO).

Mr. SERRANO. Mr. Chairman, I just want to thank the chairman for this amendment. This amendment is one that committee members and other Members had asked for, and it is important that we move ahead on it.

We had a long discussion before on the 7(a) loan, and we passed an amendment. We needed to take care of this one which we already had agreed on in order to really move ahead the support that we put forth for the SBA and for the various loans, and so I am a full supporter, and I thank the chairman for bringing it forward.

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER).

(Mr. OLVER asked and was given permission to revise and extend his remarks.)

Mr. OLVER. Mr. Chairman, I thank the gentleman for yielding time to me, and Mr. Chairman, I rise in strong support of this bipartisan amendment which the gentleman from Virginia (Mr. WOLF) has offered to restore funding for the Small Business Administration's microloan program, and I want to thank the gentleman from Virginia (Chairman Wolf) and the gentleman from New York (Ranking Member Serrano) and both of their staffs for their good work in bringing the amendment to the floor.

The SBA microloan program began as a 5-year pilot in 1991; and throughout its existence, the program has had strong bipartisan support in both Chambers.

The Small Business Programs Reauthorization Amendments Act of 1997 made the microloan pilot a permanent program, and the accompanying House report in 1997 stated: "Begun in 1991, this program has served the smallest and often least noticed section of the small business community. The committee has recognized the efficacy of this program and changed it from demonstration to permanent program status."

Today, 170 microloan intermediary lenders nationwide provide loans to our smallest businesses whose financial needs can often not be met by traditional lenders.

Since its creation, the program has provided \$213 million in loans, as well as technical assistance to 19,000 microenterprises; and in the process, it has created 60,000 jobs. We should remember that the average loan here is about \$12,000, well below other SBA programs and far below conventional business loans by banks.

Most importantly, microloans have assisted large numbers of women- and minority-owned businesses, rural businesses and start-up businesses.

The microloan program is the only SBA program to offer both loans and technical assistance to small businesses, a combination that enables an entrepreneur with a good idea to become a businessperson with a good bottom line.

In my district, one intermediary, the Western Massachusetts Enterprise Fund, has made 113 loans totaling over \$1.4 million, and that program has made a difference for many entrepreneurs, providing the financing and technical assistance necessary to launch or expand their businesses.

If we fail to restore funding for the microloan program, we will hamper the efforts of small entrepreneurs nationwide. Small businesses bring innovative ideas to market and create much-needed jobs.

I urge a "yea" vote on the Wolf-Serrano amendment.

Mr. WOLF. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WOLF).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. PAUL:
Insert before the short title at the end of the bill the following title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. (a) None of the funds made available in this Act to the Department of Justice may be used—

(1) to take any legal action against a physician for prescribing or administering a drug not included in schedule I of the schedules of controlled substances under section 202(c) of the Controlled Substances Act for the purpose of relieving or managing pain; or

(2) to threaten legal action in order to prevent a physician from prescribing or administering such a drug for such purpose.

(b) None of the funds made available in this Act to the Department of Justice may be used—

(1) to take any legal action against a person for acts relating to the prescribing or administering by a physician of such a drug for such purpose; or

(2) to threaten any legal action against a person in order to prevent the person from engaging in acts relating to the prescribing or administering by a physician of such a drug for such purpose.

The CHAIRMAN. Points of order are reserved.

Pursuant to the order of the House of today, the gentleman from Texas (Mr. PAUL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Chairman, what this amendment does is it denies funding to the Department of Justice to prosecute doctors for prescribing legal drugs.

The reason I bring this up is to call attention to the Members of a growing and difficult problem developing in this country, and that is, that more and more doctors now are being prosecuted by the Justice Department under the laws that were designated for going after drug kingpins, for illegal drug dealers; but they are using the same laws to go after doctors.

It is not one or two or three or four. There are approximately 400 doctors who have been prosecuted, and I know some of them, and I know they are good physicians; and we are creating a monster of a problem. It does not mean that I believe that none of these doctors have a problem. As a physician, I know what they are up against and what they face, and that is, that we have now created a system where a Federal bureaucrat makes the medical decision about whether or not a doctor has prescribed too many pain pills. I mean, that is how bureaucratic we have become even in medicine; but under these same laws that should be used going after kingpins, they are now being used to go after the doctors.

As I say, some of them may well be involved in something illegal and unethical; and because I still want to stop this, this does not mean I endorse it, because all the problems that do exist with some doctors can be taken care of in many different ways. Doctors are regulated by their reputation, by medical boards, State and local laws, as well as malpractice suits. So this is not to give license and say the doctors can do anything they want and cause abuse because there are ways of monitoring physicians; but what has happened is we have, as a Congress, developed a great atmosphere of fear among the doctors.

The American Association of Physicians and Surgeons, a large group of physicians in this country, has now advised their members not to use any opiates for pain, not to give adequate pain pills because the danger of facing prosecution is so great. So the very people in the medical profession who face the toughest cases, those individuals with cancer who do not need a couple of Tylenol, they might need literally dozens, if not hundreds, of tablets to control their pain, these doctors are being prosecuted.

Now, that is a travesty in itself; but the real travesty is what it does to the other physicians, and what it is doing is making everybody fearful. The other doctors are frightened. Nurses are too frightened to give adequate pain medications even in the hospitals because of this atmosphere.

My suggestion here is to deny the funding to the Justice Department to prosecute these modest numbers, 3 or 400 doctors, leave that monitoring to the States where it should be in the first place, and let us get rid of this

idea that some bureaucrat in Washington can determine how many pain pills I, as a physician, can give a patient that may be suffering from cancer.

I mean, this is something anyone who has any compassion, any concern, any humanitarian instincts would say we have gone astray; we have done too much harm; we have to do something to allow doctors to practice medicine. It was never intended that the Federal Government, let alone bureaucrats, interfere in the practice of medicine.

So my suggestion is let us take it away, take away the funding of the Justice Department to prosecute these cases, and I think it would go a long way to improving the care of medicine. At the same time, it would be a much fairer approach to the physicians that are now being prosecuted unfairly.

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And let me tell you, there are plenty, because all they have to do is to be reported that they prescribed an unusual number of tablets for a certain patient, and before you know it, they are intimidated, their license is threatened, their lives are ruined, they spend millions of dollars in defense of their case, and they cannot ever recover. And it is all because we here in the Congress write these regulations, all with good intentions that we are going to make sure there is no abuse.

Well, there is always going to be some abuse. But I tell you there is a lot better way to find abusive doctors from issuing pain medication than up here destroying the practice of medicine and making sure thousands of patients suffering from the pain of cancer do not get adequate pain medication.

Mr. WOLF. Mr. Chairman, I claim the time in opposition, and I yield myself such time as I may consume. At this point I just want to say that my mom died of cancer, my father died of cancer, and I would have done anything to help them, and OxyContin can make a big difference. But there has been a lot of abuse. There have been a lot of doctors that have been doctor factories that are just prescribing this.

There were some in my area, and I have seen families that have been devastated in southwest Virginia. I understand what the gentleman from Texas (Mr. PAUL) is saying, but in southwest Virginia, in the rural areas down in Lee County, there is probably not a family that has not been impacted by the abuse of prescriptions. So it is a balance.

I understand the gentleman, being a doctor, how he feels, but there are cases where there is tremendous abuse. That is why I think we have to keep monitoring this.

Mr. SOUDER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas, Mr. PAUL. This amendment would have the practical effect of putting doctors above the law. It would prevent the federal government from taking action against a doctor who abused his privilege of issuing

prescriptions for controlled substances, including addictive and dangerous drugs like Oxycontin. While I have great respect for doctors, and I know that the vast majority of them are honest, law-abiding and motivated solely by their concern for their patients, we can't exempt them from our drug laws.

First, there is no evidence that the federal government is "persecuting" doctors for prescribing pain killers. Last year, in fiscal 2003, only 50 doctors nationwide were arrested for illegal prescriptions. That is only five one-thousandths of one percent (.005%) of all the doctors who have DEA licenses to write prescriptions. No one can seriously argue that the DEA is engaging in some kind of campaign to stop doctors from writing prescriptions for pain killers.

Second, the tiny number of physicians who were arrested were not arrested just because they prescribed pain medication. They were arrested because they abused the public trust and the clear standards of the profession set by their peers. These were essentially drug dealers hiding behind a white coat. They used their professional status to obtain sexual favors, drugs, and money.

Last year, six doctors were arrested for trading drug prescriptions for sex. Twenty-three doctors were arrested for writing prescriptions in exchange for money, four doctors were arrested for issuing prescriptions in exchange for other illegal drugs, and seventeen were arrested for writing prescriptions to obtain drugs to feed their own drug habits. (I am attaching a listing of those arrests, provided by the DEA, to my statement for the RECORD.)

Let's take a look at some examples. Dr. Bernard Rottschaefer was convicted last March for writing 153 illegal prescriptions for painkillers; five women testified that he demanded sex in exchange for those prescriptions, usually for Oxycontin. Another doctor wrote them in the dressing room of an adult nightclub, and another issued prescriptions for sex, firearms, lawn and farm equipment, and labor on his personal property. I don't think anyone in this House would want to give people like that a blanket immunity from the law.

Now, it may be argued that the amendment would only prohibit enforcement when drugs are prescribed "for the purpose of relieving or managing pain". But this distinction is meaningless—because anyone who uses a narcotic can argue that it is to relieve pain. When dealing with problems like drug trafficking and abuse, we can't just rely on the word of drug dealers and addicts. Instead, current law already recognizes a reasonable judge of the conduct of doctors—the professional standards set by their peers. I would like to note that the American Medical Association, the largest professional organization in the country representing doctors, has itself refused to support this amendment—precisely because it would immunize the few bad apples who abuse their professional trust.

In closing, I'd like to point out that this amendment would seriously undermine our goal of reducing Oxycontin and other prescription drug abuse. As President Bush stated in the National Drug Control Strategy for 2004, the problem of prescription drug abuse is a growing threat that needs to be addressed. The misuse of prescription drugs was the second leading category of illicit drug use after marijuana, with an estimated 6.2 million Americans having used prescription drugs for non-

medical, illegal purposes. Oxycontin was abused in 2002 at a rate ten times higher than in 1999. Abuse by high school seniors of Vicodin is more than double their use of cocaine, ecstasy or methamphetamine. Meanwhile, Internet pharmacies (which frequently rely on illegal prescriptions), "doctor shopping" and other illegal drug diversion tactics are presenting new challenges to law enforcement and the community. Those few doctors who contribute to this problem must be held accountable for their actions. I urge my colleagues to oppose this amendment.

DEA ARRESTS OF PHYSICIANS—FISCAL YEAR 2003

SUMMARY

Prescriptions in exchange for sexual favors—6; prescriptions in exchange for drugs—4; prescriptions for money—23; obtaining drugs by fraud/personal abuse—17. Note: 50 arrests reported for Fiscal Year 2003 which includes 2 separate arrests of the same physician.

PHYSICIANS OF NOTE

Two physicians, Dr. H and Dr. S, maintained medical practices specializing in the treatment of chronic pain. While both physicians treated some legitimate pain patients, they both also practiced outside the scope of legitimate medical practice by prescribing OxyContin for other than legitimate medical reasons. These illegal activities led to their investigation and subsequent arrests. Two individuals died from overdoses of the OxyContin prescribed by one of the physicians. One physician has been convicted of conspiracy to distribute controlled substances. The other physician is awaiting trial.

PRESCRIPTIONS IN EXCHANGE FOR SEXUAL FAVORS

Dr. R—Pittsburgh—provided prescriptions for controlled substances in exchange for sex. Date opened: 4/16/01; date of arrest: 6/3/03; conviction date: pending; charges: unlawful distribution of Oxycodone, Fentanyl, & Xanax.

Dr. W—Washington—wrote prescriptions to female members of motorcycle gangs in exchange for sex. Date opened: 6/10/03; date of arrest: 6/10/03; conviction date: 1/14/04; charges: unlawful distribution of Percocet.

Dr. D—St. Louis—wrote prescriptions in exchange for sex, firearms, lawn and farm equipment and labor on his personal property. Date opened: 4/12/00; date of arrest: 11/25/00; conviction date: pending; charges: unlawful distribution of CS.

Dr. L—Indianapolis—traded prescriptions for sex and stolen property. Entertained juveniles at his home and arrested for sodomy, firearms charges and public intoxication. Date opened: 12/28/7; 6/9/03; date of arrest: 5/30/03; conviction date: pending; charges: unlawful distribution of Hydrocodone.

Dr. O—Hartford—forced patients to have sex with him in exchange for prescriptions (2 arrests in FY 2003). Date opened: 1/30/03; date of arrest: 2/20/03; 5/1/03; conviction date: pending; charges: unlawful distribution of Percocet & Xanax.

PRESCRIPTIONS IN EXCHANGE FOR DRUGS

Dr. P—Kansas City—had friends and other individuals return the prescription medication to him. Continued to write controlled substances after surrendering DEA registration. Date opened: 6/25/01; date of arrest: 5/2/03; conviction date: 10/20/03; charges: conspiracy/obtaining CS by fraud.

Dr. B—St. Louis—wrote prescriptions to individuals who returned the drugs to him. Subsequently overdosed and died. Date opened: 5/22/03; date of arrest: 5/22/03; conviction date: deceased (OD); charges: unlawful distribution of CS.