forced him to limit his walks from the front door to his flagpole in the front yard to continue raising the Stars and Stripes at 8 a.m., and then lower the flag at 5 p.m., a daily vigil he maintained faithfully year after year until a few weeks ago when he no longer had the strength. At that point, he retired the flag. His family has recently installed a lighting system at his home, where his wife continues to live, so Colonel Stockwell's flag may continue to fly.

Mr. Speaker, Colonel Stockwell is being laid to rest today at Arlington National Cemetery with full military honors. I ask that these comments be submitted into the CONGRESSIONAL RECORD so that they, like the flag that continues to fly in front of Colonel Stockwell's yard, may remain a permanent tribute to this great man.

CONGRATULATIONS TO WILLIAM L. MCCARRIER

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate William L. McCarrier on his election to the Supreme Council of the Scottish Rite of Northern Masonic Jurisdiction of the United States of America.

William has been active in the Masonic community for almost 40 years, and has served as the commander in chief of the Scottish Rite Bodies of the Valley New Castle, and as the vice president of the New Castle Benefit Fund. William has also served as a county commissioner for Butler County, and is a trustee of the Butler County Community College.

I ask my colleagues in the United States House of Representatives to join me in honoring William McCarrier. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute citizens such as William who make the communities that they live in truly special.

DRUG ENFORCEMENT AGENCY MUST RESTORE BALANCE BETWEEN PRESCRIPTION DRUG ABUSE AND PROVIDING PATIENT ACCESS TO NEEDED MEDICATIONS

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. NORWOOD. Mr. Speaker, I think there is little doubt that our law enforcement agencies should conduct themselves, in fulfilling their founding purpose, in a manner that is consistent with their mission of serving the American people. In this light, I am submitting for the record an article by Radley Balko, a policy analyst with the Cato Institute, entitled "Bush Should Feel Doctors' Pain". The article suggests that the need to protect patients, while attempting to prevent diversion and misuse of prescription drugs is arguably out of balance.

There is no doubt that prescription drug abuse, particularly the abuse of prescription pain medications, is a serious public health problem. I have been one of the most vocal advocates on the necessity of this body to address the abuse of prescription medication by patients, crack down on the practice of "doctor shopping" and prosecute those medical professionals that harm responsible pain management by violating their responsibility to the highest standards of their profession.

Consequently, the Drug Enforcement Agency (DEA) should absolutely take appropriate steps to stop criminals from diverting these medications and exploiting those who would abuse them. But, it must also recognize that over 30 million Americans suffer chronic pain and need access to proper pain management by legitimate medical practitioners if they are to lead normal and productive lives.

However, in its seemingly single-minded pursuit of "bad doctors," the DEA appears to be showing its lack of proper understanding, inability, or unwillingness, to strike a proper balance between these two public policy goals. I am worried that this failure is scaring responsible doctors away from prescribing legitimate patients from obtaining needed medications, causing these patients and those who love and care for them untold harm and unnecessary distress.

Congressmen WHITFIELD, PALLONE, STRICKLAND, and I have introduced H.R. 1132, a bill that would assist and encourage the States to establish a controlled substance monitoring program. These Prescription Monitoring Programs would assist physicians, pharmacists, and other healthcare professionals by providing them with prescribing information that would help them to detect abuse and diversion tactics and prevent "doctor shopping". This legislation also would permit law enforcement to review this prescribing data, but only where they certify that the requested information is related to an individual investigation involving the unlawful diversion or misuse of schedule II, III, or IV substances, and that such information will further the purpose of their investigation.

It appeared that the DEA realized it should not, indeed could not, dictate proper medical practice in the prescribing of pain medications. Last August, after working with a panel of distinguished physicians specializing in pain management, the DEA published guidelines for physicians who treat pain with opioids. These guidelines were designed to assure legitimate medical practitioners that they would not face prosecution simply because they prescribed such medications or treated a large number of patients in pain. Given the disturbing trend of doctors shying away from prescribing necessary medication due in large part to the issues discussed, the DEA should not act in a way that would further limit patients' access to needed pain management medications.

Within weeks, the DEA abruptly withdrew these guidelines without explanation in a transparent attempt to avoid jeopardizing a pending high profile prosecution. Strong objections came from the medical community and from 30 state Attorneys General. I am also including a copy of their letter sent to the DEA in which they raise their objections.

However, the DEA has not relented in its pursuit of doctors it considers to be practicing bad medicine in a field of practice that is still evolving and requires a certain latitude for the exercise of sound medical judgment. In effect, the DEA is doing the very thing it should not do, determine what is acceptable medical practice.

The chilling effect the DEA's actions are having on physicians engaged in the legitimate practice of medicine is undeniable. Effective pain management has become all too difficult to obtain because many doctors are afraid to prescribe adequate levels of opioids for fear of investigation and prosecution. This is simply unacceptable, as a member of the healthcare community for over thirty years and a patient who has known the need for proper pain management.

Yes, the DEA should continue to work with the appropriate state and local authorities to pursue those who abuse the trust that was placed in them when they obtained a medical license. Yes, we should be cracking down on those patients who seek to circumvent and abuse the system to abuse prescription medications. But the DEA must lead the charge to restore the balance between these different but certainly not mutually exclusive public health goals. By assuring legitimate medical practitioners that they will not be investigated or prosecuted simply because they prescribe a certain kind of medication or have a successful practice, will better serve the American people, particularly those many millions who are needlessly suffering in pain.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, DC, January 19, 2005.

KAREN P. TANDY,
Administrator, Drug Enforcement Administration, Alexandria, VA.

DEAR MS. TANDY: We, the undersigned Attorneys General, write to express our concern about recent DEA actions with respect to prescription pain medication policy and to request a joint meeting with you. Having consulted with your Agency about our respective views, we were surprised to learn that DEA has apparently shifted its policy regarding the balancing of legitimate prescription of pain medication with enforcement to prevent diversion, without consulting those of us with similar responsibilities in the states. We are concerned that state and federal policies are diverging with respect to the relative emphasis on ensuring the availability of prescription pain medications to those who need them.

Subsequent to DEA endorsement of the 2001 Joint Consensus Statement supporting balance between the treatment of pain and enforcement against diversion and abuse of prescription pain medications, the National Association of Attorneys General (NAAG) in 2003 adopted a Resolution Calling for a Balanced Approach to Promoting Pain Relief and Preventing Abuse of Pain Medications (copy attached). Both these documents reflected a consensus among law enforcement agencies, health care practitioners, and patient advocates that the prevention of drug abuse is an important societal goal that can and should be pursued without hindering proper patient care.

The Frequently Asked Questions and Answers for Health Care Professionals and Law Enforcement Personnel issued in 2004 appeared to be consistent with these principles, so we were surprised when they were withdrawn. The Interim Policy Statement, ''Dispensing of Controlled Substances for the Treatment of Pain'' which was published in the Federal Register on November 16, 2004 emphasizes enforcement, and seems likely to have a chilling effect on physicians engaged in the legitimate practice of medicine. As Attorneys General have worked to remove barriers to quality care for citizens of our states at the end of life, we have learned that

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adequate pain management is often difficult to obtain because many physicians fear investigations and enforcement actions if they prescribe adequate levels of opioids or have many patients with prescriptions for pain medications. We are working to address these concerns while ensuring that individuals who do divert or abuse drugs are prosecuted. There are many nuances of the interactions of medical practice, end of life concerns, definitions of abuse and addiction, and enforcement considerations that make balance difficult in practice. But we believe this balance is very important to our citizens, who deserve the best pain relief available to alleviate suffering, particularly at the end of life.

We understand that DEA issued a "Solicitation for Comments on Dispensing of Controlled Substances for the Treatment of Pain" in the Federal Register yesterday. We would like to discuss these issues with you to better understand DEA's position with respect to the practice of medicine for those who need prescription pain medication. We hope that together we can find ways to prevent abuse and diversion without infringing on the legitimate practice of medicine or exerting a chilling effect on the willingness of physicians to treat patients who are in pain. And we hope that state and federal policies will be complementary rather than divergent.

Lynne Ross, Executive Director of NAAG, will contact you soon to arrange a meeting at a mutually agreeable time, hopefully in March when Attorneys General will be in Washington, DC to attend the March 14–16 NAAG Spring Meeting. We hope to meet with you soon.

Thank you.

Sincerely,

Drew Edmondson, Attorney General of Oklahoma; Gregg Renkes, Attorney General of Alaska; Mike Beebe, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; Thurbert E. Baker, Attorney General of Georgia; Tom Miller, Attorney General of Iowa; Gregory D. Stumbo, Attorney General of Kentucky; Terry Goddard, Attorney General of Arizona; Bill Lockyer, Attorney General of California; Robert Spagnoletti, Attorney General of District of Columbia; Lisa Madigan, Attorney General of Illinois; Phill Kline, Attorney General of Kansas; Charles Foti, Attorney General of Louisiana; Steven Rowe, Attorney General of Maine; Michael A Cox, Attorney General of Michigan; Jeremiah Nixon, Attorney General of Missouri; Jon Bruning, Attorney General of Nebraska; Wayne Stenehjem, Attorney General of North Dakota; Roberto Sánchez Ramos, Attorney General of Puerto Rico; Joseph Curran Jr., Attorney General of Maryland; Mike Hatch, Attorney General of Minnesota; Mike McGrath, Attorney General of Montana; Patricia Madrid, Attorney General of New Mexico; Hardy Myers, Attorney General of Oregon; Patrick C. Lynch, Attorney General of Rhode Island; Henry McMaster, Attorney General of South Carolina; Mark Shurtleff, Attorney General of Utah; Darrel McGraw, Attorney General of West Virginia; Paul Summers, Attorney General of Tennessee; William Sorrell, Attorney General of Vermont.

BUSH SHOULD FEEL DOCTORS' PAIN

(By Radley Balko)

Since the late 1990s, the U.S. Drug Enforcement Administration has allied with state and local law enforcement agencies to stamp out abuse of the painkiller OxyContin. Citing rises in emergency room episodes and overdoses associated with the drug (both of which have been roundly disparaged by critics), the DEA insists its "Operation OxyContin" is a necessary reaction to the diversion of the prescription narcotic for street use.

Unfortunately, despite frequent robberies and burglaries of pharmacies, doctors' offices, and warehouses where prescription medications are stored and sold, the DEA has focused a troubling amount of time and resources on the prescriptions issued by practicing physicians. It's easy to see why. Doctors keep records. They pay taxes. They take notes. They're an easier target than common drug dealers. Doctors also often aren't aware of asset forfeiture laws. A physician's considerable assets can be divided up among the various law enforcement agencies investigating him before he's ever brought to trial.

Over the last several years, hundreds of physicians have been put on trial for charges ranging from health insurance fraud to drug distribution, even to manslaughter and murder for over-prescribing prescription narcotics. Many times, investigators seize a doctor's house, office, and bank account, leaving him no resources with which to defend himself. A few doctors have been convicted. Many have been acquitted. Others were left with no choice but to settle.

All of this has been happening just as the field of chronic pain management has made some remarkable progress. The development of opium-based narcotics like OxyContin (also known as "opioids") has been a Godsend to the estimated 30 million Americans who suffer from chronic pain. Opioids are safe, effective, and, contrary to conventional wisdom, very rarely lead to accidental addiction when taken properly. Most of the medical literature puts the rate of such addiction at less than one percent.

The DEA's campaign puts law enforcement officials in the troubling position of determining what is acceptable medical practice in a field that's dynamic, still emerging, and relatively experimental. The very fact that any course of treatment "beyond the normal practice of medicine" can be cause for cops to launch a career-ending investigation is enough in itself to stifle innovation in palliative therapy.

The high-profile arrests and prosecutions of physicians (up to 200 per year, by one estimate) have caused many doctors to underprescribe or refuse to see new patients. It corrupts the candor necessary for an effective doctor-patient relationship. Many physicians have left palliative therapy for less controversial practice. The Village Voice reports that medical schools are now advising students to avoid pain management practice altogether.

To calm its critics, the DEA commissioned several pain specialists to work with federal officials to put together a set of guidelines for physicians who treat pain with opioids. These guidelines were posted on the agency's website, and most doctors were led to believe that following the recommendations would keep them safe from prosecution. For a short time, experts, doctors, and drug warriors had reached a compromise.

But it didn't last long. Late last year the guidelines mysteriously disappeared from the DEA's website. Their removal coincided with the trial of Virginia pain specialist, Dr. William Hurwitz, whose attorneys had attempted—and failed—to admit the guidelines as evidence on the belief that Hurwitz's practice conformed to their parameters. Hurwitz was eventually convicted, and faces a life sentence later this month.

A few weeks after Hurwitz's judge refused to admit the guidelines as evidence, the DEA renounced the contents of the brochure, and in a brief explanatory note made clear that the agency wasn't bound by any standards or practices when it came to determining what physicians it would investigate. The agency essentially declared it had carte blanche to launch an inquiry.

The renunciation sent shockwaves through the medical community. One doctor told the Washington Post that "over 90 percent" of patients and doctors could be subject to prosecution under the DEA's new rules. Rebecca J. Patchin, who serves on the board of the American Medical Association, told the Post, "Doctors hear what's happening to other physicians, and that makes them very reluctant to prescribe opioids that patients might well need."

David Jorenson, the academic pain specialist who headed up the committee that authored the original guidelines, sent the agency a sharply-worded rebuke. Three professional associations representing pain specialists followed with a letter of their own. And last January, the National Association of state Attorneys General also sent a letter to the DEA, expressing concern that the agency was overstepping its bounds, and interfering with the legitimate treatment of pain. The letter was signed by 30 AGs from both parties.

The DEA remains obstinate, insisting its revocation of the guidelines did not represent a shift in policy, and that its pursuit of doctors should have no effect on legitimate pain treatment, despite that the experts it originally consulted say otherwise.

The attorneys general letter to the DEA in particular presents a challenge for the Bush administration. The White House claims to value the principles of local rule, states' rights, and federalism. But those principles seem to flitter away when it comes to drug policy. The Justice Department, for example, has repeatedly gone to court to prevent states from allowing physician-assisted suicide and medicinal marijuana, in some cases going so far as raiding convalescent centers and asserting the supremacy of federal law in prosecuting those who grow marijuana in states where it's permitted.

Thirty state AGs have said that federal drug policy is interfering with legitimate medical practice. The White House now has two choices. It could order the DEA to end its pursuit of physicians, and leave medical policy to state governments and medical boards, where it belongs.

Or it could stand by the DEA's troubling anti-opioid campaign, and watch as more well-intentioned physicians go to jail, and millions of Americans continue to endure unnecessary grief.

PAYING TRIBUTE TO THE LANSING STATE JOURNAL ON THE OCCASION OF ITS SESQUICENTENNIAL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the Lansing State Journal and its more than 500 employees and retirees who are this year celebrating 150 years of publishing a newspaper in Michigan's capital city, Lansing.

As the sesquicentennial year progresses, the newspaper is revisiting its history and looking forward to the future.

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