

## Prescription Drug Diversion: Combatting the Scourge

Yesterday, I attended a hearing of the House Energy and Commerce Committee, Subcommittee on Commerce, manufacturing, and Trade, titled "Prescription Drug Diversion: Combatting the Scourge," and the statistics of drug abuse presented by state and federal officials were staggering. Senior Assistant AG Aaron Haslam of Ohio, for example, testified that from 1999 to 2007, Ohio's rate of prescription opioid distribution increased 325 percent while in the same period, the unintentional drug overdose death rate increased 305 percent – something he characterized as "a remarkable correlation." He discussed a new law, HB 93, and the changes intended to regulate pain clinics and discourage pill mills. He referred to HB 93 as "the first shot fired in attacking Ohio's 'pill mills.'" He described AG Mike DeWine's *special prosecutions prescription drug unit* and praised the cooperative enforcement work of the Bureau of Criminal Investigation, Ohio State Highway Patrol, Ohio's Organized Crime Commission, The Board of Pharmacy, The Ohio Medical Board, DEA, FBI and the IRS.

Florida's AG Pam Bondi by far was the star of the show as she described HB7095, a new law in Florida, and the demise of the state's pill mill industry. She reported that, "as of February 2012, Strike Force efforts statewide have resulted in 2,040 arrests (including 34 doctors), and the seizure of 445,690 pharmaceutical pills, 56 vehicles, 390 weapons, and \$4,648,621.... 27 clinics have been closed as a direct result of strike force action." AG Bondi and Committee Chair Mary Bono Mack discussed the growing phenomenon of babies born addicted to prescription drugs. She mentioned that at St. Joseph's Hospital in Tampa, 15 to 20 percent of newborns come into the world addicted to prescription drugs and must be given therapeutic doses of morphine or methadone in the first days of their lives to ward off the symptoms of withdrawal and prevent potentially fatal seizures. She talked about working with the legislature to form a new task force specifically to look into this. In 2011, Bondi said, there were more than 900 pain management clinics registered in the state and today that number has been reduced to 580, a drop of 36 percent.

Attorney General Jack Conway of Kentucky told the Committee that Kentucky, according to a recent analysis by Forbes Magazine, is the "fourth most-medicated state in the country" based on the volume of C-II and C-III narcotics dispensed per capita in the state. Last year, he said, more people in Kentucky died of drug overdoses than from car accidents and, he added, this could be an underreported number inasmuch as only 55 percent of statewide drug overdose deaths are autopsied. He talked about working closely with AG Bondi and how a clinic in Broward County, Florida, that was raided last year yielded 1,700 patient records, 1,100 of which pertained to patients from Kentucky.

The hearing led off with a statement by ONDCP chief R. Gil Kerlikowske who recited federal stats on prescription drug abuse and talked about the April 2011 strategy by his office to counter the problem. Chair Bono Mack's first question to the director was, "With everything your office and DEA are doing, why are we losing this battle?" The director offered little to rebut the premise of the chair's question.

Representing DEA was Joe Rannazzisi, Deputy Assistant Administrator for the Office of Diversion Control. Rannazzisi provided a nationwide analysis of the problem and described the federal "closed system" of monitoring the distribution of controlled substances. Chair Bono Mack attempted to ask about the Cardinal Health case in Florida, a sensational case involving a major distributor, but Rannazzisi advised that he could not discuss pending judicial matters in an open session. (Note: US District Court Judge Reggie B. Walton yesterday issued an Order dissolving a TRO granted by the court to Cardinal Health on February 3, 2012. He also denied Cardinal Health's motion for a preliminary injunction. In addition, Judge Walton ordered that Cardinal Health's Lakeland facility cease drug distribution operations by 6 p.m., March 1, 2012 and that "All orders for controlled substances for retail pharmacy customers must be discontinued effective immediately, unless the order has already been picked and put on a truck for delivery." Unless appealed, the case will now be adjudicated administratively by the DEA.)

A subsequent session heard testimony from industry representatives who generally supported closer cooperation with DEA and state PDMPs. John Gray, president and CEO of Healthcare Distribution Management Association, talked about measures the distributors have taken to identify and stop suspicious orders from being filled. He offered a mild criticism of the federal law in which distributor-registrants are held to very strict requirements by DEA but not given the necessary information needed to comply with the law that only DEA has by virtue of its compilation of all distribution data. His testimony on this issue, however, suggested that he may be unaware that the law places the burden on the registrant to design and implement anti-diversion measures to identify and not fill suspicious orders and that the DEA is not authorized to tell a distributor registrant whom it may or may not do business with. This, obviously, is an area rich with opportunities for improved communication and understanding between DEA and the industry.

All in all, I think it was a fine hearing and, without question, the star of the show was Pam Bondi and her upbeat testimony about the significant progress made in Florida. The other state officials who were present paid their respects to her accomplishments and, to her credit, she was candid in stating from the outset that before last year, Florida's laws were ineffective and weak and, as a result, led to serious problems for the state and its neighbors. While Florida has made a good deal of progress in a relatively short period of time, she said, it still has a long way to go. After the meeting I had an opportunity to talk briefly with the chair and her staff and we agreed to talk again soon.

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