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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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May 8, 2012

Dr. Mark R. Chassin  
President  
The Joint Commission  
One Renaissance Blvd.  
Oakbrook Terrace, IL 60181

Dear Dr. Chassin:

As Chairman and a senior member of the Senate Finance Committee, we have a responsibility to the more than 100 million Americans who receive health care under Medicare, Medicaid, and CHIP. As part of that responsibility, this Committee has investigated the marketing practices of pharmaceutical and medical device companies as well as their relationships with physicians and non-profit medical organizations.

It is clear that the United States is suffering from an epidemic of accidental deaths and addiction resulting from the increased sale and use of powerful narcotic painkillers such as Oxycontin (oxycodone), Vicodin (hydrocodone), and Opana (oxymorphone). According to CDC data, “more than 40% (14,800)” of the “36,500 drug poisoning deaths in 2008” were related to opioid-based prescription painkillers.<sup>1</sup> Deaths from these drugs rose more rapidly, “from about 4,000 to 14,800” between 1999 and 2008, than any other class of drugs,<sup>2</sup> and now kill more people than heroin and cocaine combined.<sup>3</sup> More people in the United States now die from drugs than car accidents as a result of this new epidemic.<sup>4</sup> Additionally, the CDC reports that improper “use of prescription painkillers costs health insurers up to \$72.5 billion annually in direct health care costs.”<sup>5</sup>

In Montana, prescription drug abuse is characterized by the state’s Department of Justice as an “invisible epidemic” killing at least 300 people per year and contributing to increases in

<sup>1</sup> Center for Disease Control, “Drug Poisoning Deaths in the United States, 1980-2008, NCHS Data Brief, No. 81, December 2011 at <http://www.cdc.gov/nchs/data/databriefs/db81.pdf>.

<sup>2</sup> Id.

<sup>3</sup> CDC Press Release, “Prescription painkiller overdoses at epidemic levels,” November 1, 2011 at [http://www.cdc.gov/media/releases/2011/p1101\\_flu\\_pain\\_killer\\_overdose.html](http://www.cdc.gov/media/releases/2011/p1101_flu_pain_killer_overdose.html).

<sup>4</sup> LA Times, “Drug deaths now outnumber traffic fatalities in U.S., data show,” September 17, 2011 at <http://articles.latimes.com/2011/sep/17/local/la-me-drugs-epidemic-20110918>.

<sup>5</sup> International Business Times, “Prescription Painkiller Overdoses Cost Insurers \$72.5 Billion Yearly: CDC,” November 3, 2011 at <http://www.ibtimes.com/articles/242437/20111103/prescription-painkiller-overdoses-cost-insurers-72-5.htm>.

addiction and crime.<sup>6</sup> The University of Montana Bureau of Business and Economic Research estimated that prescription drug abuse is costing the state \$20 million annually in additional law enforcement, social services, and lost productivity.<sup>7</sup>

In Iowa, “the use of opioid painkillers such as hydrocodone and oxycodone has increased dramatically in the last decade,” according to the Governor’s Office of Drug Control Policy. Annual overdose deaths from opioids “increased more than 1,233% from 3 deaths in 2000 to 40 deaths in 2009.”<sup>8</sup> Data from Iowa’s prescription drug monitoring program demonstrates that in 2010, 89,500,000 doses of hydrocodone and oxycodone were prescribed totaling nearly 40% of all controlled substance prescriptions.<sup>9</sup>

Concurrent with the growing epidemic, the *New York Times* reports that, based on federal data, “over the last decade, the number of prescriptions for the strongest opioids has increased nearly fourfold, with only limited evidence of their long-term effectiveness or risks” while “[d]ata suggest that hundreds of thousands of patients nationwide may be on potentially dangerous doses.”<sup>10</sup>

There is growing evidence pharmaceutical companies that manufacture and market opioids may be responsible, at least in part, for this epidemic by promoting misleading information about the drugs’ safety and effectiveness. In 2007, top executives from Purdue Pharma, the original manufacturer of OxyContin, one of the most notorious and heavily abused painkillers, “pleaded guilty...in federal court to criminal charges that they misled regulators, doctors and patients about the drug’s risk of addiction and its potential to be abused.”<sup>11</sup>

In addition to illegal off-label marketing, which has been prevalent in the pharmaceutical and medical device industries, drug and device companies have been found to engage in marketing, regulatory, and public relations activities through supposedly independent medical organizations financed by industry.<sup>12</sup> Recent investigative reporting from the *Milwaukee Journal Sentinel/MedPage Today* and *ProPublica* revealed extensive ties between companies that manufacture and market opioids and non-profit organizations such as the American Pain Foundation, the American Academy of Pain Medicine, the Federation of State Medical Boards, and the University of Wisconsin Pain and Policy Study Group.

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<sup>6</sup> See the Montana Department of Justice website at <http://doj.mt.gov/prescriptionabuse/>.

<sup>7</sup> Bureau of Business and Economic Research, “The Economic Cost of Prescription Drug Abuse in Montana”, June 2011 at <http://mbcc.mt.gov/PlanProj/Projects/PDMP/Prescription%20Drug%20Abuse%2020110629.pdf>.

<sup>8</sup> Iowa Governor’s Office of Drug Control Policy, “Iowa Drug Control Strategy: 2012,” November 1, 2011 at [http://www.iowa.gov/odcp/drug\\_control\\_strategy/Strategy2012.Final.pdf](http://www.iowa.gov/odcp/drug_control_strategy/Strategy2012.Final.pdf)

<sup>9</sup> Id.

<sup>10</sup> NY Times, “Tightening the Lid on Pain Prescriptions,” April 8, 2012 at <http://www.nytimes.com/2012/04/09/health/opioid-painkiller-prescriptions-pose-danger-without-oversight.html>.

<sup>11</sup> NY Times, “In Guilty Plea, OxyContin Maker to Pay \$600 Million,” May 11, 2007 at <http://www.nytimes.com/2007/05/11/business/11drug-web.html>.

<sup>12</sup> See Senate Finance Committee, “Staff Report on Sanofi’s Strategic Use Of Third Parties to Influence the FDA,” at <http://finance.senate.gov/newsroom/chairman/download/?id=69451e85-4d4c-403b-93e0-2d5e7b4010be>; ProPublica, “Financial Ties Bind Medical Societies to Drug and Device Makers,” May 5, 2011 at <http://www.propublica.org/article/medical-societies-and-financial-ties-to-drug-and-device-makers-industry>; and NYTimes OpEd, “Cleaning Up Medical Advice,” April 30, 2010 at <http://www.nytimes.com/2010/05/01/opinion/01sat3.html>.

In 2003, the GAO report pointed to Purdue's partnership with the Joint Commission on Accreditation of Healthcare Organization (JCAHO) as possible means for Purdue to have "facilitated its access to hospitals to promote OxyContin."<sup>13</sup> The report revealed that Purdue "funded over 20,000 pain-related educational programs through direct sponsorship or financial grants" in addition to funding the JCAHO pain management programs.<sup>14</sup>

Although it is critical that patients continue to have access to opioids to treat serious pain, pharmaceutical companies and health care organizations must distribute accurate information about these drugs in order to prevent improper use and diversion to drug abusers.

As part of our effort to understand the relationship between opioid manufacturers and non-profit health care organizations, please provide the following information:

- 1) Provide a detailed account of all payments/transfers received from all organizations that develop, manufacture, produce, market, or promote the use of opioid-based drugs. For each payment identified, provide:
  - a. Date of payment.
  - b. Payment description (CME, royalty, honorarium, research support, etc.).
  - c. Amount of payment.
  - d. Year end or year-to-date payment total and cumulative total payments for each organization or individual.
  - e. For each year a payment was received, the percentage of funding from organizations identified above relative to total revenue.
- 2) List and summarize all collaborative efforts between the JCAHO and organizations identified in #1 from 1997 to the present pertaining to JCAHO's pain management program.
- 3) List and summarize Purdue's activities pertaining to the development of materials relating to JCAHO's pain management programs.
  - a. For each activity identified, provide a copy of the materials produced as a result.
  - b. Provide the names of Purdue employees who worked with JCAHO to develop these materials.
  - c. List all revenue obtained from the sale of and materials identified in 3(a).

In cooperating with the Committee's review, no documents, records, data, or other information related to these matters, either directly or indirectly, shall be destroyed, modified, removed, or otherwise made inaccessible to the Committee.

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<sup>13</sup> GAO, "OxyContin Abuse and Diversion and Efforts to Address the Problem," December 2003 at <http://www.gao.gov/new.items/d04110.pdf>.

<sup>14</sup> Id.

We look forward to hearing from you by no later than June 8, 2012. All documents responsive to this request should be sent electronically, on a disc, in searchable PDF format to my staff. If you have any questions, please do not hesitate to contact Christopher Law with Senator Baucus at (202) 224-4515 or Erika Smith with Senator Grassley at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Senator



Max Baucus  
Chairman