

1. Sec. 101—Clarifies the application of mandatory exclusion based on felony convictions relating to controlled substances to individuals involved in health care.

2. Sec. 102—Clarifies the period of exclusion based on loss of license.

3. Sec. 103—Clarifies the application of sanctions to Federal health care programs.

B. Subtitle B—Civil Monetary Penalties

1. Sec. 111—Repeals the clarifications concerning levels of knowledge required for the imposition of civil monetary penalties.

2. Sec. 112—Allows for civil monetary penalties to be applied for services ordered or prescribed by an excluded individual or entity.

3. Sec. 113—Permits HHS to pursue civil monetary penalty actions after consulting with the Attorney General.

4. Sec. 114—Clarifies payment practice exception authority to definition of remuneration.

5. Sec. 115—Extends subpoena and injunction authority.

6. Sec. 116—Clarifies amounts of civil monetary penalties.

7. Sec. 117—Applies anti-dumping sanctions against physicians who refuse an appropriate transfer at a hospital with specialized capabilities or facilities.

C. Subtitle C—Criminal Penalties

1. Sec. 121—Kickback penalties for knowing violations

2. Sec. 122—Repeals expanded exception for risk-sharing contract to anti-kickback provisions

3. Sec. 123—Expands criminal penalties for kickbacks

4. Sec. 124—Treats certain Social Security Act crimes as Federal health care offenses

D. Subtitle D—Miscellaneous Provisions

1. Sec. 131—Repeals HIPAA advisory opinion authority

2. Sec. 132—Clarifies identification numbers to be used with adverse action data base

3. Sec. 133—Clarifies who may have access to information in adverse action data bank

II. Title II—Improvements in Providing Program Integrity

A. Subtitle A—General Provisions

1. Sec. 201—Limits the use of automatic stays and discharge in bankruptcy proceedings for provider liability for health care fraud.

2. Sec. 202—Requires certain providers to fund annual financial and compliance audits as a condition of participation under the Medicare and Medicaid programs

3. Sec. 203—Makes clear that Medicare carriers and fiscal intermediaries and State Medicaid agencies are liable for claims submitted by excluded providers.

4. Sec. 204—Reforms Medicare Hospital Outpatient Payment Policies.

5. Sec. 205—Standardizes forms used for certifications of medical necessity and certifications of terminal illness.

6. Sec. 206—No mark-up for drugs, biologicals or nutrients; requires use of national drug code numbers in Medicare claims.

7. Sec. 207—Adjusts hospital payments to reflect excess payment resulting from a financial interest with downstream facilities.

Subtitle B—Other Provisions

1. Sec. 211—Inclusion of cost of home health services in explanation of Medicare benefits.

2. Sec. 212—Prohibits "cold-call" marketing for Medicare+Choice plans.

III. Title III—Provider Enrollment Process—Fees

1. Sec. 301—Fees for agreements with Medicare providers and suppliers.

2. Sec. 302—Establishes requirements and fees for Medicare overpayment collections.

3. Sec. 303—Requires an administrative fee for Medicare overpayment collection.

IV. Title IV—Payment Improvements

A. Subtitle A—Mental Health Partial Hospitalization Services

1. Sec. 401—Limits location of provision of services.

2. Sec. 402—Clarifies qualifications for community mental health centers.

3. Sec. 403—Requires audit of providers of partial hospitalization services.

4. Sec. 404—Implements prospective payment system for partial hospitalization services.

5. Sec. 405—Provides for a demonstration program for expanded partial hospitalization services.

B. Subtitle B—Rural Health Clinic Services

1. Sec. 411—Decreases beneficiary cost sharing for rural health clinic services.

2. Sec. 412—Implements a prospective payment system for rural health clinic services.

CAMPAIGN FINANCE HEARINGS  
ARE CREATING AN ATMOSPHERE  
OF DISCRIMINATION AGAINST  
ASIAN-AMERICANS

**HON. TOM LANTOS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 7, 1997*

Mr. LANTOS. Mr. Speaker, a number of concerns have been expressed over the past few months regarding the manner in which Chairman BURTON and the majority members of the House Government Reform and Oversight Committee have conducted their investigation into campaign finance abuses during the 1996 election campaign. There have been complaints that the investigation is too partisan, that it is duplicative and poorly managed. After 9 months and literally millions in taxpayer funds, this investigation has been beset with delays, staff resignations, poorly conducted investigations, and bungled procedures.

At the recent meeting of the committee at which committee members voted to extend immunity to a few witnesses who will testify at a hearing later this week, I raised a matter of the most serious concern to me. Mr. Speaker, I would like to call to the attention of the House those concerns which I raised during the meeting of the committee.

Mr. Speaker, this House and the committee investigating campaign finance must be particularly sensitive about the possible discriminatory effects that the investigation may have on Asian-Americans. There is a grave danger that stereotyping and Asian bashing will become, and in many instances have become, part and parcel of this investigation.

There is a long history of discrimination against Asian-Americans in this country. We all remember chapters of that history, perhaps the most shameful of which is the incarceration of tens of thousands of United States citizens of Japanese origin during the Second World War.

This investigation, perhaps inadvertently, has contributed to stereotyping and race bait-

ing. As one who is singularly conscious of this issue, I want to call attention to this issue, because Asian-Americans have as much right to participate in the political process as do Americans of any other national origin. Deliberately or otherwise, Asian-Americans have been the target of both of these investigations to an unacceptable and overwhelming degree.

While some might consider the question of Asian bashing ludicrous and outrageous. Organizations representing Asian-Americans do not. A petition with the U.S. Commission on Civil Rights was filed on behalf of the leading organizations representing Asian-Americans. These organizations believe that members of some of this Nation's most important institutions have acted irresponsibly and carelessly to allegations of campaign finance wrongdoing by scapegoating and stereotyping of Asian-Americans.

In point of fact, affiliates and subsidiaries of foreign-owned corporations have made vastly greater contributions to both political parties than the issues that we are dealing with in the Burton investigation. A Canadian-owned corporation gave \$2 million to the political parties. An Australian-owned corporation gave \$674,000, and an additional \$1 million to the California Republican Party. Brown and Williamson, a British-owned tobacco company, gave \$642,000.

None of these foreign-owned corporations have been the subject of any inquiry by either the Senate or House committee. As a matter of fact, in July, the Federal Election Commission levied the largest fine in history on a foreign contribution, and that contribution was made by a citizen of German origin. He has not been hauled before either committee.

Mr. Speaker, it would be absurd and an escape from reality to argue that there is not an Asian tone to these hearings. It is my hope that as hearings in the House commence that we will all remain acutely conscious of these most sensitive issues.

IN HONOR OF NEW YORK STATE  
SENATOR LEONARD P. STAVISKY

**HON. CHARLES E. SCHUMER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 7, 1997*

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge publicly outstanding individuals in our communities.

The Franklin D. Roosevelt Democratic Association of New York will be presenting its first ever Life-Time Achievement Award to State Senator, and dear friend of mine, Leonard P. Stavisky. To list the accomplishments of this great man would take up more pages that I would be allocated in the CONGRESSIONAL RECORD. To those of us who know him so well, I do not have to tell you of the Senator's accomplishments in the field of education, city and State government, and the many issues with which he has been involved. I am just amazed that one person could accomplish so much.

I congratulate you Leonard for over 30 years of service dedicated to the public good. Your example and your friendship over the years has meant so much to me, and I am

just grateful for the opportunity to honor you with a CONGRESSIONAL RECORD statement.

ON THE CELEBRATION OF THE REPUBLIC OF CHINA'S 86TH ANNIVERSARY NATIONAL DAY

**HON. NANCY PELOSI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 7, 1997*

Ms. PELOSI. Mr. Speaker, tomorrow in San Francisco, which I am privileged to represent in the U.S. Congress, a special celebration will take place marking the 86th Anniversary of the National Day of the Republic of China. I rise to bring to the attention of my colleagues this, the "Double Tenth" celebration of freedom.

The people of the United States have a special bond with the people of the Republic of China [Taiwan], who have unflinchingly demonstrated to the world their commitment to democracy under steady pressure. The Republic of China is a vibrant, thriving nation for the present and a model for the future—a model characterized by strong economic growth and respect for basic human rights and democratic freedoms.

The Republic of China is an important partner of the United States, economically, culturally, strategically, and politically. I am proud to relay to the Double Tenth celebrants in San Francisco the support and best wishes of the Republic of China's many friends in Congress. I congratulate the participants in this festival of freedom on their 86th Anniversary National Day and look forward to celebrating this historic event annually for many, many years to come.

PRINCIPLES FOR PRACTICAL DRUG POLICIES

**HON. BARNEY FRANK**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 7, 1997*

Mr. FRANK of Massachusetts. Mr. Speaker, I believe that one of the areas in American public policy where debate is the most retarded and stunted is that of drug policy. For too many of us in elected office, debating drug policy means engaging in a competition to show how tough one can be, without regard for how intelligent one is. In many areas of public policy we have come to the thoughtful realization that good intentions do not necessarily solve a problem, and that persisting in failed policies may make political sense, but rarely serves as a useful way to achieve real progress in improving society. Unfortunately, none of this seems to have penetrated the area of drugs, where despite the enormous shortcomings of the current excessively punitive policy, which does not do nearly as much as we could do to reduce drug use, and, in fact, exacerbates some problems, elected officials appear afraid to reexamine the issue.

For this reason, I was delighted to read the report of the drug policy project of the Federation of American Scientists. A group organized by the FAS recently issued an extremely useful statement, embodying a set of principles for practical drug policies. The list of those

subscribing to these policies is an impressive one, and while I doubt that any single Member of Congress will agree with all of the principles—indeed I doubt that any single member of the group agrees fully with all of the principles—it represents a very important step forward in trying to produce rational discussion of public policy in the drug area, both because it seeks to break the taboo against precisely this sort of discussion, and because of the common sense embodied in the principles themselves.

Because I believe it is very important that we break out of the intellectual rut in which drug policy is now mired, I ask that this statement be printed here, along with the list of endorsers.

PRINCIPLES FOR PRACTICAL DRUG POLICIES

As a step toward redirecting discussion and action around drug abuse control into more useful channels, we propose the following as reasonable and moderate principles for practical drug policies.

1. [Why drug policy?] Any activity that diminishes normal capacities for self-control can create dangers for those who engage in it and for those around them. Drugs that threaten self-control, either through intoxication or through addiction, are therefore matters of social as well as personal concern. This applies to licit and illicit substances alike.

2. [Science and policy] Drug policies should be based on the best available knowledge and analysis and should be judged by the results they produce rather than by the intentions they embody. Too often, policies designed for their symbolic value have unanticipated and unwanted consequences.

[Minimizing overall damage] Drug control policies should be designed to minimize the damage done to individuals, to social institutions, and to the public health by (a) licit and illicit drug-taking, (b) drug trafficking, and (c) the drug control measures themselves. Damage can be reduced by shrinking the extent of drug abuse as well as by reducing the harm incident to any given level of drug consumption.

[Forms of damage] The forms of damage to be minimized—whether caused by drugs or drug control measures—include illness and accidents, crimes against person and property, corruption and disorder, disruption of family and other human relationships, loss of educational and economic opportunities, loss of productivity, loss of dignity and autonomy, loss of personal liberty and privacy, interference in pain management and other aspects of the practice of medicine, and the costs of public and private interventions.

5. [Laws and regulations] Laws and regulations are among the primary means of preventing drug abuse. Lifting prohibition on a substance is likely to increase its consumption, perhaps dramatically. Some substances present dangers such that even limited licit availability, other than for medically supervised use, would be unlikely to yield the desired minimum-damage outcome. Therefore, we cannot escape our current predicament by "ending prohibition" or "legalizing drugs."

6. [Enforcement for results] Enforcement and punishment, like other policies, should be designed to minimize overall damage. As long as some substances are illegal or tightly regulated, there will be attempts to evade those controls and therefore a need for enforcement and sanctions, in some cases including imprisonment. The use of disproportionate punishments to express social norms is neither just nor a prudent use of public funds and scarce prison capacity.

7. [Stance towards users] Social disapproval of substance abuse can be a power-

ful and economical means of reducing its extent. Such disapproval should not be translated into indiscriminate hostility towards all drug users based solely on their drug use. Persons who violate the rights of others under the influence of intoxicants or in order to obtain intoxicants are to be held fully responsible for their actions, criminally as well as civilly.

8. [Tailoring policies to drugs] Alcohol is familiar and widely accepted, yet it shares the intoxicating and addictive risks of some of the illicit drugs. Current policies make alcohol too easily and cheaply available and allow it to be too aggressively promoted. The resulting damage to users and others is very large. Taxation, regulation, and public information are all justified means to the end of reducing that damage.

10. [What about tobacco?] Nicotine, as commonly used, is not an intoxicant. But its addictive potential is great, and chronic cigarette smoking carries severe health risks. The wide prevalence of tobacco use under current policies makes cigarette smoking the leading cause of preventable early death. More stringent regulation is needed to protect the public health.

11. [Valuing treatment properly] Successful treatment for people with substance abuse disorders produces benefits for those treated and for those around them. Treatment episodes that reduce drug use and damage to self and others but do not produce immediate, complete, and lasting abstinence ought to be regarded as incomplete successes rather than as unredeemed failures.

12. [Prevention] For drug abuse as for other ills, the more successful the prevention effort the less the need for remediation. Developing and implementing effective drug abuse prevention strategies, especially for minors, is an essential means of drug abuse control. Prevention messages should accurately reflect what is known about the effects and risks of the substances they discuss.

13. [Taking measured steps] Drug policies need to be updated as social conditions change and the base of scientific knowledge grows. Policy changes that can be introduced incrementally and evaluated step by step are to be preferred over sweeping changes with less predictable consequences.

14. [Integrity and civility] Debate about drug policies engages deeply felt values and therefore often becomes heated and even acrimonious. Civility and honesty about facts, proposals, and motives can serve both to improve drug policies and to advance the broader public interest in healthy political discourse.

These principles may seem straightforward, hardly needing to be said. That they are in fact controversial illustrates something important about the way drugs and drug policy now tend to be discussed.

The current drug policy debate is marked by polarization into two positions stereotyped as "drug warrior" and "legalizer." This creates the false impression that "ending prohibition" is the only alternative to an unrestricted "war on drugs," effectively disenfranchising citizens who find both of those options unsatisfactory. Polarization and strong emotions give rise to misrepresentations of facts and motives, oversimplification of complex issues, and denial of uncertainty.

In the face of strong opposition, some of those who favor fundamental changes in the drug laws have elected to concentrate on more modest proposals which they intend as way stations towards their unstated longer-term goals. Partly as a consequence, some of those devoted to maintaining or intensifying present anti-drug efforts have taken to dismissing all criticisms of current policies—