

This was done at the same time that the application for TMJ Concepts, a competitor of TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts' associates.

The agency went so far as to reconvene a new Medical Devices Advisory Committee late last year, with a clear majority of its members lacking the required expertise, which denied the company's application.

It was not until Mr. Bernard Statland, the new Director of the Office of Device Evaluation (ODE) was brought in that the logjam was broken the PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that there have been significant questions raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant “moving of the goal posts” during the review of both PMAs.

Over the last two years, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic decrease in pain, an increase in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after much delay, the circumstances of the last two years calls into question the integrity of the agency and, it is for this reason that I bring it to the House's attention.

Dr. Christensen is a true professional and a pioneer in his field and holder of the first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure. I am convinced that the work of TMJ is and always has been based on solid, scientific principles and the removal of the implants from the market had been erroneous, contrary to the Agency's earlier findings and the statutory standard that should be applied. This was devastating to thousands in the general public and devastating to the financial status of the company.

Later this year, the House of Representatives will consider legislation reauthorizing the Food and Drug Administration and I would like to urge the House Commerce Committee to hold hearings on the TMJ Implant case and to conduct a thorough investigation into the FDA's review of the Premarket Approval Application of the TMJ Fossa-Eminence Prosthesis.

I would like to take this opportunity to submit into the record two articles from FDAWebview which shed light on the TMJ Implant case.

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HOSPITAL INVESTMENT ACT OF  
2001

**HON. GERALD D. KLECZKA**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 12, 2001*

Mr. KLECZKA. Mr. Speaker, today Mr. Stark from California and I are introducing the Hos-

pital Investment Act of 2001, which aims to address concerns regarding potential conflicts of interest raised by the advent of free-standing specialty or “boutique” hospitals with joint investor-physician ownership arrangements.

Over the past several years, we have seen a growing expansion of these “boutique” hospitals. Each of these hospitals specializes in one particular area of inpatient procedures—such as heart, orthopedic, or maternity—which is high-volume, high-cost, and high-profit to these new for-profit institutions.

Among the many problems associated with these boutique hospitals is the issue of self-referrals, where physicians refer their patients to a hospital in which they have a preferential ownership stake.

Under current federal law, a doctor may not refer his patients to a health care facility in which he has a financial interest. This includes clinical laboratory services, physical therapy, speech pathology, radiology services (such as MRIs, CAT scans, and ultrasound) and other auxiliary health services. Before these laws, commonly referred to as Stark I and Stark II, were passed in 1989 and 1993 respectively, the HHS Inspector General had discovered that Medicare patients received 45 percent more laboratory services when the doctor owned the lab than when the doctor did not.

One exception to the Stark laws allows a physician to refer patients to a hospital in which he or she has a financial interest, as long as that interest is in the whole hospital and not just a particular department or clinic within. With the proliferation of specialty hospitals, this exception has become a loophole by which physicians can legally refer patients to a boutique hospital in which they have a direct personal financial interest.

This preferential ownership provides physicians with increased financial incentives to engage in the very type of overutilization of medical services that the HHS Office of the Inspector General disclosed in its 1989 report, which invariably leads to increased federal Medicare and Medicaid spending without increased quality of patient care. This, as we all know, is the scenario that the Stark laws were designed to prevent in the first place.

The bill we are introducing today, the Hospital Investment Act of 2001, would address this problem by tightening the current law to prohibit preferential hospital ownership terms for physicians who wish to be able to refer patients to the facility. Under this legislation, physicians would be allowed to refer patients to a hospital in which they had an ownership interest, but only if the interest was purchased on terms also available to the general public.

Physicians and facilities that violate this new law would be subject to a civil monetary penalty of up to \$15,000 per referral plus twice the amount billed for the referred service. In cases where there was an arrangement or scheme to refer patients to facilities owned by the physician, penalties could be as high as \$100,000 and twice the amount billed for referred services. Also, the physician and specialty hospital would be denied participation in the Medicare program.

Mr. Speaker, it is imperative that Congress closes the hospital ownership loophole in the Medicare physician self-referral laws to ensure our nation's health care system is not compromised and to protect the viability of our nation's Medicare and Medicaid programs. I urge my colleagues to cosponsor and support this important legislation.

HISPANIC RECOGNITION AWARDS

**HON. BARNEY FRANK**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 12, 2001*

Mr. FRANK. Mr. Speaker, I was delighted to be given a chance to send my congratulations to the winners of the Hispanic Recognition Awards which are going to be held on August 3 in North Dartmouth, Massachusetts. The Hispanic Recognition Awards Committee has assembled a very diverse and valuable group of individuals and institutions to receive well merited recognition for their work in helping preserve Latino culture and values in the framework of our national unity. I am delighted to have a chance to share with my colleagues the work of this important organization and I ask that the names of the award winners be printed here so that they may get the recognition to which they are entitled.

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MEDICARE PHYSICIAN SELF-REFERRAL—A BILL TO KEEP SPECIALTY HOSPITALS FROM SKIRTING THE INTENT OF THE LAW

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 12, 2001*

Mr. STARK. Mr. Speaker, Rep. KLECZKA—who represents Milwaukee and serves with me on the Ways and Means Health Subcommittee—brought to my attention a report by the Milwaukee Journal Sentinel on Monday, June 25, 2001, that two Milwaukee hospital groups are planning to open free-standing heart hospitals. Both of these specialty hospitals will jointly owned by the hospitals and the groups of physicians who will be referring patients to the facilities. The newspaper article pointed out the potential conflict-of-interest, and the resulting ethical concern, for physicians who refer patients to facilities in which they have an ownership interest. These joint ventures may induce investor physicians to base their treatment decisions on profits generated by the facility rather than on the clinical needs of their patients.

Mr. Speaker, the situation in Milwaukee is similar to other reports that hospitals and physicians are engaging in such clinical joint ventures, including both freestanding specialty hospitals (e.g., heart, orthopedic, or maternity hospitals), and arrangements in which a high revenue generating unit or service (e.g., cardiology or cardiac surgery) of an existing hospital is restructured and legally incorporated as a separate hospital.

Typically, these point ventures are marketed only to physicians in a position to refer patients to the facility, and they are structured to take advantage of a loophole in the Medicare physician self referral law permitting physician investments in “whole hospitals”.

Mr. Speaker, the development of specialty hospitals is of great concern because they deprive full-scale hospitals of their most profitable business, leaving those existing hospitals much worse off financially. The investors in these joint ventures and specialty hospitals skim the profits of full-scale hospitals, leaving

them to struggle financially. Then the hospitals must look to Medicare and to their local communities to help them financially—and all because these joint ventures are skimming high profits for their investors, including physicians.

Mr. Speaker, these situations not only harm hospitals, they violate the spirit of Medicare self-referral laws. Lawyers have found a loophole in the self-referral laws, and physicians are taking advantage of it.

Today, Rep. KLECZKA and I are joining together to introduce the Hospital Investment Act of 2001 to close the loophole. Our bill would continue to permit physician ownership in these joint ventures and specialty hospitals only if the ownership or investment interest is purchased on terms that are generally available to the public at the time. This amendment would not prohibit physicians from purchasing shares to stock, but it would make sure that such stock purchases are not the result of a sweetheart deal available only to physicians, but set up in a way to skirt the law. My amendment would make it harder for hospitals and physicians to skim profits from hospitals leaving the hospitals worse off financially.

Mr. Speaker, it is time to close this loophole in the Medicare physician self-referral laws, and I urge my colleagues to support it.

TRIBUTE TO 2001 LeGRAND SMITH  
SCHOLARSHIP FINALISTS

**HON. NICK SMITH**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 12, 2001*

Mr. SMITH of Michigan. Mr. Speaker, it is a sincere pleasure to recognize the finalists of the 2001 LeGrand Smith Scholarship Program. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests:

Nicole Albain of Deerfield, Michigan  
Laura Banks of Adrian, Michigan  
Zoe Bliss of Jackson, Michigan  
Jonathan Chapman of East Leroy, Michigan  
Bethany Decker of Adrian, Michigan  
Elizabeth Flack of Jackson, Michigan  
Benjamin Green of Morenci, Michigan  
RaeAnn Herman of Manistowick, Michigan  
Alexander Kennedy of Adrian, Michigan  
Chelsey McConn of Bronson, Michigan  
Ingrid Meyer of Pittsford, Michigan  
Martin Muntz of Manchester, Michigan  
Rebekah Preston of Quincy, Michigan  
Lisa Sellers of Battle Creek, Michigan  
Kristen Taddonio of Manchester, Michigan  
Bethany Wheeler of Morenci, Michigan

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, depth of intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence,

and concern throughout their high school experience. They are people who stand out among their peers due to their many achievements and the disciplined manner in which they meet challenges. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor. I am proud to join with their many admirers in extending our highest praise and congratulations to the finalists of the 2001 LeGrand Smith Congressional Scholarship Program.

SPEECH BY AHMET ERTEGUN

**HON. ROBERT WEXLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 12, 2001*

Mr. WEXLER. Mr. Speaker, I would like to place in the CONGRESSIONAL RECORD the following speech given by Ahmet Ertegun, Chief Executive Officer of Atlantic Records, on May 18, 2001, after receiving the Prestigious Federation of Turkish American Associations (FTAA) Cultural Lifetime Achievement award during the FTAA's Turkish Cultural Week.

As co-founder of the House Caucus on U.S.-Turkish Relations and Turkish-Americans, I believe there is no individual more deserving of the FTAA Cultural Achievement Award than Ahmet Ertegun who is a leading voice in the Turkish-American community and an extraordinary humanitarian.

It would be an understatement to say that Mr. Ertegun is the epitome of the American dream. As a successful businessman and self-starter, he co-founded one of the most successful international recording studios, Atlantic Records. Mr. Ertegun has also been deeply involved in many worthwhile philanthropic activities. Thousands of individuals in the United States and throughout the world have benefited from his commitment and involvement in charities and civic organizations.

The Turkish-American community should be extremely proud to have Mr. Ertegun as a leading spokesman to promote Turkish culture and history in the United States. He, along with the Federation of Turkish American Associations, are the heart and soul of a dynamic Turkish-American community. Finally, I want to thank Mr. Ertegun and the FTAA for their commitment to strengthening the relationship between the United States and Turkey. Like Mr. Ertegun and the FTAA, I believe that the friendship and strategic partnership between America and Turkey are essential to both countries and will grow even more important throughout the 21st century.

Again, I join the Federation of Turkish American Associations and the Turkish-American community in celebrating Mr. Ertegun's extraordinary achievements and congratulate him on receiving the FTAA Cultural Lifetime Achievement award.

Thank you.

Your excellencies, ladies and gentlemen:

It is a great honor for me to be recognized by the Federation of Turkish American Associations.

I deem it a great honor to have been introduced by my dear friend, Arif Mardin.

Arif, as our musical director, has made the key monumental record hits that have been the highlights of Atlantic's history: "Respect" by Aretha Franklin, the Saturday

Night Fever album by the Bee Gees, and "Wind Beneath My Wings" by Bette Midler just to name a few.

I was recently invited to a white-tie gala banquet in Nashville to get a music citation. This was a period when I was using crutches to walk.

As they called my name and I started to walk up to the podium to receive the award, this southern lady turned to me and said: "You must be mighty proud. This is the first time we've given this award to a foreign cripple."

But to be serious, it is wonderful to see such a large group of Turkish Americans. Each and every one of you is an important part of what has become the beginnings of a group which could have some political influence in the near future, both here in America and also in Turkey, through our family and friends.

It is most important that we, as Turkish Americans, champion the causes of freedom and justice, both here and in Turkey.

As you all must know, Turkey is now going through a terrible time because of economic mismanagement. We are all aware of the rumors and accusations in the Turkish press, of chaos and corruption, in both the public and the private sector.

But what has been the savior of Turkey has been the selfless and honest dedication of so many of its citizens, and the ever-present vigil of the Turkish Army, to protect the legacy of Mustafa Kemal Ataturk. They have been our saviors through the many difficulties since the formation of the Republic in 1923.

With the coming of the current crisis and the devaluation of the Turkish lira, President Bulent Ecevit sent for a top economist from the World Bank, Mr. Kemal Dervis, to establish reforms and to encourage economic help from our friends in America and in Europe.

He has been promised over 16 billion dollars, but with stringent conditions, which require drastic changes in the economic and political systems initiated by Ataturk at the beginning of the Republic.

Ataturk's dream was to bring his country and its people into the modern world's mainstream, and shortly before he died, he left this important message and I quote:

"I am leaving no sermon, no dogma, nor am I leaving as my legacy any commandment that is frozen in time or cast in stone. Concepts of well-being for countries, for peoples, and for individuals are changing in time. In such a world, to argue for rules that never change would be to deny the reality found in scientific knowledge and rational judgement."

It is my fervent hope that all of you support Mr. Kemal Dervis' mission and support President Ecevit in this critical moment. It is an important moment in Turkish history which will disengage the economic system from the political, which will bring about transparency and accountability in government, and help Turkey reach its destiny as an important member of the modern democratic world.

May the army and the Turkish people persevere in their pursuit of Ataturk's dream.

IN HONOR OF MR. DONALD  
FREJOSKY

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 12, 2001*

Mr. KUCINICH. Mr. Speaker, I rise today to honor Mr. Donald R. Frejosky. During the