OHIO ELECTIONS COMMISSION

STEVE DRIEHAUS
3502 Boudinot Avenue
Cincinnati, Ohio 45211
Phone: (513) 662-0205
Fax: (866) 675-6306

Complainant,

vs.

SUSAN B. ANTHONY LIST
1717 L Street NW, Suite 750
Washington, DC 20036
Phone: (202) 223-8073
Fax: (202) 223-8078

Respondent.

Case No. __________

COMPLAINT UNDER
O.R.C. § 3517.153(A), WITH
SUPPORTING AFFIDAVITS

RECEIVED
OCT 13 2010

OHIO ELECTIONS COMMISSION

Congressman Steve Driehaus, the Complainant in Case Number 201E-084, which was filed on October 5, 2010, hereby files this additional Complaint, supported by the attached affidavits, to bring to the attention of the Ohio Elections Commission additional violations of O.R.C. §§ 3517.21 that have been committed by Respondent Susan B. Anthony List ("SBA List") since the filing of the October 5th Complaint against it.

Exhibit 1 hereto consists of a Statement disseminated by the SBA List on October 7, 2010. In its October 7th Statement, the SBA List states, "It is a fact that Steve Driehaus has voted for a bill that includes taxpayer funding of abortion." Exhibit 1. This statement is false. For the reasons stated in the affidavits filed in Case Number 2010E-084 and in the affidavits submitted with this Complaint, the health care reform legislation for which Congressman Driehaus voted, now known as the Patient Protection and Affordable Care Act ("PPACA"), does
not include any provision for taxpayer-funded abortions. See attached Affidavit of Steve Driehaus (Exhibit 2) and Affidavit of Timothy Jost (Exhibit 3).  

As also attested to in the attached Affidavit of Kristen Day (Exhibit 4), the SBA List made this statement about his voting record knowing it to be false or with reckless disregard for its falsity. Thus, this statement violates O.R.C. §§ 3517.21(B)(9) and (10).

Moreover, the SBA List’s promise in Exhibit H that it “will spend more resources to make sure that Steve Driehaus’ constituents know the truth of his vote” demonstrates that the October 7th Statement was disseminated in order to promote Congressman Driehaus’s defeat in the election on November 2, 2010. See O.R.C. § 3517.21(B), including subd. (10).

The SBA List’s October 7th Statement also states that Congressman Driehaus “ordered Lamar Companies not to put up the billboards until the matter was settled by the Ohio Elections Commission ....” This statement also is false. As Congressman Driehaus states in his attached Affidavit, he has never spoken to anyone from Lamar Advertising Company, much less issued any orders to that company, about the billboards that the SBA List has threatened to put up falsely accusing him of voting “FOR taxpayer-funded abortion.” Nor has anyone acting on Congressman Driehaus’s behalf ordered Lamar not to put up the billboards. This statement by the SBA List is a complete fabrication, which the SBA List made knowing it to be false or with reckless disregard for its falsity. Based on Congressman Driehaus’s personal knowledge of its falsity, as attested to in his attached Affidavit, this statement by the SBA List about Congressman Driehaus violates O.R.C. § 3517.21(B)(10).

Because the SBA List’s October 7th Statement also includes its promise to “spend more resources” disseminating its false statements to “Steve Driehaus’ constituents,” it is clear that the

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1 Copies of the Affidavits of Timothy Jost and Kristen Day are attached hereto. Originals will be filed separately with the Commission.
false accusation that Congressman Driehaus “ordered” the billboard company not to put up the billboards was disseminated in order to promote Congressman Driehaus’s defeat in the election on November 2, 2010. See O.R.C. § 3517.21(B), including subd. (10).

Congressman Driehaus respectfully requests an expedited hearing pursuant to O.R.C. §§ 3517.154(A)(2)(a) and 3517.156(B)(1), given the nature of the violations and the fact that this Complaint is being filed after the ninetieth day prior to the general election. Congressman Driehaus also respectfully requests that the Commission find that respondent has violated O.R.C. §§ 3517.21(B)(9) and (10).

Respectfully submitted,

Paul M. De Marco (0041153)
W.B. Markovits (0018514)
Waite, Schneider, Bayless & Chesley Co., L.P.A.
1513 Fourth & Vine Street
Cincinnati, OH 45202
Telephone: (513) 621-0267
Fax: (513) 621-0262
Case: 1:10-cv-00720-TSB Doc #: 7-3 Filed: 10/19/10 Page: 4 of 29  PAGEID #: 186

From: Emily Buchanan
Sent: Thursday, October 07, 2010 3:00 PM
To: Blair Bjelos
Subject: SBA List Statement on Rep. Driehaus’ Attempt to Use Criminal Statute to Silence Critics

SBA List Statement on Rep. Driehaus’ Attempt to Use Criminal Statute to Silence Critics

Susan B. Anthony List President Marjorie Dannenfelser offered the following statement in response to efforts by Rep. Steve Driehaus (OH-01) to silence his critics through criminal statute concerning his vote in support of health care legislation that includes taxpayer funding of abortion:

"In an act of desperation and fear, Rep. Steve Driehaus is attempting to use a criminal statute to silence his critics. It is a fact that Steve Driehaus has voted for a bill that includes taxpayer funding of abortion. His own affidavit refers to an Executive order which purports to undo the harms of the actual bill for which he voted. The bill retains the language which Rep. Bart Stupak referred to as an "accounting gimmick" that allows for federal dollars to go to insurance plans that cover abortion. Steve Driehaus' claim that he did not vote for taxpayer funding of abortion in the health care bill is only supported by the partisan Democrats for Life of America and the splinter group, Catholics United. However, the National Right to Life Committee, Americans United for Life, United States Conference of Catholic Bishops, Ohio Right to Life, and numerous other organizations and policy experts agree that the bill uses taxpayer dollars to fund abortions. At the very least one must conclude that the point is one of national dispute rather than one that comes under a criminal statute that is designed to punish blatant falsehoods. We are confident that the Ohio Elections commission and, most importantly, the people of Steve Driehaus' congressional district will see through this heavy-handed attempt to silence free speech in the public sphere. Because of these tactics, we will spend more resources to make sure that Steve Driehaus’ constituents know the truth of his vote."

Rep. Steve Driehaus filed a complaint with the Ohio Elections Commission on Tuesday, October 6th alleging that the Susan B. Anthony List is falsely accusing him of voting for taxpayer funding of abortion as a result of his vote in support of health care legislation. The complaint was spurred in part by the Susan B. Anthony List’s intention to put up four billboards across his Congressional district (picture attached). Rep. Driehaus ordered Lamar Companies not to put up the billboards until the matter was settled by the Ohio Elections Commission, stifling the free speech of the Susan B. Anthony List. A hearing has been set by the Ohio Elections Commission for Thursday, October 14th in Columbus, OH.

SHAME ON
STEVE DRIEHAUS!
Driehaus voted FOR taxpayer-funded abortion.

PAID FOR BY SUSAN B. ANTHONY LIST  WWW.SBA-LIST.ORG.
AFFIDAVIT OF STEVE DRIEHAUS

COUNTY OF HAMILTON )
) ss:
STATE OF OHIO )

Steve Driehaus, being first duly cautioned and sworn, states as follows:

1. I am the Complainant in Case Number 201E-084. I filed a Complaint in
that case on October 5, 2010. I am filing this Affidavit and the accompanying new
Complaint to bring to the attention of the Ohio Elections Commission additional
violations of O.R.C. §§ 3517.21 that have been committed by the Susan B. Anthony List
("SBA List") since the filing of my Complaint against it.

2. Exhibit 1, which is attached to my additional Complaint, consists of a
Statement disseminated by the SBA List on October 7, 2010.

3. In Exhibit 1, the SBA List states, "It is a fact that Steve Driehaus has voted
for a bill that includes taxpayer funding of abortion." This statement is false. Based on
my personal knowledge, and for the reasons stated in my previous affidavit and in the
other affidavits submitted previously and with this affidavit, the health care reform
legislation for which I voted, now known as the Patient Protection and Affordable Care
Act ("PPACA"), does not include any provision for taxpayer-funded abortions. Based on
my personal knowledge of its falsity, this statement by the SBA List about my voting
record violates O.R.C. §§ 3517.21(B)(9) and (10). The SBA List's promise in Exhibit 1
that it "will spend more resources to make sure that Steve Driehaus' constituents know
the truth of his vote" demonstrates that the October 7th Statement was disseminated in
order to promote my defeat in the election on November 2, 2010.
4. The SBA List’s October 7th Statement also states that I “ordered Lamar Companies not to put up the billboards until the matter was settled by the Ohio Elections Commission ....” This statement also is false. I have never spoken to anyone from Lamar Advertising Company, much less issued any orders to that company, about the billboards that the SBA List has threatened to put up falsely accusing me of voting “FOR taxpayer-funded abortion.” Nor has anyone acting on my behalf ordered Lamar not to put up the billboards. This statement by the SBA List is a complete fabrication, which the SBA List made knowing it to be false or with reckless disregard for its falsity. Based on my personal knowledge of its falsity, this statement by the SBA List about me violates O.R.C. § 3517.21(B)(10).

4. I make this affidavit based on my personal knowledge, and declare under penalty of perjury that it is true and correct. Further affiant sayeth naught.

[Signature]

Steve Driehaus

Signed and sworn before a Notary Public this 12th day of October, 2010, in Cincinnati, Ohio.

[Signature]

Notary Public
AFFIDAVIT OF TIMOTHY JOST

Timothy Jost hereby affirms:

1) I am in my tenth year of teaching law at the Washington and Lee University School of Law, where I hold the Robert L. Willett Family Professorship.

2) Prior to coming to Washington and Lee, I held the Newton Baker Chair at the Ohio State University College of Law, where I taught for twenty years.

3) I was a member of the State Medical Board of Ohio for five years.

4) Since 1987, I have been a co-author of Health Law: Cases, Materials, and Problems, the most widely used health law teaching casebook in the United States. I have written numerous articles on health law subjects. A copy of my curriculum vitae is attached.

5) I have followed closely the development of the health care reform legislation and have been interviewed by the New York Times, Fox News, ABC News, the Washington Post, the Wall Street Journal, and numerous other national media sources about it. I also have written about it for leading health policy journals, including Health Affairs and the New England Journal of Medicine. I am a funded consumer representative to the National Association of Insurance Commissioners and have been actively involved in their efforts to implement the legislation.

6) I am very familiar with the provisions of the Patient Protection and Affordable Care Act ("PPACA") dealing with abortion, and have written about these provisions for Commonweal magazine. I also am aware that the SBA List has claimed, as recently as in a press release dated October 7, 2010, that the PPACA "includes taxpayer funding of abortion."

7) Section 1303(b)(2) of the PPACA, titled "Prohibition on the Use of Federal Funds," states that a health insurer "shall not use any amount attributable to" the health insurance premium tax credits and cost sharing-reduction payments created by the PPACA "for the purpose of paying for" abortions that are not already covered by the Hyde Amendment.

8) Under section 1303, the issuer of an insurance plan that offers abortion coverage must collect a separate premium from the insured that fully covers the cost of any abortion provided by that particular insurance plan (without any offsets for savings to the plan attributable to abortions). These funds must be kept completely separate from the premiums paid for the rest of the plan, and thus from any federal funds provided under the PPACA, in an allocation account. There is a complete firewall between the funds held by such a plan for services on which federal tax credits and cost sharing-reduction payments cannot be used and the funds held by that plan for services on which federal tax credits and cost-sharing reduction payments can be used. State insurance
commissioners shall ensure using generally accepted accounting requirements and funds management principles and guidance provided by the Office of Management and Budget and the Government Accountability Office that health plans comply with fund segregation requirements.

9) Nothing in section 1303 or in the remainder of the PPACA provides federal funding for abortions, and not one dime of PPACA funding has been used to pay for abortions since the law was enacted in March.

10) The provisions of the PPACA are a matter of public record. It is a fact that it does not provide taxpayer funding for abortions. I have stated this fact both before and since the PPACA’s passage. This is not and has never been a matter of opinion on which reasonable minds can differ.

I make this affidavit based on my personal knowledge, and affirm under penalty of perjury that it is true and correct. Further, affiant sayeth naught.

Timothy Jost

Affirmed before a notary public on October 11, 2010 at Harrisonburg, Virginia

Linda A. Shast, #363603
NOTARY PUBLIC

My commission expires November 30, 2013
VITA AND LIST OF PUBLICATIONS

TIMOTHY STOLTZFUS JOST

Home: 1370 Lincolnshire, Harrisonburg, Va. 22802, ph. 540 421 1529

Office: Washington and Lee University School of Law, Lexington, Va. 24450, ph. 540 463 8400, fax 540 463 8488

E-Mail: jostt@wlu.edu

PROFESSIONAL EMPLOYMENT:

2001- Robert L. Willett Family Professor of Law, Washington and Lee University School of Law, Lexington, Virginia

2004 -- Affiliate Professor, Department of Health Administration, Virginia Commonwealth University

Fall, 2007, Visiting Professor, University of Virginia

January 2008, Distinguished Visitor, University of Toronto

Spring 2005, Scholar-in-Residence, Institute of Medicine


1996 - 1997, Guest Professor, Universität Göttingen, Germany; Fulbright Scholar

1994-1996, Interim Director, Ohio State University Center for Health Policy Studies

1987 - 1992: Member: Ohio State Medical Board
1990-1991 Supervising Member

1988 - 1989: Visiting Fellow, Centre for Socio-Legal Studies, Wolfson College, Oxford University, European Fulbright Regional Research Scholar

1987 - 1992: Professor, Ohio State University College of Law and College of Medicine

1986 - 1987: Associate Professor, Ohio State University College of Medicine, Division of Hospital and Health Services Administration
1985 - 1987:  Associate Professor, Ohio State University College of Law

1981 - 1985:  Assistant Professor, Ohio State University, College of Law

1979 - 1981:  Supervisory Attorney, elderly team, Legal Assistance Foundation of Chicago

1977 - 1978:  Supervisory Attorney, Legal Services for the Mentally Disabled of Uptown
1975 - 1976:  Staff Attorney, Legal Assistance Foundation of Chicago

1970 - 1972:  Caseworker and Administrative Aide, Fulton County Department of Family and
Children Services, Atlanta, Georgia

EDUCATION

B.A. Adlai Stevenson College, University of California at Santa Cruz, General Honors and
Honors in History, 1970

J.D. University of Chicago, cum laude, Order of the Coif, 1975 (top 5% of class, no other
rankings available)
  Research Assistant to Professor Richard Posner, 1973 - 1974

Law and Economics Institute for Law Professors, 1984

LANGUAGES

English, German

SCHOLARLY WRITINGS

1.  Books:

   Health Care at Risk: A Critique of the Consumer-Driven Movement (Duke
University Press, 2007).

   Health Care Coverage Determinations: An International Comparative Study
   Winner of the European Health Management Association’s 2005 Baxter
Distinguished Submission award.

   Distentitlement? The Threats Facing Our Health Care Programs and a Rights-
Based Response (Oxford University Press, 2003)


This book is also published in three paperbacks, each of which contains part of the total book, entitled, The Law of Health Care Organization and Finance, Bioethics: Health Care Law and Ethics, and Liability and Quality Issues in Health Care. These are each now in the 5th edition


Regulation of the Health Care Professions (Editor) Health Administration Press, 1997.

Property: Cases, Problems and Materials (with Sandra Johnson, Peter Salsich, and Thomas Shaffer) West, 1992

2. Monographs:


Regulación de Seguros de Salud en los Estados Unidos (Republica de Chile, Superintendencia des Instituciones de Salud Previsional, 1998)

Assurance of the Quality of Medical Care: An International Comparative Study King's Fund, London, (1990)

Model Recommendations: Intermediate Sanctions for Enforcement of
Quality of Care in Nursing Homes: for American Bar Association, Commission on Legal Problems of the Elderly (1981)

3. Articles:


The Role of State Regulation in Consumer-Driven Health Care (with Mark Hall), 31 American Journal of Law and Medicine 395-418 (2005).


The Most Important Health Care Legislation of the Millennium (So Far): The Medicare Modernization Act, 5 Yale J. Health Pol’y, L. & Ethics 437-49 (2005)
Reprinted in the Institute of Chartered Financial Analyst of India’s Journal of Healthcare Law


Comparative and International Health Law, 14 Health Matrix, 141 (2004).


The Tenuous Nature of the Medicaid Entitlement, Health Affairs, Jan./Feb. 2003, at 145-153


Private or Public Approaches to Insuring the Uninsured, 76 New York University Law Review 419 (2001).


ΙΑΤΡΙΚΟ ΠΑΡΑΠΤΩΜΑ ΣΤΟ ΔΙΚΑΙΟ ΤΩΝ ΗΠΟΜΕΝΩΝ ΠΟΛΙΤΕΙΩΝ ΚΑΙ ΤΗΣ ΓΕΡΜΑΝΙΑΣ ΜΙΑ ΣΥΓΚΡΙΤΙΚΗ ΔΙΕΡΕΥΝΗΣΗ, Αρμενόπουλος, 1999(2), 173-178. (An article comparing malpractice litigation in the United States and Germany based on a presentation at the University of Thessaloniki)


Managed Care: Placebo or Wonder Drug for Health Care Fraud and Abuse? (with Sharon Davies) 31 Ga. L. Rev. 373-417 (1997).

The Fraud and Abuse Statute: Rationalizing or Rationalization (with Sharon Davies), 15 Health Affairs 129-131 (1996).


Health System Reform: Forward or Backward with Quality Oversight?, 271 JAMA 1508-1511 (1994).


Medical Education, Licensure and Discipline in Four European Countries, Federation of State Medical Boards Bulletin, Spring 1993 at 9-26.


Regulation of the Quality of Nursing Home Care in the United States, 1 Quality Assurance in Health Care 223-228 (1990).


Regulatory Approaches to Problems in the Quality of Medical Care: Diagnosis and Prescription, 22 University of California at Davis Law Review 593-608 (1989).


The Justice Department's Settlement Policy. Is "No Deal" a "Bad Deal"?, Litigation (1987).


3. Chapters in Publications


Funding Health Care Services: The Optimal Balance, in Exploring Social Insurance (Mark Stabile and Colleen Flood, eds, McGill-Queen’s University Press, forthcoming
Landesbericht, USA, in Internationale Perspektiven zu Status und Schutz des extrakorporalen Embryos, 411-44 (Albin Eser, Hans-Georg Koch, Carola Seith, eds. 2007)


Legal Aspects of End of Life Treatment in Australia, Canada, the United States, the United Kingdom, Poland, France, Germany, Japan, and the Netherlands (with Danuta Mendelson and Michael Ashby), in Proceedings of the 10th World Congress on Pain, Progress in Pain Research and Management (edited by Jonathan Dostrovsky, Daniel Carr and Martin Koltzenburg, 2003).

E-Sağlık ve Hukuk (E-Health and the Law) in Uluslararası Internet Hukuku Sempozyumu (Dokuz Eylül Üniversitesi Yayını, 2002)


Legal and Regulatory Considerations in Physician Performance Enhancement Programs in Enhancing Physician Performance, (American College of Physician Executives, 2000).


Equal Access to Health Care, Law in Motion (Kluwer, 1996).


Recent Developments in Medical Quality Assurance and Audit, in Quality and


4. Book Reviews

The Public-Private Health Care State: Essays on the History of American Health Policy, by Rosemary Stevens, 44 Inquiry 228-29 (200&).


Causation in Law in Medicine, Ian Freckleton and Danuta Mendelson, eds, 24 Journal of Legal Medicine, 127-133 (2003)


Medicine, Money, & Morals, by Marc Rodwin, reviewed in 19 Journal of Health Politics, Policy, and Law 265 (1994).

INSTRUCTION

I have taught courses in Health Care Law, Law and Medicine, Insurance Law, Property, Remedies Injunctions, Land Use Planning and Interprofessional Care of the Client, seminars in Health Care Regulation and Finance and Government Wealth Redistribution, and a clinic in Administrative Law.

EDITOR
I am also assisting in editing a symposium issue of the Journal of Health Politics, Policy and Law offering a twenty year retrospective on Paul Starr's Social Transformation of American Medicine.

EDITORIAL BOARDS
American Journal of Law and Medicine
Yale Journal of Health Policy, Law, and Ethics (Advisory Board).
Journal of Health Politics, Policy and Law
Health Economics, Policy and Law (Advisory Board)

MEMBERSHIPS
American Law Institute
National Academy of Social Insurance
National Health Lawyers Association
American Society of Law, Medicine, and Ethics
American Society of Comparative Law
American Bar Association

GRANTS AND AWARDS
Seton Hall University, Merck Visiting Scholar, Spring 2001
American Society of Law, Medicine and Ethics, Jay Healey Distinguished Health Law Teaching Award, 2000
Ohio State University College of Law Outstanding Faculty Award, 1999
Mayday Scholar, American Society of Law, Medicine, and Ethics, 1997 and 1999
German Fulbright Grant, 1996-1997
Ohio State University Distinguished Scholar Award, 1996
DAAD Research Grant, 1995
Fulbright Western European Regional Research Grant, 1989
Listed in Who's Who in American Law and in Who's Who in the United States

PROFESSIONAL PRESENTATIONS, MEMBERSHIPS, AND CONSULTING (Selected)
Member, Illinois Long Term Care Advisory Board, 1980-81.
Board Member, National Citizens Coalition for Nursing Home Reform, 1981.
Member of drafting committee of ad hoc committee convened by American Health Care Association on questionably competent long term care residents which published a monograph by that name in 1982.

Consultant to National Academy of Sciences Institute of Medicine, Nursing Home Regulation Committee 1984 - 1985.

Presentation to American Association of Law Schools, Aging and the Law Section, on Medical Decisionmaking for the Elderly, 1985.

Consultant to Administrative Conference of the United States, 1986.


Presentation: Conference on Medicare Administration and Appeals Administrative Conference of the United States and American Bar Association, Commission on Legal Problems of the Elderly.

Consultant to Administrative Conference of the United States, on PROs, 1988.

Presentations at the Universities of Manchester and Bristol in England and the Karolinska Hospital, Sweden, 1989.


Chairman, American Association of Law Schools, Aging and the Law Section, 1990.

Planning committee member and presenter, American Society of Law and Medicine, Annual Teaching Conference, 1990.


Presentation, Hospital Cost Containment Symposium, University of Puget Sound College of Law.


Presenter and co-leader, Conference on Grievances in Health Care, Oxford University, March 1992.

Presenter and chair, Conference on Grievances in Health Care, Ohio State University, November, 1992.


Presenter and Organizer, Conference on Health Care Reform, Columbus, Ohio, 1994.

Member, Provost's Advisory Committee, The Ohio State University.

Presentation, Faculty of Nursing and Midwifery, University of Swansea, Wales, 1994.


Presentation, Regulation of Quality in Managed Care, American Society of Law, Medicine and Ethics Annual Meeting, September 1995, Boston.

Presentation, Managed Care and the Frail Elderly, Legal Issues, New York Academy of Medicine, New York, 1995.


Presentations on Medical Liability Law in the United States, at Kiel, Hamburg,
Hannover, Rostock, Jena, and Halle, 1996-1997 (noted in 12 Neue Juristen Wochenschrift 802-803 (1998) and in the Deutsch-Amerikanischen Juristen-Vereinigung Newsletter, 1/97 at 6-9)

Presentations on Health Care Fraud and Abuse in the United States at Munich and Nottingham, 1996
Presentations on the American Health Care System since the Clinton Plan, Munich and Frankfurt, 1997

Presentation, Comparing American and German Medical Malpractice Law, Thessaloniki, 1997

Presentation, The Limits of Incrementalism, AALS, San Francisco, 1998

Presentation, Insurance Regulation in the United States, Santiago, Chile, 1998


Update Presentation on Medicare and Medicaid Law, ASLME Health Law Teacher's Conference, St. Louis, Mo. 1999


Presentation, Invited Colloquium on a legal research agenda for the Institute of Medicine, IOM, Washington, D.C., 1999

Presentations on Regulation of Managed Care in the United States, Center on Health Program Evaluation, Melbourne, Australia; University of Sydney, Sydney, Australia; and Munich Reinsurance Company Seminar, Sydney Australia, 1999

Presentation at Conference, Medicare: Current Payment, Future Design, Seton Hall University, April 2000.

Presentations at American Society of Law, Medicine and Ethics, Health Law Teachers' Conference, Case Western Reserve University Law School, June 2000, Medicare Update and Comparative Experience with Regulation of Private Health Insurance


Member, Institute of Medicine Committee, Assessing the System for Protecting Human Research Subjects, 2000-2002

Presenter, Conference on Law and the Internet, Izmir, Turkey, 2001

Presenter, Fraud and Abuse Enforcement, General Accounting Office Health Law Seminar, 2001

Visiting Professor, Course on Comparative Health Law, University of Houston, 2002

Keynote speaker, 8th Workshop, European Law and National Health Policies Conference, Amsterdam, 2002

Suffolk University, Health Law & Policy Forum, Spring 2002, Boston


Presentation, Worldwide Developments in the Regulation of Private Health Insurance, Summit on Private-Public Partnerships in Health Care, Miami, 2002.

Presentation, World Congress on Pain, San Diego, 2002


American Society of Law, Medicine and Ethics, Widener, Delaware, Chaired panel on comparative health law and spoke about technology assessment.2003.


Institute of Medicine, Health Care Coverage Determinations. 2004

Bloemfontaine University, South Africa, Health Care Coverage Determinations, 2005

American Health Lawyer’s Association, Racial and Ethnic Disparities in Medicare, 2005

University of Virginia, Health Care Coverage Determinations, 2005


London School of Economics, Coverage Determinations in Public Insurance Programs, 2005

Swiss Ministry of Health, Coverage Determinations in Public Insurance Programs, Berne, 2005

Academy Health, Racial and Ethnic Disparities in Medicare, 2005

Law and Society, Las Vegas, The New Governance, The Open Method of Coordination, and European Social Health Insurance Systems, 2005


Medicare Payment Advisory Commission Staff, P4P: A Skeptical Appraisal, 2005

Racial and Ethnic Disparities in Medicare, ABA Health Law Section 2005

The Role of Health Courts and Medicare in Malpractice Dispute Resolution, University of Maryland, 2005

Thirty Years of German Health Care Reform, Bremen, 2005

Consumer-Driven Health Care, University of Toronto, 2005

American Society of Law Medicine and Ethics, Baltimore, June 2006, presentation on consumer-driven health care

Suffolk University, March 2006, presentation on racial disparities in Medicare

Osaka University, talk on quality assurance in health care in the United States, March 2006
Saint Louis University Law Review Symposium, talk on tax policy and health care
March 2006

Case Western University Law School, presentation on comparative health policy, Oct.
2006

University of Toronto College of Law, presentation on social health insurance, Nov 2006

University of Kansas College of Law, presentation on the Massachusetts Health Plan,
November 2006

McGill University, presentation on comparative health law research and teaching to
Canadian Health Law Association, November 2006

Consumer-Driven Health Care Summit, Washington, Sept, 2006, state regulation of
consumer-driven health care

International Federation of Employee Benefit Plans, Law Vegas, October 2006, German
health care reforms

Saint Louis University, 2007, Medicare Reform

Southern Illinois University, 2007, Health Care Reform

Stanford University, 2007, Technology Assessment for Health Care Coverage Decisions

Georgetown University, 2007, Global Health Law and Health Care Financing

Brno, Moravia, 2007, EU forum on hybrids and chimeras

George Washington University, 2007, Consumer-Driven Health Care

Heidelberg, 2007, EU forum on hybrids and chimeras
Stanford, 2007, Fresh Thinking Law and Health Reform Presentation

2007 - Member, Institute of Medicine panel on conflicts of interest in medicine

2007, consultant, New America Foundation, Value Purchasing in Medicare

2007 – 2008, consultant, National Academy of Social Insurance, National Academy of
Public Administration, health insurance regulation
SECOND AFFIDAVIT OF KRISTEN DAY

Kristen Day, being first duly cautioned and sworn, states as follows:

1. I am the Executive Director of Democrats for Life and, in that capacity, I closely followed the progress of the health care reform legislation in Congress during 2009 and 2010. In the course of following it, I attended a health care reform briefing in the Rayburn House Office Building in early January 2010. Staff members from the offices of pro-life Members of Congress were in attendance. Also in attendance were representatives from other pro-life organizations, including, to the best of my recollection, the Susan B. Anthony List ("SBA List"). One of the purposes of this meeting was to provide an update on the health care language that by then had passed through the Senate and the House. At one point during a discussion of the Senate-passed language, which ultimately became part of the health care reform law (the PPACA), Doug Johnson of National Right to Life stated, "We can't really say that this is federal funding of abortion" (or words to that effect). No one immediately refuted that statement.

2. Despite Mr. Johnson's statement, the SBA List and other pro-life groups have continued since then to falsely characterize the health care reform law as providing taxpayer funding for abortions.

3. Because of my position as Executive Director of Democrats for Life, I consistently and repeatedly have asked the SBA List and the other such groups to point to any language in the PPACA that provides funding for abortions. On September 30, 2010, I emailed Marjorie Dannenfelser, the President of the SBA List. My purpose was to find out directly from the SBA List's executive director what language in the PPACA supports that organization's claim that the Act actually includes taxpayer funding for abortion. Before sending this email to her, I was aware that the SBA List previously had raised the possibility that high risk pools and
risk pools and enhanced Community Health Center funding, both of which are addressed by the PPACA, were “pots of money” that the Administration would use to fund abortions. As I pointed out to Ms. Dannenfelser, however, “recent guidelines and regulations from the Administration specifically and clearly state both high risk pools and Community Health Center funds will not be used for abortion.” I then added: “[Y]ou continue to say that there are other pots of money that will be used for abortion. Can you let me know where?” Ms. Dannenfelser responded almost immediately, but did not point to any language in the PPACA that actually funds abortion. So I sent her another email, reiterating that neither high risk pools nor Community Health Centers “will allow abortion funding. Again, I ask you, what other funding could go to pay for abortion.” When Ms. Dannenfelser still did not point me toward any actual language in the Act that provides funding to pay for abortions, I sent her another email, stating: “If you can’t directly point to any other pots of money that could be used for abortion, these attacks on the pro-life democrats are baseless.” The next day, I emailed Ms. Dannenfelser again, stating: “Are there any other pots of money or no? It is a simple question that you cannot seem to answer.” Her response to that question was “I don’t need to find any other ‘pots.’”

4. To this day, no one from the SBA List (or any other group making the same false claim) has ever been able to point to any language in the PPACA that provides funding for abortions.

5. I make this affidavit based on my personal knowledge and declare under penalty of perjury that it is true and correct. Further affiant sayeth naught.

[Signature]

Kristen Day
Signed and sworn before a Notary Public this 12th day of October, 2010, in Fairfax, VA.

[Signature]

Notary Public
10/12/2010

GUTY H. SHAHBAZ
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES NOV. 30, 2012
COMMISSION # 122177