

Clinton Presidential Records

Graphic/Offensive Material Marker

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FOLDER**

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Kate Britton to Bill re:personal (3 pages)	02/14/2000	b(6)
002. paper	re: Life Dynamics Incorporated [partial] (1 page)	n.d.	b(6)
003. list	re: ordering protocol [partial] (1 page)	n.d.	b(6)
004. list	re: ordering protocol [partial] (1 page)	03/95	b(6)
005. list	re: ordering protocol [partial] (1 page)	ca. 1994	b(6)
006. list	re: ordering protocol [partial] (1 page)	02/27/1990	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 20223

FOLDER TITLE:

Correspondence [1]

2013-0436-S

rc1313

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

① No letter - glad to meet you at
San Francisco

**DRIVE BY AGONY
YOUTH LIFE LEARNING CENTER**

② Ask Anne & Ruby
③ Thank to be fine
this involved w/ Nate
Campus vs Violence

P.O. BOX 762
11301 Bullis Road. *10/10/02*
Lynwood California 90262
TEL . (310) 537-8018
FAX (310) 537-2051
e-mail - lorna@drive-by-agonny.com

④ Should we invite to Town Conference?

WHAT SPECIFIC SERVICES DOES "DRIVE BY AGONY" PROVIDE?

Designed to encourage youth to Stop violence through various youth programs and activities, Family Support, Educational Presentations, Mentors, Counseling from the parents' point of view, support group services provide a cable television outlet for victims of violent crime.

PREVENTION VIA EDUCATION

- A. Deliver presentations at schools, churches and community agencies
(directed toward parents and teachers) covering such topics as:
 - How to identify signs of gang involvement
 - What to do if a child's is involved in gangs
 - Peer pressure on a child every day life
 - "Straight Talk About Violence"
- B. Educational videos: Create and distribute educational videos about youth aimed at youth.

FAMILY SUPPORT

**PHOTOCOPY
HRC HANDWRITING**

- A. Visiting with families of murdered victims.
- B. Holding support group meetings for parents who have suffered the death of a child or a loved one due to violence.
- C. Counseling victims on gang crime or intimidation of their families.
- D. Counseling witnesses or gang crime.
- E. Accompanying the families to court hearings and trials,
- F. Informing victims. and their families, of their rights to State financial assistance for funeral costs, as well as other rights stemming from a death as the result of a violent crime.
- G. Providing referrals: helping arrange flowers for funerals (at a reasonable or no cost to the family); and, helping arrange for funerals at a cost which will not overwhelm the family.

**DRIVE BY AGONY
YOUTH LIFE LEARNING CENTER
11301 Bullis Road
Lynwood, CA 90262**

Que servicios especificos proviene el Drive By Agony.

La, organizacion, esta hecha para animar. Joveves, que pongan fin a la violencia a traves de actividades y programas Juveniles, apoyo familiar, presentaciones de educacion mentores, puntos de vista y consejos de padres, y grupos de apoyo proved un canal de cable victimas de crimenes violentos.

Educacion via prevencion

A. Dar Presentaciones en las escuelas, Iglesias, 4 comunidades, (dirijido para padres) maestros cubriendo temas, como:

1. Identificar si su hijo esta involucrado en padillas 2. Que hacer si su hyela esta involucrado en pandillas 3. Presion en la vida diana de los jovenes 4. Hablando dircto sobre la "violencia"

B. Videos de educacion: crear y distribuir videos de educacion sobre jovenes, la juventud dirijidas a.

APOYO FAMILIAR

A. Visitando victimas o familiaves de asesinados

B. Teniendo juntas para padres, que han sufrido la muerte de un ser querido por culpa de la violencia.

C. Asesoria o ayudamental para quienes son victimas de pandillas

D. Asesoria para los testigos de crimenes de pandillas.

E. Acompanando a los familiares a los tribunales o corte:

F. Informacion para victimas y sus, familiares sobre los derechos de Asistencia financiera del estado para, los costo de funerales, asi como otros caso que resultan parcrimenes violentos.

G. Ayuda de Referencia: aregios de flores para los funerales, aun precio razonable o ningun costo alguno para la familia.

**PHOTOCOPY
PRESERVATION**

COMMUNITY:

Success in communities includes:

Abstention from affiliation with known gang members

Decrease in juvenile arrests, gang-related arrests, and juvenile crime victims.

This is what one of our graduates had to say:

A 4th grader at Wilson Elementary school in Lynwood CA. Our class was pick to listen to a speech by the Rev. Jesse Jackson, as he was talking about stopping violence all I could think about was Drive By Agony and what they had taught us. I felt so good inside.



GOALS FOR YOUTH

We support youth and young people by providing them with tools that will help them deal with the loss of a loved one, provide them with alternatives to gang lifestyle. Help them to focus on choices that help them explore positive alternatives to violent and destructive behaviors. Teach them where anger comes from and how they can control their anger in a positive way.

OUTCOMES

Success with the youth includes:

Awareness of the effects of violence
Improvement in school attendance
Improvement in youth's ability to manage their anger and conflict

Success among families includes:

Improvement in family stability
Reduction in domestic conflict
Increase in responsibility around home.

Straight Talk About Violence



Stop The Violence!

DRIVE BY AGONY

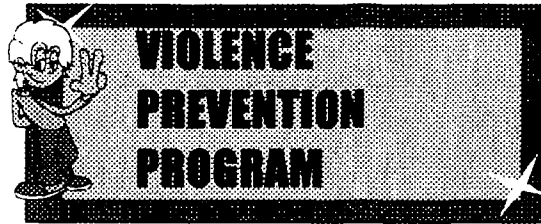
ENDORSEMENTS

- **Compton Court:**
- **California Youth Authority:**
- **County of LA Sheriff's Department:**

Drive By Agony
3798 MLK Jr. Blvd.
Lynwood CA 90262

Tel. (310) 537-8018
Fax (310) 537-2051

E-mail
l r a @Pac fic i et. l e



A youth program that “works”
for the youth of today!

Established in 1988 for youth of
all ages.

Over 5,000 youth have been
through our program and been
effected!

OUTLINE:

Pre-Test

Post-Test

Develop awareness of feelings

learn to express feelings

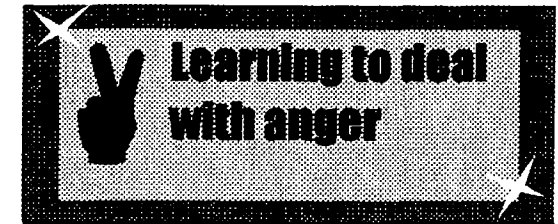
Identify feelings

Develop understanding of
prejudice

Understanding anger and it's
control

Develop understanding that
gangs are not family

Develop understanding of
community pride.



You can help a young person
deal with anger and conflict by
enrolling them into Drive By
Agony's youth violence
prevention program called
“Straight Talk About Violence”
it is an important and vital
program - lives literally depend
on it.

We work very hard to prevent
violence in our society and to
promote the safety and well
being of our children.

Mentoring younger students,
working to reduce playground
bullying, peer mediation, these
are some of the tools our
children need and we provide
through this program.

Amphib
PU advice
R
ASIAN AMERICAN HOTEL OWNERS ASSOCIATION

66 LENOX POINTE, NE
ATLANTA, GEORGIA 30324
(404) 816-5759 PHONE
(404) 816-6260 FAX

March 9, 2000

Mrs. Hilary Clinton
The First Lady
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mrs. Clinton:

Thank you again for visiting with us today in Atlanta, Georgia. As we discussed at the luncheon this afternoon, I am forwarding you a summary of HR 3308. As I mentioned, I am currently serving as a Director at Large for the Asian American Hotel Owners Association (AAHOA).

Since being founded in 1989, AAHOA has grown from a handful of Asian hoteliers to a membership of over 6,600 hotel owners, representing more than 17,000 hotels throughout the United States. This represents more than 50 percent of the economy lodging properties in the U.S. and almost 37 percent of all hotel properties. The market value of hotels owned by AAHOA members totals about \$38 billion. Our members employ almost 800,000 people and they pay some \$625 million in real estate taxes annually.

As you can see, we are a leading force in the hospitality industry. I would appreciate your review of the attached bill HR3308 and your support of this important proposed legislature.

Thank you again for your visit today. It was a pleasure to have the opportunity to meet and speak with you.

Sincerely yours,

Chandrakant I. (CK) Patel
Director at Large

Attachment



PHOTOCOPY
HRC HANDWRITING

106th CONGRESS

1st Session

H. R. 3308

To establish minimum standards of fair conduct in franchise sales and franchise business relationships, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 10, 1999

Mr. COBLE (for himself, Mr. CONYERS, Mr. JONES of North Carolina, Mr. ANDREWS, Mr. JENKINS, Mr. PICKERING, Mr. JOHN, Mr. TOWNS, Mr. WAMP, Mr. DICKEY, Mr. COBURN, Mr. LATOURETTE, Mr. NORWOOD, Mr. HILLEARY, Mr. ROTHMAN, Mr. GRAHAM, Mr. CANNON, Ms. ESHOO, Mr. CRAMER, Mr. GALLEGLY, Mr. PHELPS, Mr. SPENCE, and Mr. HERGER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish minimum standards of fair conduct in franchise sales and franchise business relationships, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Small Business Franchise Act of 1999'.

(b) TABLE OF CONTENTS- The table of contents of this Act is the following:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Franchise sales practices.

Sec. 4. Unfair franchise practices.

Sec. 5. Standards of conduct.

Sec. 6. Procedural fairness.

Sec. 7. Actions by State attorneys general.

Sec. 8. Transfer of a franchise.

Sec. 9. Transfer of franchise by franchisor.

Sec. 10. Independent sourcing of goods and services.

Sec. 11. Encroachment.

Sec. 12. Private right of action.

Sec. 13. Scope and applicability.

Sec. 14. Definitions.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS- The Congress makes the following findings:

(1) Franchise businesses represent a large and growing segment of the nation's retail and service businesses and are rapidly replacing more traditional forms of small business ownership in the American economy.

(2) Franchise businesses involve a joint enterprise between the franchisor and franchisees in which each party has a vested interest in the franchised business.

(3) Most prospective franchisees lack bargaining power and generally invest substantial amounts to obtain a franchise business when they are unfamiliar with operating a business, with the business being franchised and with industry practices in franchising.

(4) Many franchises reflect a profound imbalance of contractual power in favor of the franchisor, and fail to give due regard to the legitimate business interests of the franchisee, as a result of the franchisor reserving pervasive contractual rights over the franchise relationship.

(5) Franchisees may suffer substantial financial losses when the franchisor does not provide truthful or complete information regarding the franchise opportunity, or where the franchisor does not act in good faith in the performance of the franchise agreement.

(6) Traditional common law doctrines have not evolved sufficiently to protect franchisees adequately from fraudulent or unfair practices in the sale and operation of franchise businesses, and significant contractual and procedural restrictions have denied franchisees adequate legal recourse to protect their interests in such businesses.

(7) A franchisee's freedom to contract is greatly limited by the disparity of bargaining

power, lack of consistent legal standards, and other factors described above. This Act is necessary to restore freedom to contract, and to remove restrictive barriers impeding entry into industries and markets dominated by franchise systems.

(b) **PURPOSE-** It is the purpose of this Act to promote fair and equitable franchise agreements, to establish uniform standards of conduct in franchise relationships and to create uniform private Federal remedies for violations of Federal law.

SEC. 3. FRANCHISE SALES PRACTICES.

(a) **IN GENERAL-** In connection with the advertising, offering, sale or promotion of any franchise, it shall be unlawful for any person--

- (1) to employ a device, scheme, or artifice to defraud;
- (2) to engage in an act, practice, course of business or pattern of conduct which operates or is intended to operate as a fraud upon any prospective franchisee; or
- (3) to obtain property, or assist others to obtain property, by making an untrue statement of a material fact or any failure to state a material fact.

(b) **MISREPRESENTATIONS IN REQUIRED DISCLOSURE-**

(1) In connection with any disclosure document, notice, or report required by any law, it shall be unlawful for any franchisor, subfranchisor, or franchise broker, either directly or indirectly through another person--

(A) to--

- (i) make an untrue statement of material fact;
- (ii) fail to state a material fact; or
- (iii) fail to state any fact which would render any required statement or disclosure either untrue or misleading;

(B) to fail to furnish any prospective franchisee with--

- (i) all information required to be disclosed by law and at the time and in the manner required; and
- (ii) a written statement specifying, prominently and in not less than 14-point type, whether the franchise agreement involved contains a right to renew such agreement; or

(C) to make any claim or representation to a prospective franchisee whether orally or in writing, which is inconsistent with or contradicts such disclosure document.

(2) For purposes of this subsection, the term 'disclosure document' means either the

Sec. 436) as amended from time to time, or any offering format allowed or required by State law.

SEC. 4. UNFAIR FRANCHISE PRACTICES.

(a) DECEPTIVE AND DISCRIMINATORY PRACTICES- In connection with the performance, enforcement, renewal, or termination of any franchise agreement, it shall be unlawful for a franchisor or subfranchisor, either directly or indirectly through another person--

(1) to engage in an act, practice, course of business, or pattern of conduct which operates as a fraud upon any person;

(2) to hinder, prohibit, or penalize (or threaten to hinder, prohibit, or penalize), directly or indirectly, the free association of franchisees for any lawful purpose, including the formation of or participation in any trade association made up of franchisees or of associations of franchisees; or

(3) to discriminate against a franchisee by imposing requirements not imposed on other similarly situated franchisees or otherwise retaliate, directly or indirectly, against any franchisee for membership or participation in a franchisee association.

(b) TERMINATION WITHOUT GOOD CAUSE-

(1) It shall be unlawful for a franchisor, either directly or indirectly through an affiliate or another person, to terminate a franchise agreement prior to its expiration without good cause for such termination.

(2) For purposes of this subsection, good cause shall exist only where--

(A)(i) the franchisee fails to comply with a material provision of the franchise agreement after receiving notice that specifies the precise basis for the default, each material term of the franchise agreement with which the franchise is not in compliance, and a 30-day period to cure the default; and

(ii) if the nature of the default is such that it cannot be cured through reasonably diligent conduct, the franchisee fails to initiate within 30 days, and diligently pursue substantial continuing action to cure the default;

(B) the franchisee, without the requirement of notice and opportunity to cure--

(i) voluntarily abandons the business licensed by the franchise agreement, except that loss or termination of a leasehold for the business prior to the term of a franchise agreement by reason of eminent domain, foreclosure sale, natural disaster or other termination not the fault of the franchisee shall not be considered abandonment by the franchisee;

(ii) is convicted of a felony, for which imprisonment of 1 year or more can be

imposed, which substantially impairs the good will associated with the franchisor's trade mark, service mark, trade name, logotype, advertising, or other commercial symbol;

(iii) is repeatedly in default of the same material provision of the franchise agreement, where the enforcement of such provision is substantially similar to enforcement of that provision with other franchisees; or

(iv) operates the business licensed by the franchise agreement in a manner that creates an imminent danger to public health or safety; or

(C) the franchisor withdraws from the marketing area of the business licensed by the franchise agreement and pays the franchisee reasonable compensation for damages incurred from the shortened term of the agreement and agrees in writing not to enforce any contractual prohibition against the franchisee continuing to engage in the business at the franchised location.

(c) Post-Term Restrictions on Competition-

(1) A franchisor shall not prohibit, or enforce a prohibition against, any franchisee from engaging in any business at any location after expiration of a franchise agreement.

(2) Nothing in this subsection shall be interpreted to prohibit enforcement of any provision of a franchise contract obligating a franchisee after expiration or termination of a franchise--

(A) to cease or refrain from using a trademark, trade secret, or other intellectual property owned by the franchisor or its affiliate;

(B) to alter the appearance of the business premises so that it is not substantially similar to the standard design, decor criteria, or motif in use by other franchisees using the same name or trademarks within the proximate trade or market area of the business; or

(C) to modify the manner or mode of business operations so as to avoid any substantial confusion with the manner or mode of operations which are unique to the franchisor and commonly in practice by other franchisees using the same name or trademarks within the proximate trade or market area of the business.

SEC. 5. STANDARDS OF CONDUCT.

(a) DUTY OF GOOD FAITH-

(1) A franchise contract imposes on each party thereto a duty to act in good faith in its performance and enforcement.

(2) As used in this subsection, a duty of good faith shall--

(A) obligate a party to a franchise to do nothing that will have the effect of

destroying or injuring the right of the other party to obtain and receive the expected fruits of the contract and to do everything required under the contract to accomplish such purpose; and

(B) require honesty of fact and observance of reasonable standards of fair dealing in the trade.

(3) No provision of any franchise agreement, express or implied, shall be interpreted or enforced in such a way as to obfuscate a party's duty to act reasonably and in good faith with the other, or otherwise allow a disparate result in the franchise relationship.

(b) DUTY OF DUE CARE-

(1) A franchise agreement imposes on the franchisor a duty of due care. Unless a franchisor represents that it has greater skill or knowledge in its undertaking with its franchisees, or conspicuously disclaims that it has skill or knowledge, the franchisor is required to exercise the skill and knowledge normally possessed by franchisors in good standing in the same or similar types of business.

(2) For purposes of this subsection--

(A) the term 'skill or knowledge' means something more than the mere minimum level of skill or knowledge required of any person engaging in a service or business and involves a special level of expertise--

(i) which is the result of acquired learning and aptitude developed by special training and experience in the business to be licensed under the franchise agreement, or the result of extensive use and experience with the goods or services or the operating system of such business;

(ii) which is the result of experience in organizing a franchise system and in providing training, assistance and services to franchisees; and

(iii) which a prospective franchisee would expect in reasonable reliance on the written and oral commitments and representations of the franchisor; and

(B) a franchisor shall be permitted to show that it contracted for, hired or purchased the expertise necessary to comply with the requirements of this subsection and that such expertise was incorporated in the franchise or communicated or provided to the franchisee.

(3) The requirement of this subsection may not be waived by agreement or by conduct, but the franchisor may limit in writing the nature and scope of its skill and knowledge, and of its undertaking with a prospective franchisee, provided that no inconsistent representation, whether written or oral, is made to the prospective franchisee irrespective of any merger or integration clause in the franchise agreement.

(c) LIMITED FIDUCIARY DUTY-

(1) Without regard to whether a fiduciary duty is imposed generally on the franchisor by virtue of a franchise agreement, the franchisor owes a fiduciary duty to its franchisees and is obligated to exercise the highest standard of care for franchisee interests where the franchisor--

(A) undertakes to perform bookkeeping, collection, payroll, or accounting services on behalf of the franchisee; or

(B) administers, controls or supervises (either directly or through any subsidiary or affiliate) any advertising, marketing, or promotional fund or program to which franchisees are required to, or routinely, contribute.

(2) A franchisor that administers or supervises the administration of any fund or program described in paragraph (1)(B) shall--

(A) keep all moneys contributed to such fund or program in a separate account;

(B) provide an independent certified audit of such fund within 60 days following the close of the franchisor's fiscal year, which shall include full disclosure of all fees, expenses, or other payments from the account to the franchisor or to any subsidiary, affiliate, or other entity controlled in whole or in part by the franchisor; and

(C) disclose the source and amount of, and deliver to such fund or program, any discount, rebate, compensation, or payment of any kind from any person or entity with whom such fund or program transacts.

(3) While not limiting the ability of any court to identify other circumstances for which a fiduciary duty may also exist, this subsection does not create or extend a fiduciary duty by implication to other aspects of a franchise.

SEC. 6. PROCEDURAL FAIRNESS.

(a) It shall be unlawful for any franchisor, either directly or indirectly through another person, to--

(1) require any term or condition in a franchise agreement, or in any agreement ancillary or collateral to a franchise, which directly or indirectly violates any provision of this Act; or

(2) require a franchisee to assent to any disclaimer, waiver, release, stipulation or other provision which would purport--

(A) to relieve any person from a duty imposed by this Act, except as part of a settlement of a bona fide dispute; or

(B) to protect any person against any liability to which he would otherwise be subject under this Act by reason of willful misfeasance, bad faith, or gross

negligence in the performance of duties, or by reason of reckless disregard of obligations and duties under the franchise agreement; or

(3) require a franchisee to assent to any waiver, release, stipulation, or other provision, either as part of any agreement or document relating to the operation of a franchise business, in any agreement or document relating to the termination, cancellation, forfeiture, repurchase, or resale of a franchise business or as a condition for permitting a franchisee to leave the franchise system, which would purport to prevent the franchisee from making any oral or written statement relating to the franchise business, to the operation of the franchise system or to the franchisee's experience with the franchise business.

(b) Any condition, stipulation, provision, or term of any franchise agreement, or any agreement ancillary or collateral to a franchise, which would purport to waive or restrict any right granted under this Act shall be void and unenforceable.

(c) No stipulation or provision of a franchise agreement, or of an agreement ancillary or collateral to a franchise, shall--

(1) deprive a franchisee of the application and benefits of this Act, of any other Federal law, or of

the law of the State in which the franchisee's principal place of business is located;

(2) deprive a franchisee of the right to commence an action (or, if the franchise provides for arbitration, initiate an arbitration) against the franchisor for violation of this Act, or for breach of the franchise agreement, or of any agreement or stipulation ancillary or collateral to the franchise, in a court (or arbitration forum) in the State of the franchisee's principal place of business; or

(3) prevent a franchisee from participating as a member of a class permitted by Rule 23 of the Federal Rules of Civil Procedure or applicable State law.

(d) Compliance with this Act or with an applicable State franchise law is not waived, excused, or avoided, and evidence of violation of this Act or of such State law shall not be excluded, by virtue of an integration clause, any provision of a franchise agreement, or an agreement ancillary or collateral to a franchise, the parol evidence rule,

or any other rule of evidence purporting to exclude consideration of matters outside the franchise agreement.

SEC. 7. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) **CIVIL ACTION-** Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice which violates any provision of this Act, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such violations, to obtain damages, restitution or other compensation on behalf of residents of such State or to obtain

such further and other relief as the court may deem appropriate.

(b) **PRESERVATION OF POWER-** For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(c) **VENUE-** Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(d) **NO PREEMPTION-** Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

SEC. 8. TRANSFER OF A FRANCHISE.

(a) **IN GENERAL-** A franchisee may assign an interest in a franchised business or in a franchise to a transferee provided the transferee satisfies the reasonable qualifications then generally applied by the franchisor in determining whether or not a current franchisee is eligible for renewal. If the franchisor does not renew a significant number of its franchisees, then the transferee may be required to satisfy the reasonable conditions generally applied to new franchisees. For the purpose of this section, a reasonable current qualification for a new franchisee is a qualification based upon a legitimate business reason. If the proposed transferee does not meet the reasonable current qualifications of the franchisor, the franchisor may refuse to permit the transfer, provided that the refusal of the franchisor to consent to the transfer is not arbitrary or capricious and the franchisor states the grounds for its refusal in writing to the franchisee.

(b) **NOTICE OF PROPOSED TRANSFER-** A franchisee shall give a franchisor not less than 30 days written notice of a proposed transfer of a transferable interest, and on request shall provide in writing the ownership interests of all persons holding or claiming an equitable or beneficial interest in the franchise subsequent to the transfer or the franchisee, as appropriate.

(c) **CONSENT TO PROPOSED TRANSFER-** A transfer by a franchisee is deemed to have been approved 30 days after the franchisee submits the request for permission to transfer the franchise involved unless, within that time the franchisor refuses to consent to the transfer as evidenced in writing in accordance with subsection (a). A statement of the grounds for refusal to consent to the transfer is privileged against a claim of defamation.

(d) **CONDITIONS OF TRANSFER-**

(1) **PERMISSIBLE CONDITIONS-** A franchisor may require as a condition of a transfer that--

(A) the transferee successfully complete a reasonable training program;

(B) a reasonable transfer fee be paid to reimburse the franchisor for the franchisor's reasonable and actual expenses directly attributable to the transfer;

(C) the franchisee pay or make reasonable provision to pay any amount due the franchisor or the franchisor's affiliate; or

(D) the financial terms of the transfer at the time of the transfer, comply with the franchisor's current financial requirements for franchisees.

(2) IMPERMISSIBLE CONDITIONS- A franchisor may not condition its consent to a transfer described in paragraph (1) on--

(A) a franchisee's forgoing existing rights other than those contained in the franchise agreement;

(B) a franchisee's entering into a release of claims broader in scope than a counterpart release of claims offered by the franchisor to the franchisee; or

(C) requiring the franchisee or transferee to make, or agree to make, capital improvements, reinvestments, or purchases in an amount greater than the franchisor could have reasonably required under the terms of the franchisee's existing franchise agreement.

(e) **ASSIGNMENT-** A franchisee may assign the franchisee's interest in the franchise for the unexpired term of the franchise agreement, and a franchisor shall not require the franchisee or the transferee to enter into a franchise agreement that has different material terms or financial requirements as a condition of the transfer.

(f) **CONSENT TO PUBLIC OFFERING-** A franchisor may not withhold its consent to a franchisee's making a public offering of its securities without good cause if the franchisee, or the owner of the franchisee's interest in the franchise, retains control over more than 25 percent of the voting power as the franchisee.

(g) **CONSENT TO POOLING INTERESTS, OR TO SALE OR EXCHANGE-** A franchisor may not withhold its consent to a pooling of interests, to a sale or exchange of assets or securities, or to any other business consolidation amongst its existing franchisees, provided the constituents are each in material compliance with their respective obligations to the franchisor.

(h) **NONINTERFERENCE-** The following occurrences shall not be considered transfers requiring the consent of the franchisor under a franchise agreement, and a franchisor shall not impose any fees, payments, or charges in excess of a franchisor's cost to review the relevant matter:

(1) The succession of ownership or management of a franchise upon the death or disability of a franchisee, or of an owner of a franchise, to the surviving spouse, heir, or partner active in the management of the franchise unless the successor objectively fails to meet within 1 year or the then current reasonable qualifications of the franchisor for franchisees.

(2) Incorporation of a proprietorship franchisee, provided that the franchisor may require a personal guarantee by the franchisee of obligations related to the franchise.

(3) A transfer within an existing ownership group of a franchise provided that more than 50 percent of the franchise is held by persons who meet the franchisor's reasonable current qualifications for franchisees. If less than 50 percent of the franchise would be owned by persons who objectively meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer.

(4) A transfer of less than a controlling interest in the franchise to the franchisee's spouse or child or children, provided that more than 50 percent of the entire franchise is held by those who meet the franchisor's reasonable current qualifications. If less than 50 percent of the franchise would be owned by persons who objectively meet the franchisor's reasonable current qualifications, the franchisor may refuse to authorize the transfer.

(5) A grant or retention of a security interest in the franchised business or its assets, or an ownership interest in the franchisee, if the security agreement establishes an obligation on the part of the secured party enforceable by the franchisor to give the franchisor simultaneously with notice to the franchisee, notice of the secured party's intent to foreclose on the collateral, and a reasonable opportunity to redeem the interest of the secured party and recover the secured party's interest in the franchise or franchised business by satisfying the secured obligation.

(6) A franchisor may not exercise any purported right of first refusal or right to purchase with regard to any franchise, or interest or assets of a franchisee, upon the happening of any event described in paragraphs (1) through (5).

(i) EFFECT OF CERTAIN COVENANTS-

(1) **IN GENERAL-** After the transfer of a transferor's complete interest in a franchise, a franchisor may not enforce against the transferor any covenant of the franchise purporting to prohibit the transferor from engaging in any lawful occupation or enterprise.

(2) **EXCEPTION-** This subsection shall not limit the franchisor from enforcing a contractual covenant against the transferor not to exploit the franchisor's trade secrets or intellectual property rights (including protection of trade dress) except by agreement with the franchisor.

SEC. 9. TRANSFER OF FRANCHISE BY FRANCHISOR.

A franchisor shall not transfer, by sale or otherwise, its interest in a franchise unless--

(1) the franchisor provides, not less than 30 days before the effective date of transfer, notice to every franchisee of the intent to transfer the franchisor's interest in the franchise or of substantially all of the franchises held by the franchisor;

(2) such notice is accompanied by a complete description of the business and financial terms of the proposed transfer or transfers; and

(3) upon the transfer, the entity assuming the franchisor's obligations has the business experience and financial means to perform all of the franchisor's obligations in the ordinary course of business.

SEC. 10. INDEPENDENT SOURCING OF GOODS AND SERVICES.

(a) **IN GENERAL-** Except as provided in subsection (e) a franchisor, either directly or indirectly through any affiliate, officer, employee, agent, representative or attorney, shall not prohibit or restrict a franchisee from obtaining equipment, fixtures, supplies, goods, or services used in the establishment or operation of the franchised business from sources of the franchisee's choosing, except that such goods or services may be required to meet reasonable established uniform system-wide quality standards promulgated or enforced by the franchisor.

(b) **APPROVED VENDORS-** Without limiting the rights of the franchisee under subsection (a), if the franchisor approves vendors of equipment, fixtures, supplies, goods, or services used in the establishment or operation of the franchised business, the franchisor shall provide and continuously update an inclusive list of approved vendors and shall promptly and objectively evaluate and respond to reasonable requests by franchisees for approval of competitive sources of supply. In order to promote competition, the franchisor shall approve not fewer than 2 vendors for each piece of equipment, each fixture, each supply, good, or service unless otherwise agreed to by both the franchisor and a majority of the franchisees.

(c) **BENEFITS-** A franchisor, and its affiliates, shall fully disclose whether or not it receives any rebates, commissions, payments, or other benefits from vendors as a result of the purchase of goods or services by franchisees. All such rebates, commissions, payments, and other benefits shall be distributed directly to such franchisees.

(d) **REPORTING-** A franchisor shall report not less frequently than annually, using generally accepted accounting principles, the amount of revenue and profit it earns from the sale of equipment, fixtures, supplies, goods, or services to the franchisees of the franchisor.

(e) **EXCEPTION-** Subsection (a) does not apply to reasonable quantities of equipment, fixtures, supplies, goods, or services, including display and sample items, that the franchisor requires the franchisee to obtain from the franchisor or its affiliate, but only if the equipment, fixtures, supplies, goods, or services are central to the franchised business and incorporate a trade secret, patent, copyright, or other intellectual property owned by the franchisor or its affiliate.

SEC. 11. ENCROACHMENT.

(a) **IN GENERAL-** A franchisor may not place, or license another to place, 1 or more new outlets for a franchised business in unreasonable proximity to an established outlet of a similar kind of franchised business, if--

(1) the intent or probable effect of establishing the new outlets is to cause a diminution of gross sales by the established outlet of more than 5 percent in the 12 months immediately following establishment of the new outlet; and

(2) the established outlet--

(A) offers goods or services identified by the same trademark as those offered from the new outlet; or

(B) has premises that are identified by the same trademark as the new outlet.

(b) **EXCEPTION-** This section shall not apply with respect to an established outlet if, before a new outlet described in subsection (a) opens for business, a franchisor offers in writing to each franchisee of the franchisor of an established outlet to pay to the franchisee involved an amount equal to 50 percent of the gross sales (net of sales taxes, returns, and allowances) of the new outlet for the 1st 24 months of operation of the new outlet if the sales of the established outlet decline by more than 5 percent in the 12 months immediately following establishment of the new outlet as a consequence of the opening of the new outlet.

(c) **BURDEN OF PROOF-** A franchisor shall have the burden of proof to show that, or the extent to which, a decline in sales of an established outlet described in subsection (a) occurred for reasons other than the opening of the new outlet for goods or services concerned--

(1) if the franchisor makes a written offer under subsection (b); or

(2) in an action or proceeding brought under section 12.

SEC. 12. PRIVATE RIGHT OF ACTION.

(a) **IN GENERAL-** A party to a franchise who is injured by a violation or threatened violation of this Act, or of section 438.1 of title 16, Code of Federal Regulations (relating to disclosure requirements and prohibitions concerning franchising and business opportunity ventures) as in effect on the date of the enactment of this Act, shall have a right of action for rescission and restitution, as well as for all damages and injunctive relief, including costs of litigation and reasonable attorney's fees and expert witness fees, against any person found to be liable for such violation.

(b) **LIABILITY-** Every person who directly or indirectly controls a person liable under subsection (a), every partner in a firm so liable, every principal executive officer or director of a corporation so liable, every person occupying a similar status or performing similar functions and every employee of a person so liable who materially aids in the act or transaction constituting the violation is also liable jointly and severally with and to the same extent as such person, unless the person who would otherwise be liable hereunder had no knowledge of or reasonable grounds to know of the existence of the facts by reason of which the liability is alleged to exist.

(c) **ALTERNATIVE DISPUTE RESOLUTION-** Except as otherwise provided in subsection (d), nothing contained in this Act shall be construed to limit the right of a franchisor and a franchisee to engage in arbitration, mediation, or other nonjudicial resolution of a dispute, either in advance or after a dispute arises, provided that the standards and protections applied in any binding nonjudicial procedure agreed to by the parties are not less than the requirements set forth in this Act.

(d) **STATUTE OF LIMITATIONS-** No action may be commenced pursuant to this section or

Page 17 of 19
this Act more than--

- (1) 5 years after the date on which the violation occurs; or
- (2) 3 years after the date on which the violation is discovered or should have been discovered through exercise of reasonable diligence.

(e) **VENUE**- A franchisee may commence a civil action, or arbitration proceedings, to enforce any provision of this Act within the jurisdiction wherein the applicable franchise business is located.

(f) **CUMULATIVE RIGHT**- The private rights provided for in this section are in addition to and not in lieu of other rights or remedies created by Federal or State law.

SEC. 13. SCOPE AND APPLICABILITY.

(a) **PROSPECTIVE APPLICATION**- Except as provided in subsection (b), the requirements of this Act shall apply to franchise agreements entered into, amended, exchanged, transferred, assigned, or renewed after the date of enactment of this Act.

(b) **DELAYED EFFECT**- The requirements of section 3 of this Act shall take effect 90 days after the date of enactment of this Act and shall apply only to actions, practices, disclosures, and statements occurring on or after such date.

SEC. 14. DEFINITIONS.

For purposes of this Act:

(1) The term 'affiliate' has the meaning given the term 'affiliated person' in section 436.2 (i) of title 16 of the Code of Federal Regulations as in effect on January 1, 1998.

(2) The term 'franchise' has the meaning given such term in section 436.2(a) of title 16 of the

Code of Federal Regulations as in effect on January 1, 1998, but does not include any contract otherwise regulated by the Federal Petroleum Marketing Practices Act (15 U.S.C. 2801 et seq.) except as to franchise relationships that do not involve the sale of petroleum products.

(3) The term 'franchise broker' has the meaning given such term in section 436.2(j) of title 16 of the Code of Federal Regulations as in effect on January 1, 1998.

(4) The term 'franchisee' has the meaning given such term in section 436.2(d) of title 16 of the Code of Federal Regulations as in effect on January 1, 1998.

(5) The term 'franchisor' has the meaning given such term in section 436.2(c) of title 16 of the Code of Federal Regulations as in effect on January 1, 1998.

(6) The term 'good faith' means honesty in fact and the observance of reasonable standards of fair dealing in the trade.

Page 13 of 15
(7) The terms 'material' and 'material fact' includes--

(A) any fact, circumstance, or set of conditions which a reasonable franchisee or a reasonable prospective franchisee would consider important in making a significant decision relating to entering into, remaining in, or abandoning a franchise relationship; and

(B) any fact, circumstance, or set of conditions which has, or may have, any significant financial impact on a franchisor, franchisee or a prospective franchisee.

(8) The term 'offer' or 'offering' means any effort to offer or to dispose of, or solicitation of an offer to buy, a franchise or interest in a franchise for value.

(9) The term 'outlet' means a point of sale, temporary or permanent, fixed or mobile, from which goods or services are offered for sale.

(10) The term 'person' means an individual or any other legal or commercial entity.

(11) The term 'State' means a State, the District of Columbia, and any territory or possession of the United States.

(12) The term 'subfranchise' means a contract or an agreement by which a person pays a franchisor for the right to sell, negotiate the sale, or provide service franchises.

(13) The term 'subfranchisor' means a person who is granted a subfranchise.

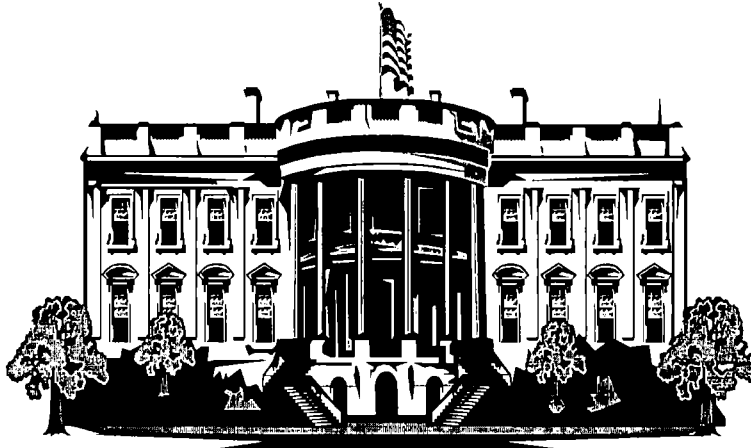
(14) The term 'trade secret' means information, including a formula, pattern, compilation, program, device, method, technique, or process, that--

(A) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

END

Pam - I had first
sent this to HHS to get
help responding & so
that HHS would have a
copy of the concerns
outlined, but I also sent
to Neera in the fall -
I don't know what if anything
happened - J



FAX COVER SHEET

NICOLE RABNER
SPECIAL ASSISTANT TO THE PRESIDENT FOR DOMESTIC POLICY
AND SENIOR ADVISOR TO THE FIRST LADY

THE WHITE HOUSE
SECOND FLOOR, WEST WING
WASHINGTON, DC 20502
PHONE: 202/456-7263 • FAX: 202/456-2878

DATE: 10-6-99

PLEASE DELIVER TO: Liz Summey

FAX NUMBER: 202-5783

NUMBER OF PAGES: 4
(including cover sheet)

Will you please help me to respond to this letter from Cong. Towns and a host of letters from constituents

(a sample of which is attached).

EDOLPHUS "ED" TOWNS

MEMBER OF CONGRESS
10TH DISTRICT, NEW YORK

ENERGY AND COMMERCE

HEALTH AND THE ENVIRONMENT
FINANCE AND HAZARDOUS
MATERIALS
ENERGY AND POWER

GOVERNMENT OPERATIONS

RANKING MEMBER
HUMAN RESOURCES AND
INTERGOVERNMENTAL RELATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-3210

September 28, 1999

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BROOKLYN, NY 11213
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Hillary Rodham Clinton
The White House
Office of the First Lady
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mrs. Clinton:

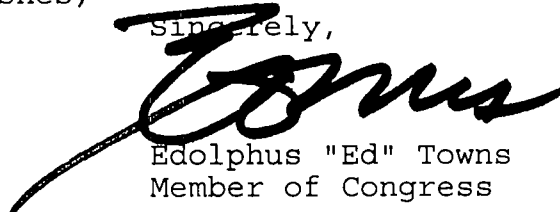
On October 1, the Health Care Financing Administration (HCFA) plans to implement a new medical coverage policy related to respiratory care. The provision is entitled the Medical Policy for Respiratory Assist Devices with backup rate. I understand that this is commonly referred to in the medical community as nocturnal positive pressure ventilation (NPPV).

On behalf of many New York pulmonologists (see attached letters), and their seriously ill patients, I wanted to ask if you would consider urging HCFA not to implement its proposed policy changes concerning NPPV. As detailed in the attached letters, this proposed change, which disregards the medical judgement of many of the most experienced pulmonary physicians in the country, would create the risk of great injury or possible death to many New York patients. Your immediate intervention is critical to protect the lives of approximately 20,000 chronically ill Medicare beneficiaries receiving ventilatory support.

Mrs. Clinton, I deeply share the concern expressed by these physician and ask that you intervene on half of not only New Yorkers, but chronically ill patients around the United states.

With best wishes,

Sincerely,



Edolphus "Ed" Towns
Member of Congress

September 7, 1999

The First Lady Hillary Rodham Clinton
1600 Pennsylvania Avenue
Washington, DC 20500

Dear First Lady Hillary Rodham Clinton:

The Health Care Financing Administration (HCFA) is moving forward on October 1st with a new medical coverage policy that will put at risk the lives of more than 20,000 chronically ill Medicare beneficiaries receiving ventilatory support. HCFA's imminent policy is irresponsible and demonstrates reckless disregard for the medical judgement of physicians certified in pulmonary medicine. As a physician practicing medicine in the State of New York, I am writing to ask your immediate intervention in achieving a delay in implementation of this policy pending further public scrutiny.

HCFA published in June, 1999 a final version of the Medical Policy for Respiratory Assist Devices with backup rate, more commonly referred to in the medical community as nocturnal positive pressure ventilation (NPPV). The final policy follows nearly fifteen months of intense public debate, beginning with the February, 1998 Consensus Conference, *convened by HCFA* to solicit the recommendations of expert ventilatory clinicians on the appropriate prescription and physician oversight of NPPV therapy. In moving ahead with the policy as currently written, HCFA has chosen, without rational explanation, to largely disregard the medical judgement of some of the top pulmonary physicians in the country.

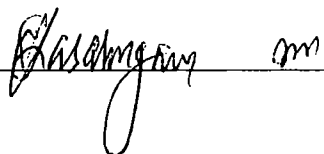
Specific criteria contained within HCFA's Medical Policy for Respiratory Assist Devices with backup rate can, and will, put patients in need of receiving NPPV therapy at risk of serious injury or death. The areas of significant clinical concern are provided as an attachment to this letter.

I am asking, Mrs. Clinton, that you immediately suspend HCFA's implementation of this reckless and harmful public health policy.

Thank you in advance for your consideration of this request.

Respectfully Submitted,

By: _____



Specific Areas of Clinical Concern with HCFA's Medical Policy
for Respiratory Assist Devices

1. Required administration of two liters of oxygen to chronic respiratory patients not already receiving oxygen support or on titrated lower liter flows can be life threatening.

Mandated sleep oximetry on the higher of two liters of oxygen or the patient's usual FiO_2 can cause total cessation of breathing. Many patients with chronic obstructive pulmonary disease (COPD) gradually develop higher levels of carbon dioxide over time and reduced blood oxygen levels. As sensitivity to carbon dioxide is eliminated over time, the patient relies on reduced blood oxygen levels as the stimulus to breathe. Nocturnal testing while using a respiratory assist device without a backup rate and which requires supplemental oxygen at a level that exceeds the patient's normal FiO_2 can affect or remove the drive to breathe. Precision in oxygen dosing is as important as following the proper dosage of any other medication.

2. The requirement of a trial period of use of a respiratory assist device without a backup rate for severe COPD patients can be dangerous.

During REM sleep, breathing patterns become irregular, especially during periods of phasic eye movements. During this time, some degree of hypoventilation is seen even in people without lung disease. The degree of hypoventilation for patients with chronic lung disease would be more severe and potentially harmful in the absence of a mechanical backup rate.

3. The policy requires an "off label" use of a respiratory assist device for severe COPD patients in violation of FDA classification and intended use of equipment.

The policy requires a trial period with a respiratory assist device without a backup rate which constitutes "off label" use of the equipment for a severe COPD patient. An example of one such device is the Duet LX manufactured by Respironics Inc. and the VPAP II manufactured by ResMed. The FDA-approved labels read, respectively, "*The Duet LX bilevel system is intended for the treatment of adult obstructive sleep apnea only*" and "*The VPAP II is intended for the treatment of Obstructive Sleep Apnea in adult patients.*" Required use of these devices in a manner that is not consistent with FDA labeling has serious implications for the patient, ordering physician and device supplier.

4. Requirement for overnight pulse oximetry testing will create a significant patient access problem.

The overnight testing procedures outlined in the policy raise a serious question of patient access in many areas across the country. The availability of qualified agencies that can and will perform overnight pulse oximetry testing is severely limited. This will eliminate access in many areas to NPPV, a therapy that has demonstrated positive patient outcomes and significant reductions in costs associated with in-patient hospitalization for the severe COPD patient.

Respiratory assist devices with backup rate have been shown to improve quality of life and reduce hospitalizations. HCFA's attempt to limit access and thereby reduce part B Medicare expenditures may very well increase Medicare Part A expenditures for hospitalizations. It is necessary for HCFA to examine the overall healthcare costs for this patient group and the net effect on the Medicare Trust fund when unilateral changes are enacted.

1. Burton G.C., Hodgkin, J.E.: Respiratory Care: a Guide to Clinical Practice(2d ed.; Philadelphia: J.B. LippincottCo. 1984.)
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4. Cherniak R.M., Cherniak L.: Respiration in Health and Disease (3rd ed.; Philadelphia: W.B. Saunders Co. 1983.)

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September 7, 1999

The First Lady Hillary Rodham Clinton
1600 Pennsylvania Avenue
Washington, DC 20500

Dear First Lady Hillary Rodham Clinton:

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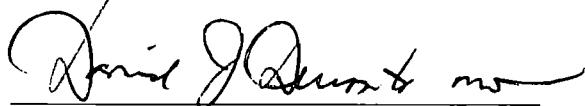
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Respectfully Submitted,



By: 9-7-99

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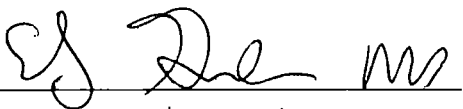
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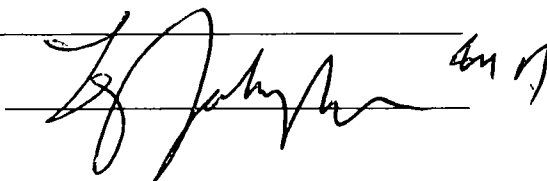
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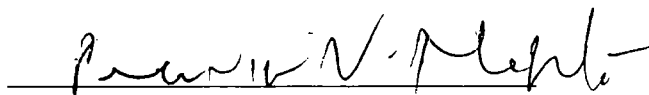
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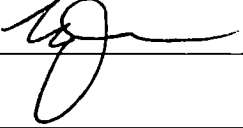
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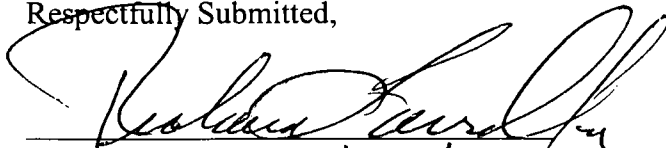
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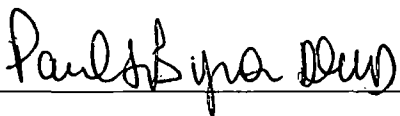
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PAUL BYRON D.D.M.D.
Mary McClellan
Family Health Center
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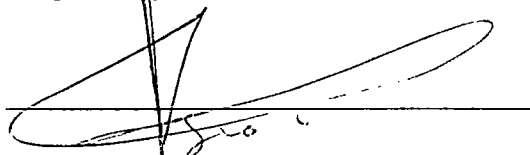
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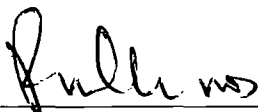
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Randall D. Miller, MD
16 Danforth St.
Hoosick Falls, NY 12090

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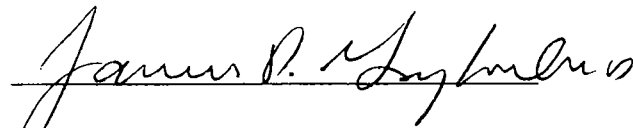
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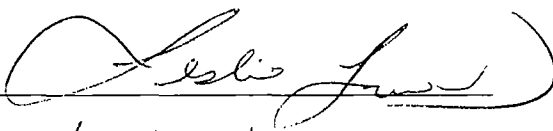
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By: Leslie Lawrence, MD

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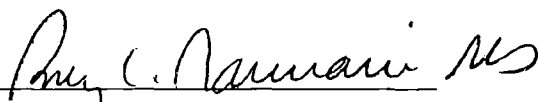
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Dear First Lady Hillary Rodham Clinton:

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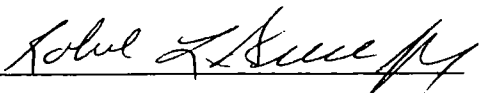
HCFA published in June, 1999 a final version of the Medical Policy for Respiratory Assist Devices with backup rate, more commonly referred to in the medical community as nocturnal positive pressure ventilation (NPPV). The final policy follows nearly fifteen months of intense public debate, beginning with the February, 1998 Consensus Conference, *convened by HCFA* to solicit the recommendations of expert ventilatory clinicians on the appropriate prescription and physician oversight of NPPV therapy. In moving ahead with the policy as currently written, HCFA has chosen, without rational explanation, to largely disregard the medical judgement of some of the top pulmonary physicians in the country.

Specific criteria contained within HCFA's Medical Policy for Respiratory Assist Devices with backup rate can, and will, put patients in need of receiving NPPV therapy at risk of serious injury or death. The areas of significant clinical concern are provided as an attachment to this letter.

I am asking, Mrs. Clinton, that you immediately suspend HCFA's implementation of this reckless and harmful public health policy.

Thank you in advance for your consideration of this request.

Respectfully Submitted,



By: _____

ROBERT L. BULL, JR. M.D.
Family Practice / Board Certified
5320 Military Rd., Suite 106
Lewiston, NY 14092

Specific Areas of Clinical Concern with HCFA's Medical Policy
for Respiratory Assist Devices

1. Required administration of two liters of oxygen to chronic respiratory patients not already receiving oxygen support or on titrated lower liter flows can be life threatening.

Mandated sleep oximetry on the higher of two liters of oxygen or the patient's usual FiO_2 can cause total cessation of breathing. Many patients with chronic obstructive pulmonary disease (COPD) gradually develop higher levels of carbon dioxide over time and reduced blood oxygen levels. As sensitivity to carbon dioxide is eliminated over time, the patient relies on reduced blood oxygen levels as the stimulus to breathe. Nocturnal testing while using a respiratory assist device without a backup rate and which requires supplemental oxygen at a level that exceeds the patient's normal FiO_2 can affect or remove the drive to breathe. Precision in oxygen dosing is as important as following the proper dosage of any other medication.

2. The requirement of a trial period of use of a respiratory assist device without a backup rate for severe COPD patients can be dangerous.

During REM sleep, breathing patterns become irregular, especially during periods of phasic eye movements. During this time, some degree of hypoventilation is seen even in people without lung disease. The degree of hypoventilation for patients with chronic lung disease would be more severe and potentially harmful in the absence of a mechanical backup rate.

3. The policy requires an "off label" use of a respiratory assist device for severe COPD patients in violation of FDA classification and intended use of equipment.

The policy requires a trial period with a respiratory assist device without a backup rate which constitutes "off label" use of the equipment for a severe COPD patient. An example of one such device is the Duet LX manufactured by Respironics Inc. and the VPAP II manufactured by ResMed. The FDA-approved labels read, respectively, "*The Duet LX bilevel system is intended for the treatment of adult obstructive sleep apnea only*" and "*The VPAP II is intended for the treatment of Obstructive Sleep Apnea in adult patients.*" Required use of these devices in a manner that is not consistent with FDA labeling has serious implications for the patient, ordering physician and device supplier.

4. Requirement for overnight pulse oximetry testing will create a significant patient access problem.

The overnight testing procedures outlined in the policy raise a serious question of patient access in many areas across the country. The availability of qualified agencies that can and will perform overnight pulse oximetry testing is severely limited. This will eliminate access in many areas to NPPV, a therapy that has demonstrated positive patient outcomes and significant reductions in costs associated with in-patient hospitalization for the severe COPD patient.

Respiratory assist devices with backup rate have been shown to improve quality of life and reduce hospitalizations. HCFA's attempt to limit access and thereby reduce part B Medicare expenditures may very well increase Medicare Part A expenditures for hospitalizations. It is necessary for HCFA to examine the overall healthcare costs for this patient group and the net effect on the Medicare Trust fund when unilateral changes are enacted.

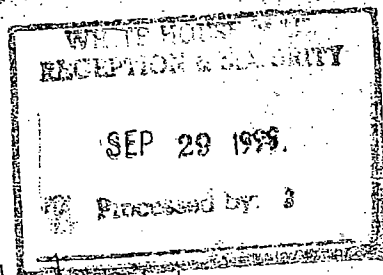
1. Burton G.C., Hodgkin, J.E.: Respiratory Care: a Guide to Clinical Practice(2d ed.; Philadelphia: J.B. LippincottCo. 1984.)
2. West J.B.: Pulmonary Pathophysiology(3rd ed.; Philadelphia: Lippincott Williams& Wilkins, 1998.)
3. Petty,T.L., Nett,L.M.: Enjoying Life With Chronic Pulmonary Disease (3rd ed., Laennec Publishing. 1995)
4. Cherniak R.M., Cherniak L.: Respiration in Health and Disease (3rd ed.; Philadelphia: W.B. Saunders Co. 1983.)

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515-3210

PUBLIC DOCUMENT

OFFICIAL BUSINESS



Flowers
M.C.

Mrs. Hillary Rodham Clinton

THE White House
Office of the First Lady
1600 Pennsylvania Avenue
Washington, DC
20500



PHOTOCOPY
PRESERVATION

NEW YORK



CHILD CARE CONSORTIUM

Ruby / Ann

1200 19th Street, NW, Suite 300
Washington, DC 20036-2422

Nicol

The Voice of Quality Child Care

By Messenger

Consortium Members

Aramark Educational Resources
Jim Loving

Childtime Children's Centers
Bill VanHuis

KinderCare Learning Centers
Jill Eiland

Knowledge Learning Corporation
Dr. Elanna Yalow

La Petite Academy
Jeanette Carter

National Child Care Association
Lynn White

Government Relations Counsel

Frank Moore
Smith, Bucklin and Associates
202-828-6047
202-857-1115 FAX

January 14, 2000

Mr. Bruce Reed
Domestic Policy Advisor
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. Reed:

On Behalf of the Child Care Consortium,¹ I am writing to draw your attention to the import role H.R. 2907 and S. 1997 play in the provision of nutritious meals and quality child care to deserving low-income children and to request your assistance in securing the budget authority necessary to support passage of this legislation in 2000.

This legislation would modify the current participation criteria under the Child and Adult Food Program (CACFP). As explained below, this modification not only updates an outdated provision of the CACFP, but it also represents a cost-effective way to secure more affordable, quality child care for working families.

The CACFP,² a reimbursement program that has for decades helped child care providers serve low-income children, represents an important part of our national child care policy. From the perspective of private, tax paying providers, the CACFP represents an important aspect to the assistance low-income children need in order to access quality licensed child care.

Under current law, private, tax-paying child care providers are eligible to

¹The Child Care Consortium represents over 7,000 private, licensed tax-paying early childhood education programs serving children from all income and social segments of communities nationwide.

²The Child Care and Adult Care Food Program, established in 1970 and codified at 42 U.S.C. 1766, reimburses child care programs for meals served to eligible low-income children. Recognizing the important role private, tax-paying providers play in service to low-income children, the CACFP was amended in 1981 to allow for the participation of tax-paying programs based on the enrollment of children receiving subsidies through Title XX. See, Pub. L. 97-35, section 810(a). At that time, Title XX was the primary source of funding child care assistance.

Participate in the CACFP if at least 25% of the children enrolled are receiving subsidies that include Title XX funding. At the time this requirement was adopted in 1981, Title XX was the primary source of funding for child care assistance. Since that time, the Child Care and Development Block Grant has become the principal funding source for child care assistance and states have come under increasing pressure to dedicate Title XX funding to needs other than child care. Already the law has the practical effect of limiting participation of tax-paying providers to those operating in states that are able to use Title XX for child care subsidies.³ Although the CCC realizes that recent reductions in Title XX funding were not intended to impact the operation of the CACFP, these reductions have nevertheless had the practical effect of threatening the ability of states to dedicate the Title XX funds necessary to allow for the full participation of tax-paying providers in the CACFP.

As a matter of meeting the needs of working families and serving low-income children, and as a part of our national policy on child care, the CCC believes that full participation of private tax-paying providers in the CACFP is essential for several reasons:

- 1) Private, licensed tax-paying providers currently serve an economically diverse group of children. The reimbursement for meals provided to eligible low-income children supports this diversity and will allow providers to serve children throughout their community.
- 2) The reported experience of demonstration programs in Kentucky and Iowa (now made permanent) show that reimbursement for meals provided to low-income children helps providers keep enrollment fees down.⁴
- 3) Participation in the CACFP makes available to child care providers important nutrition guidelines that benefit all children enrolled, a valuable resource for owner/operated centers, small businesses with limited resources.

³ Some states are able to pool a small portion of their Title XX funds with their CCDBG child care subsidies in order to meet the technical requirements of the CACFP. Through pooling, every child in these states will receive a small amount of Title XX funding and therefore enable tax-paying child care centers to count them towards the 25% threshold.

⁴ The WIC reauthorization, Pub. L. 105-336, made permanent these two demonstration programs as an indication that Congress supports the full participation of tax-paying providers in this vital reimbursement program. See, "CACFP For-Profit Center Demonstration: Final Report," by Macro International Inc. For the U.S. Department of Agriculture (June 9, 1993).

Mr. Bruce Reed
Domestic Policy Advisor
January 14, 2000
Page 3

The modification sought, eliminating the requirements that children attending tax-paying child care centers must receive Title XX funding, has bipartisan support on the House Education and the Workforce Committee. H.R. 2907 and S. 1997 accomplish this simple statutory change.⁵

To safeguard the children now served in tax-paying child care centers, and to allow for the service of additional children, the underlying CACFP statute must be modified to reflect current funding trends and realities. De-linking the Title XX funding requirement from CACFP participation would appropriately update the CACFP, consistent with the law's original intent and a national child care policy that all low-income children have access to the highest quality child care.

The CCC appreciates your interest in this issue and your attention to the budget requirements of the necessary modification outlined above. I am available to you and your staff should you have questions regarding the importance of the CACFP and the role the private, tax-paying sector in the provision of quality child care.

Sincerely,

A handwritten signature in black ink, appearing to be 'Frank Moore', with a long horizontal line extending to the right.

Frank Moore
Government Relations Counsel

⁵H.R. 2907 and S. 1997 would eliminate the Title XX funding requirement from 42 U.S.C. 1766(a) and allow tax-paying providers to participate if children attending meet the income eligibility for free or reduced price meals found at 42 U.S.C. 1758(b).



United States
National Commission on
Libraries and Information Science

November 29, 1999

The Honorable William J. Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

You have appointed me twice now to the National Commission on Library and Information Science (NCLIS) and designated me to chair that agency. I am proud to report that our work has been characterized by the confidence you have placed in me. Although my current battle with my health has sidelined me, I continue to stay in close contact with other Commission members, and you now specifically because of action that was taken at the November 4, 1999.

I have a life-long love of libraries, but what motivated me to join the Commission was an event that you and I shared 20 years ago in the First White House Conference on Library and Information Services. I was a member of the Conference Advisory Committee, appointed by the Speaker of the House, and you were one of the featured speakers, recruited by our beloved former colleague, Commissioner Bessie Moore.

The Commission has asked me to write to you with a very important request. Please hold the Third White House Conference on Library and Information Services before your term is completed. The ideal time in our estimation is early December 2000 – after the next Presidential election but before the holiday celebrations consume everyone's attention at the White House.

We do not propose replicating the large-attendance, lengthy events of the past (1979 and 1991), but rather a short day or two activity with a small number of key library leaders in Washington, but ever greater numbers participating around the country using communications technologies that were not feasible at the time of the earlier conferences. NCLIS would, as it has in the past, eagerly take on the administrative burden of planning and producing the event. We will, with your approval, include in our FY2001 budget the relatively modest amount this event requires (\$400,000 versus the multi-million dollar budgets of the two prior events).

1110 Vermont Avenue, N.W. Suite 820
Washington, D.C. 20005-3522
(202) 606-9200
Fax: (202) 606-9203

Eric,
Melanne wanted to
make sure that we - the
DPC - respond in some
formal way. Can I call
and explain that we
won't be able to do a
WH Conf or wd you like to
handle in another way?
Nicole

that'd be
fine -
Thanks.

Ann -
Gulp. Whoops. I never
did this. Will you plz
call this group at
your convenience & explain
(w/ your DPC hat on) that
we can't do? Many thanks

PHOTOCOPY
PRESERVATION

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United States
National Commission on
Libraries and Information Science

November 29, 1999

*that'd be
fine -
Thanks.*

The Honorable William J. Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

You have appointed me twice now to the National Commission on Libraries and Information Science (NCLIS) and designated me to chair that agency. We may be a very small Federal agency, but I am proud to report that our work has been characterized as "amazing" by none other than our House appropriations subcommittee chairman, John Porter. I am grateful for the confidence you have placed in me. Although my current battle with cancer has temporarily sidelined me, I continue to stay in close contact with other Commissioners and staff. I am writing you now specifically because of action that was taken at the Commission's recent meeting on November 4, 1999.

I have a life-long love of libraries, but what motivated me to seek appointment to the Commission was an event that you and I shared 20 years ago this month. We both were involved in the First White House Conference on Library and Information Services: I was a member of the Conference Advisory Committee, appointed by the Speaker of the House, and you were one of the featured speakers, recruited by our beloved former colleague, Commissioner Bessie Moore.

The Commission has asked me to write to you with a very important request. Please hold the Third White House Conference on Library and Information Services before your term is completed. The ideal time in our estimation is early December 2000 – after the next Presidential election but before the holiday celebrations consume everyone's attention at the White House.

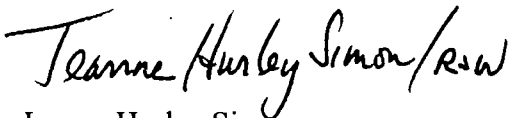
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Washington, D.C. 20005-3522
(202) 606-9200
Fax: (202) 606-9203

You have been a long time advocate of libraries, not only throughout your Presidency, but also (as evidenced in your speech in November 1979) throughout your public service career. For nearly seven years in the White House, you have repeatedly mentioned schools and libraries, and specifically your intention that they all become connected to the information superhighway. I can imagine no better way to underscore this commitment than to bring together – in the White House – library leaders from around the country in a celebratory statement of the importance of library and information services to all citizens.

I hope you will give favorable consideration to this request. I remain,

Respectfully,

A handwritten signature in black ink that reads "Jeanne Hurley Simon / R.W". The signature is written in a cursive, flowing style.

Jeanne Hurley Simon
Chairperson

ADOPTION/

FOSTER
CARE

Melanne Verveer

Here it is!

Ann -

We're going to have to
develop a reply to this
letter from POTUS or
Bruce. Ask Mary Boudette
or Liz Summey at HHS
for help. Mary at 202-690-
6311 & All give you verbatim
background N



Consumer Federation of America

Howard M. Metzenbaum

U.S. Senator (Ret.)

Chairman

September 28, 1999

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I apologize for taking this means of bringing a matter of much concern to me to your attention. That matter has to do with the question of placement of black children with adoptive white parents, an issue that was covered by legislation enacted close to the end of my term in 1994. When it was brought to my attention that there was a glitch in the language of the law, I returned to the Congress to support repeal of my own legislation and the enactment of a corrective law. That was in 1996. The intent of the legislation was to ban discrimination in the placement of adoptive children. The Black Social Workers of America have, and had then, an announced policy of opposition to the enactment of the law. Many of America's black leaders have been very supportive. You spoke out on the issue before Congress acted.

Although HHS pays lip service to the laws enforcement, the fact is that there have been numerous cases litigated in the courts (at considerable expense to the adoptive parent) and HHS has not been supportive in any of them. Most of the Court cases have had favorable results, but the cost to the adoptive parents has been prohibitive. In none of them has HHS seen fit to support the adoptive parents, nor has it penalized the states that have refused to enforce the law. In a recent reply from HHS I have been told that there have been "15 complaint investigations, 11 compliance reviews and 25 other reviews and investigations, plus 50 other outreach projects," but the reality is that not one state has been penalized nor even threatened with a penalty for its failure to enforce the law.

Mr. President you spoke out on this subject even before I proposed my legislation. Hillary has been very supportive as well. I need your help -- not for myself -- nor for any of my children or family. But the children who might otherwise be living with adoptive loving families are suffering because HHS is sitting on their hands. I believe part of the problem to be the beaucracy and some of the social workers who are part of

The President
September 28, 1999
Page Two

the team at HHS. I do not question the sincerity and purpose of Donna Shalala. HHS needs a "push" from you. You were there early -- and forcefully. We have the law. We now need effective enforcement.

Very sincerely, -- and apologetically for taking this means of bringing this matter to your attention. Please convey our warmest and best to Hillary.

Your friend and supporter,

A handwritten signature in black ink, appearing to read 'H. Metzenbaum', with a large, stylized initial 'H'.

Howard M. Metzenbaum

HMM:j

Paul - please
advise.

Paul

Pam/Ann - _____

I don't recall how long I've
had this letter, but I

think I spoke w/ HHS about
this (though I think the policy
process was still underway at the
time) and I think I phoned
re H's signature though
don't recall if we spoke. Sorry...

REED SMITH SHAW & MCCLAY LLP

Writer's Direct Numbers:
Phone 202-414-9258
Fax 202-414-9299
pspeter@rsmm.com

*1301 K Street, N.W.
Suite 1100 - East Tower
Washington, D.C. 20005-3317
Phone: 202-414-9200
Fax: 202-414-9299*

June 16, 1999

The First Lady Hillary Rodham Clinton
The White House
2nd Floor, West Wing
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Adverse Impact of DMERC/
HCFA Policies on the Disabled

Dear Mrs. Clinton:

I enjoyed the opportunity to speak with you and the President in the receiving line at the White House before the Ford Theatre Gala. The above topic was mentioned by me since it has important policy implications in New York and the entire U.S. for individuals who are disabled because of severe respiratory diseases.

The Durable Medical Equipment Regional Carriers ("DMERC") and the Health Care Financing Administration ("HCFA") are changing long standing clinical and legal precedents which will adversely impact post-polio patients, patients with ALS (Lou Gehrig's disease), these with chronic obstructive pulmonary disease (e.g. emphysema) etc. These changes in clinical coverage criteria and Medicare payment category are directly contrary to long standing clinical practice, the consensus of the country's leading physicians, Congress' specific action in its 1993 amendments to the Social Security Act (Section 1834(a)(3)(A), the FDA's 1995 Guidance on Ventilators, and the position of the country's leading disability organizations. If implemented, these changes will adversely impact the safety and health of a number of these severe respiratory disease patients.

We represent Respironics, Inc., a respiratory care manufacturer that makes Noninvasive Positive Pressure Ventilators ("NPPV"), and we are working with the disability community, Congress and HCFA on this important issue. The objectives of HCFA and the DMERCs could be accomplished by implementing in full the clinical criteria adopted by the nation's leading physicians at the 1998 Consensus conference on NPPV Ventilators.

An Executive Summary is enclosed, and we respectfully request the opportunity to meet with you and/or your designee to brief you on this important issue. Time is of the essence since HCFA and the

REED SMITH SHAW & MCCLAY LLP

The First Lady Hillary Rodham Clinton
June 16, 1999
Page 2

DMERCs are moving forward on this issue. Please let me know (202-414-9258) when such a meeting would be convenient for you and/or your designee.

Sincerely,

A handwritten signature in cursive script that reads "Phil Peter".

Phillips S. Peter

PSP:cgb

EXECUTIVE SUMMARY

Comments on Payment Classification for Respiratory Assist Devices HCFA-1075-N

Submitted by Respironics, Inc.
June 14, 1999

We have serious procedural and clinical concerns regarding HCFA's proposal to remove recognition and coverage of the essential servicing, monitoring and adjustments necessary to provide noninvasive positive pressure ventilation ("NPPV") ventilators in the home setting.

Further, we have clinical and procedural concerns arising from the new DMERC medical policy covering NPPV ventilators.

The clinical flaws in both of these policies are interrelated, including apparent misperceptions by the Medicare Program regarding the clinical, functional and regulatory distinctions between intermittent assist devices that are used to treat sleep disorders and NPPV ventilators. The procedural flaws that underlie both of these NPPV policies are examples of a far larger, ongoing pattern at HCFA.

THE FREQUENT AND SUBSTANTIAL SERVICING CATEGORY: FUNDAMENTAL PROCEDURAL AND CLINICAL FLAWS WITH REMOVING NPPV VENTILATORS

- **The Clinical Necessity of Frequent and Substantial Servicing:** The well-established standard of clinical care, regardless of payer, is to provide frequent and substantial servicing, monitoring and adjustments by a respiratory practitioner. The leading clinical organizations oppose the removal of NPPV ventilators from this category because aggressive servicing, monitoring and adjustments are required in the home setting to ensure clinically effective care and to adjust for each patient's changing clinical condition. (Section II, A)
- **HCFA Cannot Move NPPV Ventilators Unless Congress Amends the Statute:** Regardless of whatever process HCFA undertakes, HCFA lacks the authority to remove NPPV ventilators from the frequent and substantial servicing category *unless Congress amends the statute*. HCFA cannot retrospectively reinvent the meaning or intent of Congress' unusually narrow statutory language. There are no clinical, legal or regulatory settings in which NPPV ventilators are classified or otherwise referenced using the statutory language that currently defines the exclusion to this category. This includes seven and a half years of public pronouncements and actions by the Medicare Program, both before and after Congress' enactment of the statutory language. (Section II, B)

Executive Summary

Comments on Payment Classification for Respiratory Assist Devices HCFA-1075-N

- **The DMERCs' New Coding Terminology is Inaccurate and Misleading:** NPPV ventilators are considered true ventilators in every clinical and regulatory context. The thinly-veiled use of new terminology for NPPV ventilators within the new DMERC medical policy (including the phrases "respiratory assist device" and "intermittent assist device with continuous positive airway pressure device") does not change this fact or the meaning of Congress' statutory language. Medicare appears to misunderstand the clinical and functional distinctions between intermittent assist devices used to treat sleep disorders and NPPV ventilators. (Section II, C)
- **This is an Issue of Statutory Interpretation, Not Mere Coding:** The classification of NPPV ventilators within the frequent and substantial servicing category is not merely an issue of "coding" or "miscoding" that falls within HCFA's purview. Instead, this is an issue of statutory interpretation of narrowly crafted language enacted by Congress. (Section II, D)
- **HCFA's Rationale is Fatally Flawed in a Number of Fundamental Ways:** HCFA's attempt to justify moving NPPV ventilators from the frequent and substantial servicing category is far-fetched, defying the fundamental rules of statutory interpretation, common sense and the case law. Incredibly, HCFA officials attempt to justify their re-interpretation of the statutory provision in question *by ignoring seven and a half years of public pronouncements and actions by the Medicare Program both before and after Congress enacted the statutory provision at issue.* Instead, HCFA relies on the content of *unpublished, internal notes* from a 1991 meeting of the HCPCS Panel, despite HCFA's unequivocal written statement at the time that such product classification decisions do *not* fall within the aegis of the HCPCS Panel. (Section II, E)
- **The Case Law Does not Support the Removal of NPPV Ventilators:** The unpublished notes cited by HCFA to support their new interpretation of Congress' statute do not carry any legal weight. Courts consistently refuse to adopt changes in agency positions regarding statutory interpretation that conflict with longstanding agency practice. (Section II, F)
- **HCFA Cannot Ignore Congress' Definition of Servicing:** Setting aside that HCFA lacks the authority to change the statutory category of NPPV ventilators, another important concern involves the scope of information that HCFA is seeking (and not seeking) on the servicing, monitoring and adjustments necessary for home use of NPPV ventilators. HCFA recently requested input on the servicing of NPPV ventilators in the *Federal Register* without highlighting to the public that Congress' definition of the statutory term "servicing" is broader than the mere servicing necessary to keep the ventilators functional. Congress intended to include the *servicing, monitoring and adjustments needed to make certain that these ventilators are both functioning properly and being used properly by the patient.* HCFA's narrowly crafted requests for information will have a predictable and chilling impact on the public's input. (Section II, G)

Executive Summary

Comments on Payment Classification for Respiratory Assist Devices

HCFA-1075-N

- **Legitimate Concerns Remain Regarding a Fair and Meaningful Process:** Even the opportunity for public input into the classification of NPPV ventilators raises procedural concerns. The period between the June 4th announcement in the *Federal Register* and both the June 15th deadline for written comments and the June 25th date for the open meeting are wholly inadequate. This raises legitimate concerns that members of the respiratory community will not have time to respond and participate in a meaningful way (especially patients). (Section II, H)
- **The FDA's Determinations Also Are Inconsistent with HCFA's Position:** The FDA's classification of NPPV ventilators strongly supports the fact that NPPV ventilators are distinct from the respiratory assist devices historically classified by Medicare as intermittent assist devices under E0452. The FDA's focus on issues of patient safety and patient risk are especially meaningful in the context of Congress' mandate to provide the servicing, monitoring and adjustments needed "to avoid a risk to the patient's health." (Section II, I)

THE DMERC MEDICAL POLICY: FUNDAMENTAL PROCEDURAL AND CLINICAL FLAWS

- **New Coverage Criteria Conflict with Expert Consensus Opinion:** The National Association for Medical Direction of Respiratory Care ("NAMDRRC") and the American College of Chest Physicians ("ACCP") hosted the NPPV Consensus Conference in 1998. The leading clinical experts reviewed hundreds of articles in the medical literature and provided their consensus recommendation to the DMERCs. *Incredibly, many of the DMERCs' "last minute" changes in the new medical policy directly conflict with the consensus opinions of the nationally recognized expert physicians.* (Section III, A)
- **The DMERCs Circumvented the Required Notice and Comment Process:** The DMERCs rendered the required notice and comment process meaningless by inserting important, substantive changes *after* circulating the document for comment by the respiratory community and the public. Many of these "last minute" changes will limit or eliminate coverage of medically necessary NPPV ventilators for Medicare patients. (Section III, B)
- **DMERCs Must Use Strongest Evidence, Not Anecdotal Impressions:** The DMERCs must not support their medical policy on NPPV ventilators by "cherry-picking" the medical literature or anecdotal comments from individual physicians or small groups of physicians. HCFA's own requirements mandate that the DMERCs base their medical policies on the "strongest evidence possible," expressly stating that the opinions of individual providers or even a small group of providers cannot be deemed indicative of overall clinical standards. Nonetheless, the DMERC Medical Directors ignored the consensus recommendations of the expert physician community. (Section III, C)

Executive Summary

Comments on Payment Classification for Respiratory Assist Devices HCFA-1075-N

- **Mandatory Prerequisite Trial Conflicts with Expert Consensus and FDA:** One important change appearing for the first time in the final DMERC draft requires physicians to write “off-label” prescriptions for two to three month prerequisite trials using a different device before Medicare will cover an NPPV ventilator. The DMERCs’ new prerequisite requirement is inconsistent with the FDA’s classification system and labeling, as well as the consensus recommendations of the clinical community and the weight of the medical literature. In fact, there are no clinical studies confirming the safety of a mandatory prerequisite trial as set forth under the DMERCs’ clinical approach. (Section III, D)
- **Mandatory Prerequisite Trial Conflicts with HCFA’s Rules:** The DMERCs’ new mandatory prerequisite trial fails to meet the standards set forth in the Medicare Carriers Manual that such requirements represent alternatives that are “more safe, more effective, or more appropriate” and that such decisions be based on medical appropriateness and not on concerns arising from costs. (Section III, E)
- **New Documentation Requirements are Overly Burdensome:** The documentation requirements in the new policy are needlessly burdensome, establishing unnecessary hurdles to patient access. (Section III, F)

CONCLUSIONS

- **Clinical Flaws in Both NPPV Policies Due to Interrelated Misperceptions:** The clinical flaws underlying both of these policies are interrelated. In both policies there appear to be fundamental misperceptions regarding the clinical and functional distinctions between intermittent assist devices and NPPV ventilators. These misperceptions are seen in the mandatory use of sleep disorder devices to treat respiratory insufficiency, the misuse of terminology and misperception regarding the amount of servicing needed for NPPV ventilators.
- **Procedural Flaws in NPPV are Consistent with a Larger Pattern at HCFA:** The procedural problems in the area of NPPV are consistent with a far larger pattern at HCFA in which significant procedural lapses by the Medicare Program are drawing similar, legitimate criticisms from government officials and members of the medical community regarding HCFA’s adherence to procedural safeguards in the context of inherent reasonableness, interim final rule making, and competitive bidding.
- **HCFA Must Ensure that the First Priority Remains Protecting Beneficiaries:** As the agency charged with protecting the interests of Medicare beneficiaries, HCFA should proceed with special caution to ensure that procedural short-cuts are not being used to justify limitations on the coverage or reimbursement of items and services for Medicare beneficiaries. The zeal to achieve cost savings may be clouding the judgement of HCFA and the DMERCs, especially in the area of NPPV ventilators.

Executive Summary
Comments on Payment Classification for Respiratory Assist Devices
HCFA-1075-N

::ODMA\PCDOCS\WSH\131352\1

Melanne - Nicole is off on vacation. HRC saw

LaFalce this week update.
I am wondering about response.

Just give to
Nicole for later

Pam

Pam/Ann

Faxed to Neen. Also,

Ann - I had asked

Deborah/Curtis for a
statue on this bill -

I'm not sure if it was
addressed in the BBA
giveback package signed
this fall.

JOHN J. LAFALCE
29TH DISTRICT, NEW YORK

2310 RAYBURN BUILDING
WASHINGTON, DC 20515-3229
(202) 225-3231

www.house.gov/lafalce

VIP Scheduling
H. Kurz

Congress of the United States
House of Representatives
Washington, DC 20515-3229

July 20, 1999

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409 SOUTH UNION STREET
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Mrs. Hillary Rodham-Clinton
The First Lady
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mrs. Clinton:

As health care continues to dominate public policy discussions, I was pleased to see that your listening tour of New York included several visits to hospitals affected by Medicare and Medicaid provisions contained in the 1997 Balanced Budget Act.

While many hospitals have been adversely affected by these governmental, as well as market forces, one group of hospitals has been especially hard hit - small community hospitals. In my Congressional district, as in others throughout the state of New York, a number of community hospitals have been forced to cut back services, reduce staff, struggle for financial survival, and consider bankruptcy.

To address this problem, I have introduced H.R. 2236, the Community Hospital Preservation Act. H.R. 2236 provides a financial lifeline to those community hospitals that are in financial distress and lack access to capital.

This bill offers forgivable capital loans to those non-profit community hospitals that are an essential source of basic hospital health care services within their local community, but are currently in financial distress. Enclosed is a summary of H.R. 2236, as well as a strong letter of support from the Healthcare Association of New York State.

There is a great public purpose in providing a financial lifeline. As non-profits, these hospitals do not have the access to capital that for-profit hospitals do. Extending financial assistance to such at-risk hospitals could prevent their closure, thus preserving a vital health care and community asset. Additionally, such assistance could preserve the independence of a community hospital, as an alternative to a forced merger with an out-of-town hospital conglomerate.

Since the introduction of H.R. 2236, I have had discussions with hospital leaders and other health care professionals in New York about ways that the bill might be strengthened or modified. For example, I am considering the expansion of eligible hospitals to include those that serve a disproportionate share of low-income, uninsured or Medicaid patients.

I would be interested in learning your views about this legislation. In this respect, I would like to suggest a meeting with hospital administrators, doctors, and employees in my Congressional district, so that you could hear their perspective on this subject.

As Congress struggles with tax, budget, and spending decisions, perhaps no issue affects residents of New York more personally than the maintenance and strengthening of our health care system in general, and our hospitals in particular.

I thank you for your interest in this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "John", with a stylized flourish extending from the end.

JOHN J. LaFALCE
Member of Congress

L:mc/so



499 South Capitol Street, S.W., Suite 405
Washington, D.C. 20003
(202) 639-1502 / fax (202) 639-9542
(Washington, D.C. Office)
(518) 431-7600 / fax (518) 431-7915
(Albany, NY Headquarters)
<http://www.hany.org>

Daniel Sisto, President

May 21, 1999

The Honorable John LaFalce
U.S. House of Representatives
Room 2310, Rayburn Office Building
Washington, DC 20515

Dear Representative LaFalce:

On behalf of the more than 500 not-for-profit and public hospitals and continuing care providers that comprise the Healthcare Association of New York State (HANYS), I am writing to express support for your efforts to provide relief for New York's hospitals. HANYS applauds your introduction of the "The Community Hospital Preservation Act," which would authorize special grant funding for community hospitals that are experiencing financial difficulties. These funds are an important step in assuring that providers of health care on the front lines of our communities would continue to have the ability to provide high quality care for their patients.

As you are well aware, health care providers across New York State, especially those in Western New York, are buckling under the weight of the Medicare reductions imposed by the Balanced Budget Act (BBA) of 1997. Our State's hospitals have yet to experience 85% of the BBA-mandated cuts. Over the next 3½ years, New York's hospitals will experience another \$3.9 billion in reductions. These reductions do not include the cuts to hospital-affiliated nursing homes, home care agencies, and other provider payment cuts mandated by the BBA. Statewide, our hospitals are struggling with many hospitals losing money on operations.

Again, we thank you for your long-time to commitment to preserving and protecting New York State's health care infrastructure and we look forward to continuing to work with you to bring relief to New York's health care providers. As always, feel free to contact me at 202-639-1502 if I can be of any assistance.

Sincerely,

Joanne Cunningham
Director, Federal Relations

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Representing New York State's Not-For-Profit Hospitals and Long-Term, Home, and Community Health Care Providers

“COMMUNITY HOSPITAL PRESERVATION ACT”
[H.R. 2236]
[Introduced by Rep. John J. LaFalce]

Executive Summary

- Authorizes \$1 billion a year for each of the next five years for forgivable capital loans to help preserve community hospitals experiencing financial difficulties.
- In order to be eligible for assistance, hospitals must meet the following criteria:
 - Must be non-profit owned
 - Must have assets of \$75 million or less
 - Must be an essential source of basic hospital health care services within the community in which the hospital is located
 - Must be experiencing ongoing financial difficulties, as demonstrated by objective financial criteria
 - Must either be operating in an efficient manner, or have a viable financial recovery plan, reviewed by an independent accountant or hospital consultant
- Maximum advance is the lesser of \$2.5 million or 10% of the hospital asset size. The minimum advance is \$100,000.
- Each federal advance must be matched by an equal [50/50] hard dollar grant, loan, or capital advance by a state, locality, or other non-federal source.
- Funds are dispersed as an interest-free loan. 10% of the loan is forgiven each year that the hospital maintains its status as a non-profit with assets under \$75 million, and continues to be an essential community source of basic hospital services.

At any time that such status is no longer maintained, the unforgiven amount is converted to a loan, to be repaid and amortized over a 20-year period.

- Funds approved and administered by Department of Health and Human Services.
[FHA-insured hospitals must also gain the approval of Secretary of HUD].

Congress of the United States

House of Representatives

Washington, DC 20515-3229

May 24, 1999

Co-Sponsor the **"COMMUNITY HOSPITAL PRESERVATION ACT"**

Dear Colleague:

I am writing to invite you to become an original co-sponsor of the "Community Hospital Preservation Act." I plan to introduce this legislation just prior to Memorial Day recess.

The Community Hospital Preservation Act authorizes \$1 billion a year in grants over five years in the form of forgivable capital advances to qualifying non-profit community hospitals experiencing financial difficulty. To qualify, a hospital must be non-profit, have assets of less than \$75 million, and be an essential source of basic hospital services within a local community. Grants may range in size from \$100,000 to \$2.5 million per hospital.

Each grant must be matched dollar for dollar by a grant or loan from state, local, or other non-federal sources. Grants are disbursed as a forgivable capital advance; each year that a hospital continues to meet asset size and other eligibility requirements, 10% of the grant is forgiven. At any point where a hospital ceases to meet these requirements, the unforgiven amount is due and re-payable over a 20 year period, at the government rate of borrowing.

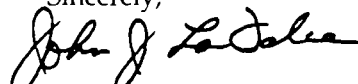
Hospitals are being buffeted by a number of adverse financial forces. The Medicare and Medicaid cuts in the Balanced Budget Act of 1997 are starting to exact a financial toll, and are scheduled to cut even deeper in the next few years. Managed care reimbursement pressures are cutting revenues for private care patients. And, the dramatic rise in uninsured patients [from 35 million six years ago to 45 million today] means an increase in the number of patients a hospital must subsidize.

Community non-profit hospitals are especially at risk. They have less negotiating power in reimbursement negotiations with managed care providers than large for-profit hospitals. Their non-profit status severely limits their access to capital. For many community hospitals, their only viable options are to cut essential services, lay off employees, or explore mergers with large, out-of-town conglomerates. For some, the only options may be bankruptcy or shutting down the hospital.

Non-profit hospitals that are a sole or essential hospital provider in a community serve an important public purpose. Since the federal government made Medicare and Medicaid cuts that put these hospitals at risk, the federal government should be prepared to step in to soften the blow of such cuts for those most at risk. With bipartisan pledges to set aside trillions to save Social Security for our senior citizens, it is not too much to set aside a very tiny fraction of that to save hospitals that provide essential health care for those same seniors.

If you would like to be an original co-sponsor, contact Scott Olson at 5-7054.

Sincerely,



JOHN J. LAFALCE, M.C.

NEWS FROM

Congressman John J. LaFalce

29th District, New York

CONTACT: Gary Luczak (202) 225-3231
Amy Simmons (202) 225-7141

FOR IMMEDIATE RELEASE:
May XX, 1999

LaFALCE LEGISLATION OFFERS LIFELINE TO COMMUNITY HOSPITALS

WASHINGTON, D.C., May XX-- Congressman John J. LaFalce (D-29, NY) today introduced legislation aimed at helping struggling community hospitals in New York and elsewhere. The "Community Hospital Preservation Act" authorizes \$1 billion a year in grants over five years to non-profit community hospitals burdened by poor financial health. The legislation comes as area hospitals fight for financial health and independence while being buffeted by adverse financial forces.

"Hospitals are experiencing a combined backlash of cuts in Medicaid and Medicare reimbursements, a significant increase in uninsured patients, the expansion of managed care and a difficult transition from New York's regulated environment," said LaFalce. "This legislation will remedy some of those problems by offering grants that will provide hospitals with sorely needed capital so they can adequately serve their communities."

Each federal grant must be matched dollar for dollar by a grant or loan from state, local, or other non-federal sources. Funds are dispersed as a forgivable capital advance. Each year a hospital maintains its status as a non-profit with assets under \$75 million, 10 percent of the advance is forgiven. To qualify, hospitals must be non-profit owned, and offer essential hospital health care services in the community.

"Community hospitals are in danger of becoming an endangered species," stressed LaFalce. "Against the Goliath of for-profit hospitals, community hospitals have less negotiating power with managed care providers, and have limited access to capital. Their only viable options are to cut essential service, lay off employees, or merge with large, out-of-town conglomerates. For some, the only options may be bankruptcy or closing its doors. We need to preserve our community hospitals, who know and best serve our neighborhoods."

The LaFalce legislation comes as Lockport Memorial Hospital struggles to remain in business. Rep. LaFalce has asked Governor George Pataki and The Dormitory Authority of the State of New York to help the hospital financially through its restructuring pool, and to expedite a tax-exempt leasing program to upgrade the hospital's computer system. Lockport is just one of many community hospitals in the state that are at risk.

"Since the federal government made the Medicare and Medicaid cuts that so hurt these hospitals, the federal government should be prepared to step in and soften the blow of such cuts for those most at risk," said LaFalce. "With bi-partisan pledges to set aside trillions to save Social Security for our senior citizens, it should not be too much to ask to set aside a tiny fraction of that to save hospitals that provide essential health care for those same seniors."

LaFalce's "Community Hospital Preservation Act" has already won praise for its common sense approach to saving the fiscal health of non-profit hospitals. Joanne Cunningham, speaking for the more than 500 members of the Healthcare Association of New York State, applauded the proposal calling it "an important step in assuring that providers of health care on the front lines of our communities would continue to have the ability to provide high quality care for their patients." She also thanked LaFalce for his "long-time commitment to preserving and protecting New York State's health care infrastructure."

William Pike, president of the Western New York Healthcare Association said, "Hospitals are a critical service provider for all communities. They are one of the first things people look at when they move into a neighborhood, along with schools, and parks. Congressman LaFalce should be commended for his bold efforts to save one of our nation's most essential institutions."

Congress of the United States
House of Representatives
Washington, DC 20515-3232

OFFICIAL BUSINESS

John J. LaFalce
M.C.



NEWS FROM**Congressman John J. LaFalce****29th District, New York****CONTACT:** Gary Luczak
(202) 225-3231**FOR IMMEDIATE RELEASE:**
June 16, 1999**LaFALCE LEGISLATION OFFERS LIFELINE TO COMMUNITY
HOSPITALS**

WASHINGTON, D.C., June 16-- Congressman John J. LaFalce (D-29, NY) today introduced legislation aimed at assisting struggling community hospitals in New York and nationwide. "Just as people often need a lifeline, many hospitals today need a lifeline," LaFalce said. "Hospitals are experiencing a triple whammy of Medicare and Medicaid cuts, reimbursement reductions from managed care firms, and a significant increase in the number of uninsured patients. My legislation offers important help to those small hospitals that are essential to their communities, but that need capital to survive and resuscitate themselves."

The "Community Hospital Preservation Act" would authorize limited capital loans, that could be converted to grants over ten years for non-profit community hospitals across the United States in financial distress. The legislation comes as hospitals in Western New York are cutting health care services, laying off employees, and in some cases, especially small community hospitals, fighting for survival.

Under LaFalce's proposal, small community hospitals are eligible for forgivable capital loans, if they are non-profit, have assets of less than \$75 million, are experiencing financial difficulties, and are an "essential source of basic hospital health care services" in the local community. The forgivable loans may range from \$100,000 to \$2.5 million per hospital. Each loan must be matched dollar for dollar with a state, local, or private grant or loan. If the hospital continues to meet annual eligibility criteria, including operational efficiencies, the capital loan will be forgiven over time, and thereby converted into a grant.

The LaFalce "Community Hospital Preservation Act" has already won praise for its goal of helping to preserve non-profit community hospitals.

The Healthcare Association of New York State [HNYS], writing on behalf of more than 500 not-for-profit and public New York hospitals, wrote Rep. LaFalce to express "support for your efforts to provide relief for New York hospitals" and to "applaud introduction of the 'Community Hospital Preservation Act,' calling the grant funds "an important step in assuring that providers of health care. . . continue to have the ability to provide high quality care for their patients."

William Pike, President of the Western New York Healthcare Association said, "The importance of hospitals in small communities is critical. This is one of the first things people look at when they move into a neighborhood, aside from schools, and parks. Congressman LaFalce should be commended for his bold efforts to save one of our nation's most essential institutions."

The LaFalce legislation comes as Niagara Falls Memorial Hospital, Lockport Memorial Hospital, Medina Memorial Hospital, and others located in the Congressman's district are experiencing financial difficulties. Had the LaFalce legislation been in place, Lockport Memorial, e.g., would have had access to funds to pay creditors in the short run - without

being under threat of bankruptcy or shutdown - while it negotiates for a long-term affiliation and capital infusion. Many community hospitals in Western New York, statewide and nationally have encountered similar financial difficulties.

A number of these hospitals are insured by the federal government through the Federal Housing Administration [FHA], which is part of the Department of Housing and Urban Development [HUD]. FHA recently sent a letter to the Dormitory Authority of the State of New York, asking for financial help with "the deteriorating financial condition of a significant number of hospitals in New York" insured by the FHA. The LaFalce legislation gives FHA a role in forgivable loan approval for those hospitals which are insured by FHA.

"Non-profit community hospitals serve an essential public purpose in the communities they serve. The same federal government that has made Medicare and Medicaid cuts that have worsened the financial health of hospitals should be prepared to step in to soften the blow of these cuts for those hospitals most at risk, and yet capable of sustaining themselves with some assistance" said LaFalce. "It is important to save Social Security for our senior citizens, and it is also important to save the hospitals that provide essential health security for those same seniors."

-30-

[Home Page](#) || [John's Biography](#) || [John's News & Commentary](#) || [US Congress](#)
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Nicole - —

Let us know when
you've had a chance to
review (and good
luck w/ law school!)

John Corcoran

— 65515

Ann - —

w'd you pls

follow up?

This follows a lt

potus sent to Mr

Britton, a friend of us.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001. letter	Kate Britton to Bill re:personal (3 pages)	02/14/2000	b(6)
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2013-0436-S
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002. paper	re: Life Dynamics Incorporated [partial] (1 page)	n.d.	b(6)
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COLLECTION:

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Domestic Policy Council
Ann O'Leary
OA/Box Number: 20223

FOLDER TITLE:

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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



LIFE DYNAMICS INCORPORATED

Post Office Box 2226 • Denton, Texas 76202
(940) 380-8800 • (940) 380-8700 fax

• Documentation Subject: Baby Parts Marketing
• Relates to LifeTalk Editions: May 1999 and August 1999

(1) Wholesalers

Baby parts wholesalers are organizations which place employees in abortion clinics to harvest tissue, limbs, organs, etc. from aborted babies. This material is then shipped to researchers working for universities, pharmaceutical companies and government agencies.

Although it is against federal law to sell human tissue or body parts, these organizations have devised a system to circumvent this restriction.

Technically, the parts they harvest are "donated" to them by the clinics. However, they do pay a "site fee" to the clinics for the right to access the bodies.

These parts are then "donated" to the researchers who in turn pay the wholesalers for the cost of retrieval. Profit is realized by the wholesalers' ability to set their own retrieval fees.

Our research has identified two main players in the wholesaling of baby parts: the Anatomic Gift Foundation (AGF) and Opening Lines. (Addresses for both of these organizations are listed at the end of this section.)

AGF was founded in 1994 by Jim and Brenda Bardsley. Operating from a double-wide trailer house on the Satilla River outside rural White Oak, Georgia, the AGF facility is also a catfish farm.

Although the Bardsleys are still president and vice-president of the organization, and the White Oak address is still listed among AGF's several locations,

its headquarters have since been moved to Laurel, Maryland. Currently, Jim Bardsley's [P6/(b)(6)] is listed as executive director. [002]

AGF also has offices in Arizona and Colorado. The Phoenix facility appears to only provide adult tissue and is not involved in the marketing of baby parts. On the other hand, in Aurora, Colorado, AGF actually has a facility located inside a free-standing abortion mill (Mayfair Women's Clinic). AGF's representative at this facility is a woman named [P6/(b)(6)]. AGF also claims to have operatives in abortion clinics on the east coast and in the midwest.

Opening Lines was founded in 1997 by pathologist Miles Jones, and is located in West Frankfort, Illinois. Its day-to-day operations are handled by Jones' partner, [P6/(b)(6)].

Opening Lines is currently securing baby parts only from abortion clinics in the United States, but admits to be actively pursuing sources in Canada and Mexico.

As for ties between these wholesalers and the abortion industry, in 1998 the National Abortion Federation listed the Anatomic Gift Foundation as a member, and in 1991 both Miles Jones and [P6/(b)(6)] were cited as donors in the National Abortion Federation's annual report.

(2) Orders

Included in this booklet are more than 50 orders for baby parts received by a Planned Parenthood abortion clinic. These orders cover a time frame beginning in

1988 and lasting until 1998. Also provided is a partial listing of material requested of this one abortion clinic by AGF for the week of November 17, 1997.

As you review these forms, there are certain things you should notice:

(a) When an order calls for parts to be retrieved within 10 minutes of the baby's death, this is one of those instances where a live birth is highly likely. It is also an indicator that the purchaser may be suggesting that the abortionist alter his procedure in order to meet the purchaser's specifications.

(b) When there is something like "no dig" written on the order, the purchaser is telling the abortionist that the baby can't be killed by injecting digoxin (or other fetocidal agents) into the body. Again, this is a clear indicator that the purchaser is trying to control what procedure the abortionist will use. This requirement also increases the chances of a live birth.

(c) Some orders have headings which read "IIAM." This stands for The International Institute for the Advancement of Medicine. This organization was at one time heavily involved in the baby parts business but has since withdrawn. IIAM was founded by Jim Bardsley who later left the organization to start the Anatomic Gift Foundation.

(d) When you see a form that stipulates something like "no anomalies" or "no congenital abnormalities," this is irrefutable proof that these late term abortions are being done on perfectly healthy babies.

(3) Prices

Also included here is a current price list for both AGF and Opening Lines. Note that AGF's "fees for service" are the same for all the material it supplies, while Opening Lines bases its charges on the specific part being purchased.

(4) Promotion

Our research indicates that, to date, the extent of AGF's marketing is to have promotional booths at conferences held by the National Abortion Federation. While Opening Lines has also promoted its services at

these same conferences, they take their marketing to the next level by publishing slick, full color, sales brochures.

We also found Opening Lines to be far more aggressive with their marketing when we were talking to them over the phone. They were quick to offer volume discounts and even free parts to capture new customers. The last few pages of this document are copies of Opening Lines sales literature.

(5) Identification

Anatomic Gift Foundation
96 Satilla Drive
White Oak, GA 31568
(912) 576-5889
(912) 576-3727 fax

Anatomic Gift Foundation
13948 Baltimore Ave.
Laurel, MD 20707
(301) 953-2702
(301) 953-2701 fax
1-800-300-5433
web: anatomicgift.com

Anatomic Gift Foundation of Arizona
1313 N. 2nd Street, Suite 2
Phoenix, AZ 85004
(602) 528-3715
(602) 528-3717 fax

Anatomic Gift Foundation
(Mayfair Women's Clinic)
14446 E. Evans Ave.
Aurora, CO 80014
(303) 696-9761 (Mayfair)
(303) 755-8601 AGF voice and fax

Opening Lines / Professional Arts Lab - A Division of
Consultative and Diagnostic Pathology, Inc.
Post Office Box 508
502 W. St. Louis St.
West Frankfort, IL 62896
(618) 937-2439
(618) 937-1525 fax
1-800-490-9980

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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003. list	re: ordering protocol [partial] (1 page)	n.d.	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 20223

FOLDER TITLE:

Correspondence [1]

2013-0436-S
rc1313

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

**DETERMINED TO BE AN
ADMINISTRATIVE MARKING**
INITIALS: EUR DATE: 06/18/13

~~Confidential Protocol~~

(b)(6)

[603]

Zeneca Pharmaceuticals

Tissue Type: Liver, Thymus & Long bones (U.&L.)

**Normal donor,
No antineoplastic or corticosteroids within one month prior to
donation**

Gestation: 18-24+

Preservation: Fresh, DMEM w/standard supplements

Shipment: Wet Ice, Fed Ex OUR Acct #

Ship to:

(b)(6)

Mail: Same

Phone:

(b)(6)

Additional Contacts:

(b)(6)

(b)(6)

Use of Tissue: The goals of the project are to investigate hemopoietic regulatory mechanisms that underlie chronic inflammatory diseases of the lung and respiratory airways and to determine the mechanisms of active interaction with hemopoietic cells of selected candidate therapeutic compounds.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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004. list	re: ordering protocol [partial] (1 page)	03/95	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 20223

FOLDER TITLE:

Correspondence [1]

2013-0436-S

rc1313

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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HIV
11/92

IIAM PROTOCOL
PRENATAL CARTILAGE OF LEG AND HIP

P6/(b)(6)

00040

Tissue Use: The study of Biochemical Characterization of human type X Collagen.

Mailing Address:

P6/(b)(6)

Shipping Address:
same

Phone: Day

P6/(b)(6)

Constraints: Whole intact Leg, include ENTIRE HIP JOINT, 22-24(-) weeks gest. Sterile (clean acceptable). Age of fetus must be determined and noted.***indicate foot pad measurement. 4-6 specimens per shipment. Call with # of specimens before shipment.

Prep.: SPECIAL MEDIA PROVIDED. Wet Ice.

PROCEDURE: Dissect by cutting through symphysis pubis and include **WHOLE** Ilium. To be removed from fetal cadaver within 10 minutes. WIT. Place each specimen in separate sterile specimen cup. **COMPLETELY COVER WITH MEDIA.**

Shipping: Ship on wet ice. Next day. ~~FED EX our account.~~

P6/(b)(6)

No Abnormalities 3/95

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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005. list	re: ordering protocol [partial] (1 page)	ca. 1994	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 20223

FOLDER TITLE:

Correspondence [1]

2013-0436-S

rc1313

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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IIAM PROTOCOL

FETAL KIDNEYS

P6/(b)(6)

Tissue Use: Molecular regulation of cellular differentiation in renal development.

Mailing Address

Shipping Address

P6/(b)(6)

P6/(b)(6)

[005]

P6/(b)(6)

Constraints: prenatal 14-22 weeks. Remove and prepare for shipping within 24 hours after preparation under STERILE conditions. No contagious disease screen required. Please do not provide any identification information.

Prep.: Collins solution.

Quantity: 6/month starting 7/23/90.

Shipping: Ship fresh on wet ice. Next day within 24hrs.

FX Acct.

P6/(b)(6)

P6/(b)(6)

P6/(b)(6)

Kidney 17wks 5/94
Fresh-Super

brain in LG 2/94
lung " } 4/94
thigh muscle " }

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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006. list	re: ordering protocol [partial] (1 page)	02/27/1990	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 20223

FOLDER TITLE:

Correspondence [1]

2013-0436-S

rc1313

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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FEB 27 '90 16:58 IIAM MASTER

20-24wks

Office, file, lab, JM,BMB,BB,JP,906,512,588

IIAM PROTOCOL

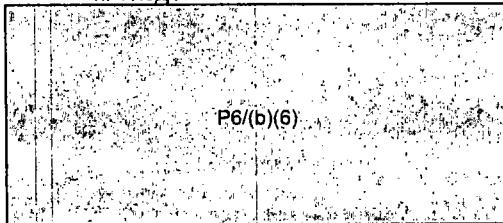
Whole Eyes or post. poles

[006]

Tissue Use: Connective tissue changes in the optic nerve in Glaucoma.

Mailing:

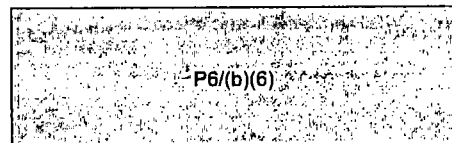
Shipping: (same)



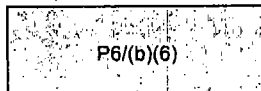
Fixative changes:

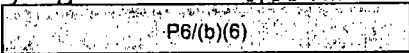
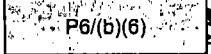
9/90 - 4% Para X 2 hours / ship in .1M Cara

Phone Day:



Contact:



Donor Criteria: Prenatal(20-24wk), Brain-dead, Non-Cadaver, and Post 4-6 hours normal donor, any age with no HLV, HBsAg, CMV contagious or systemic disease.   Will accept Diabetes or Glaucoma patients if called ahead of time.

Procedure: 1) Whole Eyes or posterior poles.

2) Fresh, remove eye with as much optic nerve intact as possible and within 2 hours if possible.

3) ~~Place in DME media and container with IIAM donor label.~~
~~Place on wet ice.~~

USE THERE FIXATIVE - 3 containers for each set of eyes -

Shipping:

~~Same day delivery by Sterling Courier unless otherwise specified.~~

FEDERAL EXPRESS
OUR ACCOUNT!

bigger falcon tubes
4% Para - one eye in each
.1M Cara
Gimme 3 containers

OPENING LINES

A DIVISION OF CONSULTATIVE & DIAGNOSTIC PATHOLOGY, INC.

P. O. Box 508

West Frankfort, IL 62896

Phone: 800-490-9980

Fax: 618-937-1525

Fee for Services Schedule

Unprocessed Specimen(> 8 weeks)		\$70
Unprocessed Specimen(≤ 8weeks)		\$50
Livers(≤ 8weeks)	30% discount if significantly fragmented	\$150
Livers(> 8 weeks)	30% discount if significantly fragmented	\$125
Spleens(≤ 8weeks)		\$75
Spleens(> 8 weeks)		\$50
Pancreas(≤ 8weeks)		\$100
Pancreas(> 8 weeks)		\$75
Thymus(≤ 8weeks)		\$100
Thymus(> 8 weeks)		\$75
Intestins & Mesentary		\$50
Mesentary(≤ 8weeks)		\$125
Mesentary(> 8 weeks)		\$100
Kidney-with/without adrenal(≤ 8weeks)		\$125
Kidney-with/without adrenal(> 8 weeks)		\$100
Limbs(at least 2)		\$150
Brain(≤ 8weeks)	30% discount if significantly fragmented	\$999
Brain(> 8 weeks)	30% discount if significantly fragmented	\$150
Pitutary Gland(> 8 weeks)		\$300
Bone Marrow(≤ 8weeks)		\$350
Bone Marrow(> 8 weeks)		\$250
Ears(≤ 8weeks)		\$75
Ears(> 8 weeks)		\$50
Eyes(≤ 8 weeks)	40% discount for single eye	\$75
Eyes(> 8 weeks)	40% discount for single eye	\$50
Skin(> 12 weeks)		\$100
Lungs & Heart Block		\$150
Intact Embryonic Cadaver(≤ 8weeks)		\$400
Intact Embryonic Cadaver(> 8 weeks)		\$600
Intact Calvarium		\$125
Intact Trunck(with/ without limbs)		\$500
Gonads		\$550
Cord Blood(Snap Frozen LN ₂)		\$125
Spinal Column		\$150
Spinal Cord		\$325

Prices in effect through December 31 1999

OUR SERVICE IS CONVENIENT AND EASY TO USE!

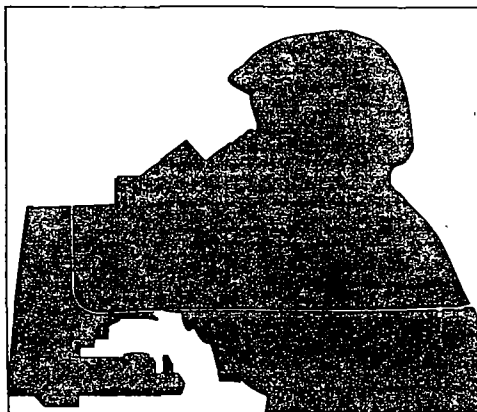
OPENING LINES is a division of Consultative and Diagnostic Pathology, Inc. (CADP) which was formed in 1989 by Dr. Miles Jones. Opening Lines was established in order to provide a convenient and efficient way for researchers to receive fetal tissue without a lot of bureaucracy.

Order forms are available which identify tissue types, amounts, preparation, and where and when you require the specimen(s) to be delivered.

All that is needed to initiate service is a purchase order number, payment type and your billing address.

You may phone, fax or email orders to us anytime.

Phone orders - 800-490-9980
Fax orders - 877-665-2555 (toll free)
Email orders - orders@openinglines.net



Our fee for service is very attractive and lower than the industry average.

Our specimens vary widely in range including but not limited to those listed below.

Liver, spleen, pancreas, intestines, kidney, brain, lungs and heart block, spinal column and many more with appropriate discounts that apply if specimen is significantly fragmented.

Ask for our complete service schedule.



OPENING LINES
A DIVISION OF CONSULTATIVE AND DIAGNOSTIC PATHOLOGY, INC.

P. O Box 508
West Frankfort, IL 62896
800-490-9980
Fax 877-665-2555 toll free

FRESH FETAL TISSUE

harvested

and

shipped

to your

specifications..

where and

when you need it!

The medical and social history form supplied within the brochure will need to be filled out. This form is simple and only takes a few minutes to complete.

Your patient will need to supply information that will be held in the strictest of confidence regarding any diseases or disorders encountered presently or in the past. Any questions with positive answers will require written explanations.

Please call us regarding any questions you may have. At your request, we will send you patient brochures with all the necessary information.

Just remember that your patient has already made the decision to have an abortion.

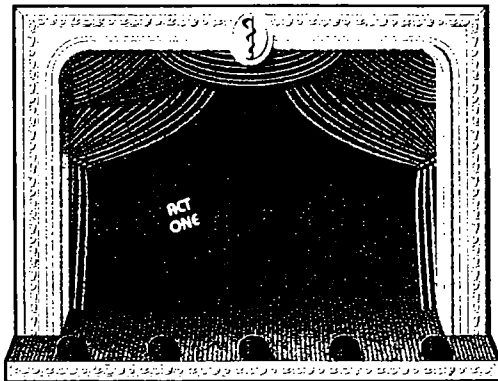
You are simply asking her to help by donating a gift that has the possibility of helping thousands of people with diseases and disorders that otherwise might not be cured without research.

Please ask your patient to sign the donor consent form when your staff presents it to her.



Thank You

for proposing to your patient
the gift that
will enable people
around the world
to have a
better quality of life.



OPENING LINES
A DIVISION OF CONSULTATIVE AND DIAGNOSTIC PATHOLOGY, INC.

In The Beginning...

P. O Box 508
West Frankfort, IL 62896
800-490-9980
Fax 877-665-2555 toll free

**FIND OUT HOW
YOU CAN TURN
YOUR PATIENT'S
DECISION INTO
SOMETHING
WONDERFUL**

We know your patient's decision to have an abortion was carefully considered and we also know it was a very difficult one to make.

Now that the choice has been made, we ask that you propose to your patient a simple program that could help thousands of people.

Your patient has the ability to give permission to donate fetal tissue for research. That consent may result in the saving of lives of possibly thousands of people with diseases and disorders that might not otherwise be cured without this research.

Much has been discovered from scientists' work with the tissue removed during the abortion procedure.

Great strides are being made with respect to treating and curing many disorders such as **Cancer, AIDS, Alzheimers, Liver Disease, Eye Disorders and Blindness, Diabetes, Spinal Cord Injuries, Kidney Disease** and countless other diseases.

Scientific studies from tissue derived from medical procedures are very important to the understanding, treatment and prevention of many diseases, as well as for the development of commercially available therapies.

When patients think about all the good that could come from this research, the decision becomes quite easy.

Consultative and Diagnostic Pathology, Inc. will be asking to obtain tissue specimens derived from your patient's medical procedure and following any necessary diagnostic exam, to distribute the material to scientists or institutions, for purposes of biomedical research.

This is the opportunity to make a difference...and it can be beneficial to your clinic.

On January 22, 1993, President Clinton lifted the moratorium on federal funding of research involving transplantation of fetal tissue from induced abortions. This action created a great demand for fetal tissue and has made possible the development of treatments for individuals afflicted with serious diseases and disorders.

OUR PROGRAM IS SIMPLE.

1. Consultative and Diagnostic Pathology will lease space from your facility to perform the harvesting and distribution of tissue. The revenue generated from the lease can be used to offset your clinic's overhead.
2. Consultative and Diagnostic Pathology can train your staff to harvest and process fetal tissue. Based on your volume we will reimburse part or all of your employee's salary, thereby reducing your overhead.
3. When the Consultative and Diagnostic Pathology staff performs the harvesting, they will assist your staff whenever and wherever possible, making working conditions better for everyone.
4. We have very cost-effective pricing for pathology and cytology services. Our prices are almost always lower than your current provider and our service is usually much quicker.

A sample of your patient's blood will accompany the tissue obtained during her procedure so the researcher can test it for a variety of transmitted diseases. If anything is found that makes the tissue unusable, all of the sample will be destroyed.

If by chance a major discovery in research is made using the tissue donated, you will not be eligible to share in the potential monetary gains that the researcher may receive for his or her discovery.

The identity of your patient will be kept strictly confidential, and her name will not be sent to ANYONE. The tissue will be identified only by a number.

Special brochures and consent forms will be supplied to your facility in order to make the decision to grant consent easy and convenient.

Your patient will need to read and understand this brochure and will be given the opportunity to ask questions.

Your patient will have the choice of refusing to participate.

The brochure will explain that she will receive no compensation for consenting to this study and that her identity will be confidential.

Your patient will be asked to sign and a separate consent form granting permission to Consultative and Diagnostic Pathology, Inc. and each of its authorized agents and representatives to disseminate and dispense tissue derived from medical procedure.

How the system works

Baby Parts Marketing

ORDERS:

A. BUYER supplies WHOLESALER with list of baby parts wanted. Baby parts may include limbs, organs, blood, tissue, or intact cadavers.

B. WHOLESALER faxes order to SOURCE.

ACQUISITION:

C. SOURCE harvests parts from aborted babies. Harvesting is generally done by a "tech." This person is either an employee of the WHOLESALER who works inside the abortion clinic, or an employee of the clinic who was trained by the WHOLESALER.

FULFILLMENT:

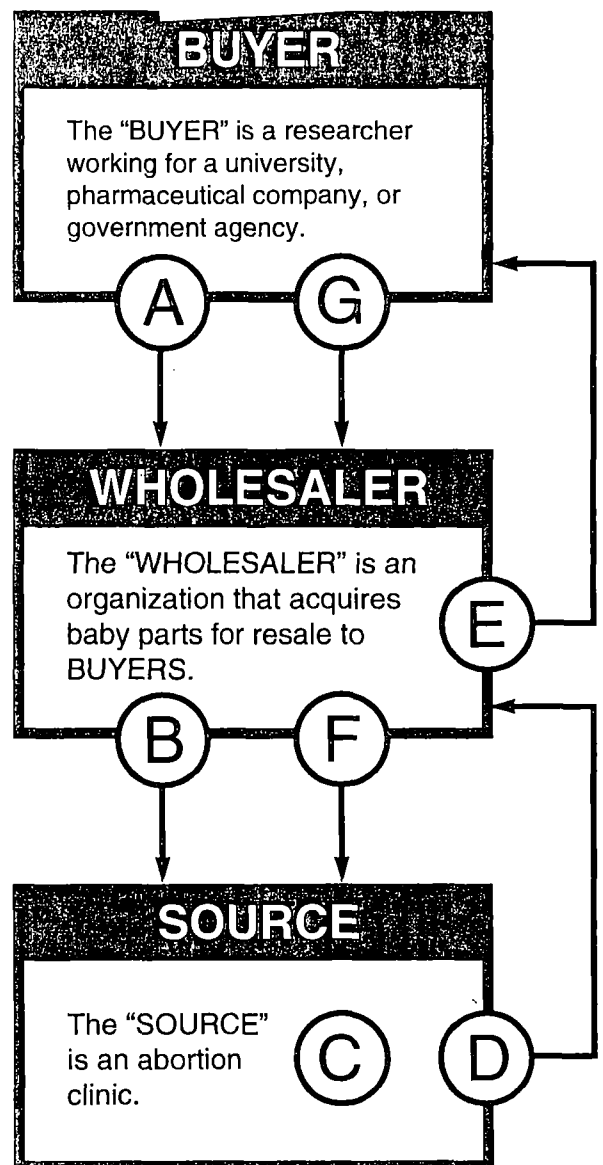
D. SOURCE "donates" baby parts to WHOLESALER and ships them via FedEx, Airborne, UPS, Stirling, or similar carrier.

E. WHOLESALER then "donates" these parts to BUYER. Before shipping, WHOLESALER will often repackage the parts, removing any markings which identify the SOURCE. (In some cases, material is shipped directly from SOURCE to BUYER.)

THE PAPER TRAIL:

F: WHOLESALER pays SOURCE for access to the baby parts. In the trade, this payment is called a "site fee."

G: BUYER "reimburses" WHOLESALER for cost of retrieving the baby parts.



For additional information on the marketing of aborted baby parts, see the May 1999 and August 1999 issues of LifeTalk. To order, call:

1-800-401-6494



Life Dynamics Incorporated

P.O. Box 2226 • Denton, TX 76202
(940) 380-8800 • (940) 380-8700 fax
ldi1@airmail.net • www.lidi.org

Melanne Verveer —

To
Ann O'Leary
Can you chh
re mis pls.

—

CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK

2430 RAYBURN BUILDING
WASHINGTON, DC 20515-3214
(202) 225-7944

COMMITTEES:
BANKING AND FINANCIAL
SERVICES

GOVERNMENT REFORM

JOINT ECONOMIC COMMITTEE



Congress of the United States

House of Representatives

Washington, DC 20515-3214

DISTRICT OFFICES:

1651 THIRD AVENUE
SUITE 311
NEW YORK, NY 10128
(212) 860-0606

28-11 ASTORIA BOULEVARD
ASTORIA, NY 11102
(718) 932-1804

June 16, 1999

Mrs. Hillary Rodham Clinton
Office of the First Lady
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mrs. Clinton:

I want to bring to your attention a problem facing New York Presbyterian Hospital (NYPH) which has facilities in my district and which is the largest hospital employer in New York State with 16,412 employees. This problem also is of major concern to both Northwestern Memorial Hospital and Cook County Hospital in Illinois as well as to a number of other hospitals across the nation. The matter involves the impact of the transition from the old Medicare cost based reimbursement for capital expenditures to the new capital prospective payment system. It is of particular concern to New York Presbyterian Hospital because of the lengthy public approval process which delayed the modernization of its in-patient facility until well into the ten year capital transition period.

Because of a number of circumstances beyond NYPH's control -- a State imposed freeze on hospital construction in the late 1980's and early 1990's, a State imposed prioritization on when hospitals could build, as well as extensive local community board and New York City approval process -- construction was delayed for many years. However, because of the outdated nature of the original New York Hospital facility which was built in the mid-1930s, there was no other choice but to go ahead with these projects even though, from a Medicare reimbursement point of view, they couldn't have come at a worse possible time.

New York Presbyterian Hospital is in this position because Medicare is in the process of changing the way it pays hospitals for capital, moving from a cost-based system to a prospective payment system over a ten-year period from 1991-2001. In designing the transition, the Health Care Financing Administration (HCFA) "grandfathered" hospitals that had completed building projects before the transition began and guaranteed that they would receive no less than 85 percent of their costs. Hospitals that will be building in the years after the transition will have had the opportunity to "bank" their prospective payments toward future replacement costs. Hospitals like NYPH, which

*please
prepare
response*

Was sent to Neera / [Signature]

Mrs. Hillary Rodham Clinton
June 16, 1999
Page Two

have had to build during the transition, are at a significant financial disadvantage since they have neither the grandfather status nor the time to accumulate sufficient capital payments to offset Medicare proportion of the costs involved.

Congress recognized this inequitable situation in 1993 and directed HCFA to address the problem. In response, HCFA issued regulations the following year, establishing a "special exceptions" process for hospitals building during the transition. Unfortunately, because of a web of restrictions and extraneous eligibility criteria, these regulations are of limited value to the affected institutions. In NYPH's case, it would provide less reimbursement than would be provided under the PPS capital add-on.

The affected hospitals and members of Congress including myself, Senators Moynihan and Durbin and Representatives Charles B. Rangel and Ed Towns have been working with HCFA over the past several years in an effort to achieve revisions to the regulations that would make them more equitable and effective. We have also met with Chris Jennings on this issue. In May, HCFA issued proposed regulations, but did not actually propose new regulatory language. Final regulations are due out later this summer and we are hopeful that HCFA will take this opportunity to finally adopt much-needed revisions so the regulations will work the way Congress intended.

However, given the reluctance of HCFA to act in the past, I believe a strong expression of interest from the Administration will be necessary to ensure that action is taken and that these regulations are made fairer and provide real help to our institutions and others. I am very much aware of your interest in and commitment to the mission of teaching hospitals such as NYPH. Fair and reasonable Medicare capital payments are an important part of our ability to continue training tomorrow's physicians, advancing medical science and serving our area's most vulnerable residents, as they are for other similarly situated hospitals.

I ask you to encourage HCFA to issue revised regulations that will provide a fair and equitable payment structure for hospitals, like ours, whose projects have been caught in the capital payment transition. A brief summary of the recommended changes which Senator Moynihan, Congressman Rangel and we are seeking is attached. If you or your staff has any questions about this issue, I would be more than happy to respond.

Sincerely,



CAROLYN B. MALONEY
Member of Congress

Attachment

June 7, 1999

Summary of Medicare Capital Transition Issue and
Proposed Changes to Current Regulations

Background

- Until FY 1992, Medicare paid hospitals for their capital-related costs (buildings and equipment) on the basis of the actual costs incurred by hospitals. In response to a congressional mandate in OBRA 1987, HCFA issued regulations that began in FY 1992 a ten-year transition to a prospective payment system (PPS) for capital. Under PPS, hospitals are paid a fixed amount per admission for capital, regardless of their actual costs.
- The principle behind capital PPS is that when hospitals have low capital costs they will be able to accumulate their per case payments towards replacing their facilities when they become obsolete. In designing the transition to prospective payment, HCFA recognized that hospitals with large existing capital costs would receive inadequate capital payment under PPS to meet their Medicare capital obligations. For example, the regulations provided that "old capital," i.e., facilities already built or committed to, would continue to be reimbursed at 85 percent of actual cost through a ten-year transition period which ends September 2001.
- Congress, however, was concerned that the transition regulations did not take into account the needs of hospitals that had to replace facilities during the ten-year transition. Recognizing that problem, Congress directed HCFA in the OBRA 1993 Conference Report to address this issue.
- In response, HCFA published regulations in 1994 that recognized that hospitals whose capital cycles required them to undergo major modernization or replacement during the transition required special transition provisions. These regulations provide that hospitals that undertake large facility projects during the transition period are eligible for "special exceptions" payments. Projects must meet size criteria (project cost of at least \$200 million or equal to a hospital's annual revenues) and certain other requirements. Hospitals qualifying for these payments would be reimbursed at 70 percent of their capital costs during a ten-year period following completion of their projects.

The Issue

- Although a step in the right direction, the 1994 regulations provided only a 70 percent floor "special exceptions" projects compared to the "old capital" floor of 85 percent." Special exceptions" projects also must meet far more stringent criteria, including disproportionate share requirements and Medicare payment offsets not imposed on "old capital" payments.
- There is no basis for these distinctions in the OBRA 1993 Conference Report or elsewhere. Hospitals whose capital cycles require completion of major modernization projects just before, during and just after the capital transition all face similar problems in financing during the shift to the new prospective payment regime and should be treated alike. In many cases (especially for NYPH), a 70% payment is less than would be received under the new PPS capital

reimbursement.

Proposed Revisions to the Medicare Special Exceptions Regulations

- In its proposed FY 2000 Medicare hospital payment regulation issued in May, HCFA stated it was considering whether to make changes to the existing special exceptions rules and invited comments from interested parties.
- The following revisions to the regulations would provide equity for all hospitals disadvantaged by the transition to PPS capital and should be adopted in the final Medicare hospital payment regulations for FY 2000. (These changes would have no effect on the deficit or the Medicare hospital insurance trust fund.)
- The payment floor should be raised to 85 percent from the current 70 percent so that it will be comparable to the treatment of "grandfathered" hospitals, i.e., those eligible for "old capital" payments.
- Hospitals eligible for "old capital" and for other exceptions floors are not penalized for positive margins on inpatient operating payments. The offset to special exceptions payments for Medicare inpatient operating surpluses should be eliminated. Alternatively, all Medicare operating costs, both outpatient and inpatient, should be counted in determining whether a surplus exists.
- Congress did not intend that special exceptions relief be conditioned on certain DSH levels. The DSH requirement should be eliminated. As an alternative, the requirement should at least be lowered to 15 percent, the threshold for eligibility for other DSH payments. In addition, the current eligibility "cliff" should be replaced with a sliding payment scale, similar to the concept used in calculating DSH add-ons to prospective payments.
- Hospitals that have begun projects well before the end of the ten-year transition should be eligible for special exceptions payments. The placed in service date should be extended for hospitals that have experienced regulatory or other delays in completing their projects if they received CON approval by a date certain.
- There should be a reasonable cap on payments that minimizes the effect of any changes on payments to other hospitals. An annual cap equal to one percent of all capital payments would accomplish this, provided that a rollover provision is included to ensure that the effect of the cap does not deny eligible hospitals the intended relief.



HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

October 18, 1999

The Honorable William Clinton
President of the United States
1600 Pennsylvania Avenue NW
Washington, DC 20502

Dear President Clinton:

Our nation's young people have a big stake in the future of America, but many of our children are not being provided with adequate educational opportunities that will allow them to take advantage of the prosperity and promise of the new global economy. Tragically, an entire generation of poor urban and rural children, many minority and undereducated, are missing out on the American dream. At the time of unprecedented economic growth in this country these children are being left behind. Where is our outrage? Where is America's outrage? These children deserve better.

Investment in public education is the key to developing young minds and giving all of America's children a chance to excel. At the present time, however, a significant number of young people attend schools where facilities are crumbling, classrooms are overcrowded, students are without computers and Internet access, and many teachers are uncertified and underqualified. While there are many dedicated teachers and great public schools in this country, it is a shame when even one child in the United States receives an obsolete and inadequate education.

The situation is bleak for those who find themselves dropping out of or graduating from low-performing schools. Many of these young people are doomed to experience the negative effects of illiteracy, joblessness, premature pregnancies, drug abuse, and gun violence. There are 1.8 million young men and women incarcerated in America. Most are poor, most are minority, and all are undereducated. Why do we spend \$84,000 per year to keep someone incarcerated, and only \$9,000 per year to educate him or her? We believe that it makes the most sense to give people the tools they need to compete before they end up in jail or on the street.

PHOTOCOPY
HRC HANDWRITING

TO:

Melanne —

What is POTUS

response to

request for a

WH meeting?

me

President Clinton
October 18, 1999
Page Two

Under the guise of promoting increased competition in education, some argue that failing schools should be forced to improve by starving them of resources. This approach undermines our public school system by failing to provide disadvantaged students and schools, many of whom are already resource deprived, with the extra nurturing and resources that they need to achieve significant reform.

We must develop and implement strategies to provide all young men and women in school with core academic competencies geared toward world-class standards which will prepare them for career opportunities in the more competitive global economy. This can be accomplished by providing targeted assistance to low-performing schools so that they can develop and adopt reform plans that include challenging curricula, highly-qualified teachers, and higher expectations that make achievement possible.

As educators, administrators, union representatives, parents, business leaders, public officials, and representatives from education, faith, and community-based organizations from across the country, we represent a broad cross-section of concerned citizens interested in embarking on a national campaign to preserve and strengthen our public schools. We intend to pursue a comprehensive, needs based strategy at the federal level to ensure that schools that have been determined to be failing/underperforming are provided with direct federal resources to close the funding and achievement gaps.

The federal government must take every step it can to help create a level playing field for all of our nation's students, especially those who live in high need areas. The efforts of the federal government must be coordinated by your administration so that resources can be maximized and the nation's attention focused on this important issue. We need your leadership and that of Vice President Gore so that we can make an ideal—the transformation of every disadvantaged urban and rural school in America into a center of educational excellence--a reality.

Towards this goal, we would like to request a White House meeting on this issue to be attended by a wide range of people who have a stake in ensuring the success of America's public school system. The purpose of this meeting is two-fold: 1) to start a national dialogue focusing on the inequities in the funding and quality of public education available to America's poorest urban and rural children; and, 2) to establish a consensus on a plan of action to address the problems of poor and under-performing public schools.

President Clinton
October 18, 1999
Page Three

There is no question that public education has helped make the U.S. the world leader that it is today. It must be our nation's priority to radically reform poor performing public schools if we are to ensure a successful future for our children and our country.

Sincerely,

Charles B. Rangel
Hugh Price/Urban League
Michael Casserly, Council of Great City Schools
National Alliance of Black School Educators
Board of Education of the City of New York/Chancellor Crew
Princeton Training Associates, Ted Gershon
Wellington Webb, U.S. Council of Mayors
American Association of School Administrators
National Association of Secondary School Principals

cc: Vice President Al Gore
First Lady Hillary Rodham Clinton
John Podesta
Larry Stein
Gene Sperling
Richard Riley

WAYS AND MEANS
ASSOCIATE MEMBER
U.S. HOUSE OF REPRESENTATIVES
1000 CONSTITUTION AVENUE, N.W.
WASHINGTON, D.C. 20540

Congress of the United States
House of Representatives
Washington, DC 20515-3215

June 8, 1999

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20502

Dear President Clinton:

Recent events make it clearer than ever that we must turn our attention and resources to address the needs of America's children. The school shootings in Colorado and Georgia have been a tragedy for the nation. It is terrible to have senseless acts of violence snuff out young lives before they truly begin. It is important that these incidents are not viewed in isolation. In schools across our nation, the lives of our young people are being cut short and their hopes and dreams deferred not only due to violence but also because of illiteracy, school drop outs, teen pregnancies, incarceration, and drug abuse. The widespread occurrence of these tragedies demonstrate that somewhere along the way many of our children have lost hope for the future.

The Administration has been quick to allocate America's resources to intercede in a tribal war thousands of miles from U.S. soil in the former Yugoslavia. It is hard to justify this policy when so many of our own children are in need of these critical resources. The severity of the issues facing our children should lead us to only one conclusion: we must first take care of our kids at home. No child living in the richest country in the world should live without hope for the future.

Investment in public education is the key to developing young minds and giving all of America's children a chance to excel. At the present time, however, some of our young people attend schools where facilities are crumbling, classrooms are overcrowded, students are without computer and internet access, and many teachers are uncertified and underqualified. It is a shame that the United States maintains a public education system that subjects some of its students to a poor quality of education—in effect, dooming them to a future that is bypassed by the prosperity and promise of the new global economy.

The Honorable William J. Clinton

June 8, 1999

Page 2

Tragically, the young people who are most likely to be subjected to an inferior education in this system are those who attend school in urban and rural areas with high rates of poverty and those who are of African American and Hispanic descent. In a country that prides itself on its leadership in world affairs, the negative effects of race and income continue to have a pervasive impact on the quality of education and the life's chances of affected students. These educational disparities are a national disgrace and must be addressed.

Statistics show that one out of every two black men in the District of Columbia are in jail; and one out of every three in the country are incarcerated. There are 1.8 million young men and women incarcerated in America. Most are poor, most are minority, many are addicted to drugs, and all are undereducated. Seventy percent of prison inmates do not possess basic literacy skills. Why do we spend \$84,000 per year to keep someone incarcerated but only \$9,000 per year to educate him or her? Wouldn't it make more sense to provide people with the tools they need to compete before they end up in jail or on the street? The U.S. must reassess its misplaced priorities and make a greater investment in its public education system so that all of America's children can receive a quality education that enables them to compete in the global economy of the 21st Century.

It should be made clear that, in general, America's public schools are in good shape. Our public schools continue to produce productive individuals who are prepared to take on the demands of higher education and the workforce upon graduation. This fact has not been lost on educators, union leaders and public officials from across the country who have acknowledged the value of our public school system:

- Sandra Feldman, President of the American Federation of Teachers: "America's most successful public service of any kind, the public schools, educate the great majority of our children, offer an avenue for upward mobility, and foster a sense of common purpose among our people."

The Honorable William J. Clinton

June 8, 1999

Page 3

- Dr. Rudolph Crew, New York Public Schools Chancellor: "I have chosen to make my commitment to public education, an American institution that has helped this country and its people grow and prosper for more than a century and an institution that should be given the support it needs to bring our nation and its people into the 21st century."
- Richard Daley, Mayor for the city of Chicago: "America's public schools are too valuable for us to lose for they are the foundation upon which this great nation has flourished."

Given that most of our public schools are fulfilling their educational mission, it would be foolish to throw out our entire public education system, as some have suggested, when there are only a few parts that need to be overhauled.

I, along with key educators, administrators, and public officials from across the country, stand ready and prepared to embark on a national campaign to reform and strengthen our public schools. We intend to pursue a comprehensive, needs based strategy at the federal level to ensure that schools that serve disadvantaged students are provided with additional federal resources to close the funding and achievement gaps. This comprehensive strategy is revolutionary and goes beyond the Elementary and Secondary Education Act, which attempts to establish accountability and performance measures without providing needy public schools with the means needed to achieve them.

Our plan includes targeting those areas where students are suffering from inadequate resources. In order to achieve optimal results, these targeted communities would be required to enter into a voluntary agreement that waives school district, union, and local and state government regulations as a precondition for receiving federal assistance for school reform. This plan embraces standard measures for increased performance, some of which you acknowledged in your State of the Union address, including the need to: modernize schools, raise standards, increase accountability, bring high quality teachers to the classroom, provide school report cards to parents, create smaller class sizes, and introduce innovative partnerships between schools, parents, and the private and nonprofit sectors.

The Honorable William J. Clinton
June 8, 1999
Page 4

Our plan also expands the concept of a national education initiative dedicated to attracting the best and brightest of our youth to teach in urban and rural schools. The program should be supplemented by a national college internship program designed to attract students from all majors to tutor, rehabilitate facilities, introduce technology, and mentor students.

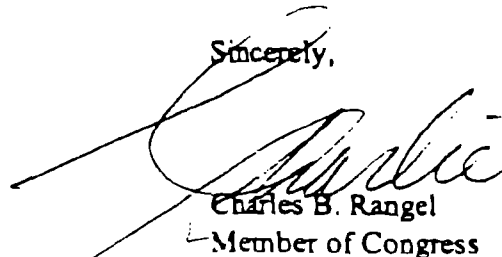
It is imperative that we develop a new paradigm to keep kids in school and provide a solid educational foundation, world class academic skills, industry responsive job training and preparation for post-secondary education and life-long learning. The efforts of the federal government must be coordinated by your office in order to maximize our resources, and focus the nation's attention on this issue.

You have recently embarked on a new initiative to focus federal resources in those areas of the country that have been underdeveloped in terms of business opportunities. It is important to recognize, however, that this "new markets" initiative cannot thrive without also nurturing the underdeveloped human talent in these distressed areas. We must have new minds for new markets if we are serious about truly improving the conditions of poor communities throughout America.

Due to a strong economy and budget surpluses, the U.S. now has a unique opportunity and strong incentive to invest in its human capital. If we are to maintain and enhance our status as a world leader, the federal government must continue to promote activities that ensure economic vitality, personal security, and expanded opportunity for all Americans into the 21st Century.

I would appreciate the opportunity to meet with you as soon as possible so that I can provide you with more details about my plan to reform low achieving schools. Thank you for your time and consideration.

Sincerely,



Charles B. Rangel
Member of Congress

CBR:mmr

cc: Richard Riley
John Podesta
Larry Stein
Jack Lew
Gene Sperling

2354 RAYBURN HOUSE, 1015 B. Bldg.
WASHINGTON, DC 20515-3215
TELEPHONE (202) 225-4365

2 DISTRICT OFFICE

MS. VIVIAN E. JONES
DISTRICT ADMINISTRATOR

163 WEST 125th Street
NEW YORK, NY 10037
TELEPHONE (212) 691-1995

1112 B-4-1-A
NEW YORK, NY 10019
TELEPHONE (212) 691-1995

PLEASE REFER TO
OFFICE OF THE CLERK

CHARLES B. RANGEL

15th CONGRESSIONAL DISTRICT
NEW YORK

CLERK OF THE HOUSE

COMMITTEE

WAYS AND MEANS
RANKING MEMBER

SUBCOMMITTEE ON TRADE

JOINT COMMITTEE ON TAXATION

Congress of the United States
House of Representatives
Washington, DC 20515-3215

June 22, 1999

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20502

Dear President Clinton:

Since I last wrote to you about the state of American public education and the necessity to improve upon the system to meet the needs of all of our children, other prominent leaders from the public and private sector have commanded national attention with remarks that relay similar observations and conclusions.

In his recent statements before the Joint Economic Committee, Federal Reserve Board Chairman Alan Greenspan, highlighted the need for an increased focus on our education system. Remarking that the U.S. falls "far short" in grades K through 12, Greenspan stated that he was "hard-pressed to see how we can maintain what is increasingly an intellectual-based output system if there is a significant proportion of our working groups are unable to have insight into that process."

Greenspan was not alone in his concerns. IBM Chairman Louis Gerstner noted the "deplorable condition of our system of public education" and our lack of competitiveness when compared with the other nations of the world. He predicted, "unless we arrest the wasting decline of our public schools--and do it now--America is destined to be an also-ran in the emerging digital economy." Both Greenspan and Gerstner's remarks illustrate that investment in public education is not only the key to developing young minds and giving all of America's children a chance to excel, it is the key to America's economic future.

The Honorable William J. Clinton
June 22, 1999
Page 2

It is becoming increasingly clear to many across the country that some parts of our current education system are producing students who come out of high school with a knowledge base that is incomplete or obsolete. Some schools produce graduates ill-equipped to compete in an increasingly fast-paced, knowledge-based, technological world. It is deplorable that some of our young people, many of whom are minorities in poor urban areas, are doomed to failure because they attend resource-poor schools where facilities are crumbling, classrooms are overcrowded, students are without computer and internet access, and many teachers are uncertified and underqualified.

Failing students in poor communities are almost sure to face high rates of illiteracy, incarceration, joblessness, and drug abuse. Since 1970, the prison population has increased from 260,000 to 1.8 million people in 1997 (nearly a 600% increase). Studies indicate that 70% of inmates lack basic literacy skills, 49% have not completed high school, more than 70% used illegal drugs one month prior to their arrest, and 40% in state prisons lived below the poverty level prior to incarceration. It is important to realize that these incarcerated individuals are not born criminals. Many are the product of failed support systems, including schools that have neglected to provide them with the proper tools to compete and excel in today's society. It is unacceptable that some of our children are locked up with no hope for the future in the richest, most powerful country in the world. This is a waste of talent and productivity.

Now that the war in Kosovo has ended, it is time to declare a war much closer to home--one of great significance to national security and to the economic and social stability of our nation. America's new "war" at home should be a national initiative to reform failing public schools. The remarks of Greenspan, Gerstner, Denver Mayor Wellington Webb, Vice President Gore and many others signify that many knowledgeable and influential Americans are recognizing the need to focus our attention on this effort.

Contrary to what some claim, the answer is not to throw out the entire public education system when only a few parts are dysfunctional. The U.S. must focus on turning disadvantaged schools inside out so that they can be transformed into model schools where students can learn in a positive and affirming environment. This effort requires a serious commitment from the federal government with substantial cooperation from local and state government, teachers unions, parents, and businesses. Serious school reform would entail providing better teacher training, more effective curricula,

The Honorable William J. Clinton
June 22, 1999
Page 3

improved access to new technologies, refurbished or new facilities, smaller class sizes and innovative partnerships between schools, businesses and communities.

As a community, we should establish strong expectations for student performance based on academic literacy, social competency, civic responsibility, occupational opportunity, and technical proficiency. Additionally, these expectations should be aligned with the needs of the U.S. economy so that we can continue to produce strong economic growth. Investment in public education is the key to developing young minds and giving all of America's children a chance to excel.

I urge you to establish a task force on public education to study these reform measures and others as a means to address the funding and achievement gaps among America's poorest urban and rural school districts. This task force should include individuals representing teachers, parents, school administrators, public officials, communities and businesses. In addition, I am asking you to initiate a national conference designed to help the country focus on this important issue. It is important that the conference be limited to discussions about rejuvenating and redefining the public education system--not by entertaining schemes that divert resources from it--but by using innovative techniques that can enhance and strengthen the current system.

There is no reason why a country possessing the genius and talent to develop the internet, create innovative computers and software, and generate enough produce to feed the world, cannot successfully reform its own public education system. We have the know-how and expertise, now we need the willpower and commitment.

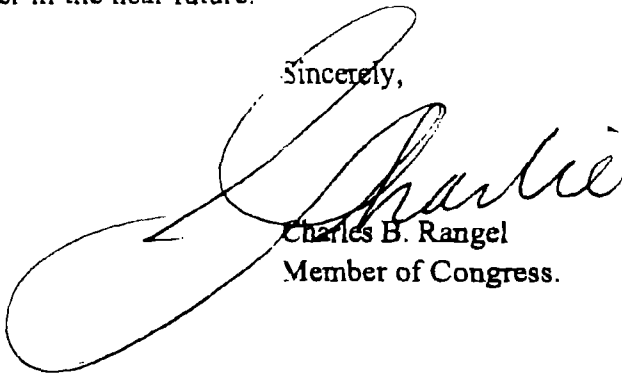
Democrats have defended the public education system on the premise that education should be universally available so that the talents of all children can be developed and nourished for the betterment of society. Our defense of the system, however, does not mean that we accept the parts that do not work. I stand alongside many others who are ready to reform those schools that fail to provide our children with a decent education.

The Honorable William J. Clinton
June 22, 1999
Page 4

Public education has helped make the U.S. the world leader that it is today. It must be our nation's priority to radically reform poor performing public schools if we are to guarantee our children's future in the global economy.

Thank you for your time and consideration. I look forward to talking with you further about this matter in the near future.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Charlie".

Charles B. Rangel
Member of Congress.

CBR:mmr



NATIONAL ACADEMIC LEAGUE

A PROGRAM OF
TERREL BELL & ASSOCIATES
A 501(c)(3) NON-PROFIT ORGANIZATION

January 14, 2000

First Lady Hillary Rodham Clinton
Office of the First Lady
The White House
2nd Floor West Wing
Washington, DC 20502

Attn: Ms. Ann O'Leary

VIA FACSIMILE
202/456-6244
Two Pages

Dear Mrs. Clinton:

I know you admired and were a friend of the late Secretary Terrel H. Bell. I also know education is important to you and I would very much like to bring the National Academic League™ to your attention.

The National Academic League (NAL) is an education program of Terrel Bell and Associates, a 501(c)(3) non-profit education organization that Dr. Bell and I founded in 1991. As you know, while serving as Secretary of Education, Dr. Bell commissioned the report, *A Nation At Risk*, that launched the school reform movement. In response to that endeavor after he left Washington, Dr. Bell and I collaborated to write *How to Shape Up Our Nation's Schools: Three Crucial Steps for Renewing American Education* to address the school reform movement and offer a practical and achievable vision for improving U. S. schools. The National Academic League is one result of that book.

Imagine if you will ...

- Students playing an academic season alongside the basketball season.
- Academic athletes getting the same recognition as other athletes.
- Disenfranchised teens finding a way to engage in their schools.
- Parents participating in their children's learning and schools.
- Teachers being recognized and motivated.
- Technology being used through controlled Internet use and distance learning.

Too good to be true? I am pleased to tell you the National Academic League has made this a reality across the nation.

*The primary sponsors
of the NAL include:*

U. S. Department of Education
Anheuser-Busch Companies
Sprint
MediaSeek
UPS Foundation

1917 SOUTH 1100 EAST
SALT LAKE CITY, UTAH 84105
TEL: 801.487.8088
FAX: 801.487.8222
E-MAIL: office@nalnet.org
Web: <http://www.nalnet.org>

Office of the First Lady
January 14, 2000
Page Two

The NAL season looks like other sport seasons. This new academic sport:

- Incorporates well-known athletic components, such as home and away games, four quarters, time-outs, high scorers, shot clocks, and scoreboards;
- Combines important aspects of sports — such as competitiveness, responding under pressure, and teamwork — with important aspects of learning — such as problem-solving, original thinking, and scholarship;
- Engages students to be more committed to scholastic pursuits; and
- Fosters the development of real life skills such as working cooperatively, setting and reaching goals, and winning and losing gracefully.

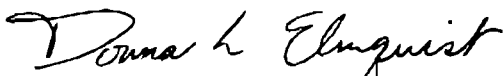
Now entering its seventh year, the NAL serves over 7,000 students from 300 rural, urban, and suburban schools nationwide.

The National Academic League is prospering and it is gratifying for me to sustain Dr. Bell's legacy through Terrel Bell and Associates and the NAL which continues to have a positive impact on students, parents, and educators across the nation.

I appreciate how busy you are and how chaotic your schedule must be with your Senate campaign, but I would like to extend to you an open invitation to participate in any NAL event in any capacity at one of our many venues across the country.

Also, if you or someone on your staff would be interested in meeting to discuss the National Academic League, I will be happy to schedule a meeting at your convenience. I will be in Washington, DC on January 18th and 19th and could meet then or at any later date. I may be reached at 801/487-8088 (voice) or 801/554-9031 (mobile).

Sincerely,



Donna L. Elmquist, Ph.D.
President and CEO

United States Senate

WASHINGTON, DC 20510-1804

Melanne Verveer

November 3, 1999

Mrs. Hillary Rodham Clinton
The First Lady
The White House
Washington D.C. 20500

Dear Hillary:

I would like to take this opportunity to thank you for your tireless efforts on behalf of America's children. The unprecedented rise in adoptions last year is due in large part to your committed leadership. Inspired by your example, members of the Congressional Coalition on Adoption have introduced several pieces of legislation this session which address the needs of the hundreds and thousands of children who remain without permanent families.

One of our proposal is to amend the present tax credit for special needs children and ask for your support of these proposed changes. The current tax law provides for a dollar - for - dollar tax credit for "adoption related expenses" up to \$5,000 per adoption (\$6,000 for special needs). However, under the law, the definition of expenses is narrowly defined so as to only include those expenses related to the adoption itself, such as court fees or home study costs. Therefore, the amount of credit an adoptive parent receives is determined by the cost of the adoption rather than the anticipated additional cost of raising the child.

As you well know, the cost of an adoption varies dramatically depending on several factors such as whether it is public or private, domestic or international, etc. In fact, since adoptions from Foster Care are often subsidized, there are little, if any, "adoption related expenses". As a result, parents who adopt a child with special needs often do not qualify for this credit despite the overwhelming expenses adopting such a child can mean.

The attached amendment proposes to correct this unintended consequence by allowing for a straight forward \$10,000 tax credit for families who adopt a child with special needs. It would not require that the parents submit verification of their expenses nor would the amount be dependent on the cost of the adoption itself. In addition, the proposed credit would be available to the taxpayer in the year that the adoption becomes final and could be carried forward for up to five years.

I trust you have a great deal of influence in the final budget negotiations. In my mind, I would be hard pressed to give any other tax amendment a higher priority. Thanks in advance for

*To be an O'Leary -
Can you deal
with this as
makes sense.*

MARY L. LANDRIEU
LOUISIANA

United States Senate

WASHINGTON, DC 20510-1804

your help.

With warmest personal regards, I am

Sincerely,

A handwritten signature in black ink, reading "Mary L. Landrieu". The signature is fluid and cursive, with the first name "Mary" being the most prominent part, followed by "L." and "Landrieu".

Mary L. Landrieu

AMENDMENT NO. _____

Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to
expand the adoption credit in the case of children with
special needs.

IN THE SENATE OF THE UNITED STATES—106th Cong., 1st Sess.

(no.) _____

(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. LANDRIEU

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____.** **EXPANSION OF ADOPTION CREDIT.**

3 (a) **IN GENERAL.**—Section 23(a)(1) of the Internal
4 Revenue Code of 1986 (relating to allowance of credit) is
5 amended to read as follows:

6 “(1) **IN GENERAL.**—In the case of an individ-
7 ual, there shall be allowed as a credit against the tax
8 imposed by this chapter—

1 “(A) in the case of an adoption of a child
2 other than a child with special needs, the
3 amount of the qualified adoption expenses paid
4 or incurred by the taxpayer, and

5 “(B) in the case of an adoption of a child
6 with special needs, \$10,000.”.

7 (b) DOLLAR LIMITATION.—Section 23(b)(1) of the
8 Internal Revenue Code of 1986 is amended—

9 (1) by striking “(\$6,000, in the case of a child
10 with special needs)”, and

11 (2) by striking “subsection (a)” and inserting
12 “subsection (a)(1)”.

13 (c) YEAR CREDIT ALLOWED.—Section 23(a)(2) of
14 the Internal Revenue Code of 1986 is amended by adding
15 at the end the following new flush sentence:

16 “In the case of the adoption of a child with special
17 needs, the credit allowed under paragraph (1) shall
18 be allowed for the taxable year in which the adoption
19 becomes final.”.

20 (d) DEFINITION OF ELIGIBLE CHILD.—

21 (1) IN GENERAL.—Section 23(d)(2) of the In-
22 ternal Revenue Code of 1986 is amended to read as
23 follows:

24 “(2) ELIGIBLE CHILD.—The term ‘eligible
25 child’ means any individual who—

**PHOTOCOPY
PRESERVATION**



Congress of the United States
House of Representatives
Washington, D.C. 20515

MEMORANDUM

DATE: November 9, 1999
TO: Ms. Hillary Rodham Clinton
FR: U.S. Rep. Neil Abercrombie
RE: Minimum Wage Tax Provisions Beneficial to New York City and State

11-9 HRC
This TRAVEL/TOURISM
package of tax incentives
can be HUGE for NYC
and NY-state. Aloha
(signature)

The House Democratic minimum wage legislation, to be debated in the remainder of the first session or more probably in the year 2000, contains a package of tax provisions designed to off set potential adverse employment effects.

Among the tax provisions are three that would have substantial benefit to New York, especially the tourism, restaurant and theater/performance arts industries:

1. Spousal Travel Deduction: the legislation re-instates the spousal business deduction for expenses associated with a spouse traveling for business purposes. Repealed as a part of the 1993 budget, re-instating the deduction would stimulate additional tourism by spouses and potentially families. It would make it more affordable to combine business travel with vacations and tourism to cities and areas with concentrations of business and commercial activities.
2. Business Meal and Entertainment Deduction: the Democratic package increases the business meal and entertainment deduction for business with less than \$5.0 million in sales from the current 50 percent to 65 percent. The Republican package is limited to a 60 percent deduction, and applies only to business meals, not entertainment activities and events.
3. Business Tax Deduction for Performing Arts Events: the Democratic proposal contains a provision that allows businesses to deduct the cost of tickets to live performing arts events such as Broadway theater plays, symphony, concerts and other instrumental performances, stock company and professional dance

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performances. A deduction of 80 percent of the first \$60.00 of cost of a ticket and 50 percent of the remaining cost would be allowable to businesses under the bill.

For additional information:

Performing Arts Deduction: Tom Crawford or Mike Murray of the law firm of Murray, Scheer and Montgomery (representing the Shubert Organization) at 202-955-3030.

Business Meal and Entertainment Deduction/Spousal Travel: Janice Mays (General Counsel) or John Buckley (Counsel), Democratic Staff House Ways and Means Committee at 202-225-4021

The Democratic tax package is fully off-set by revenue increases.

See attached background material for revenue estimate documentation and issues analysis.