

Periodically, we will send you a **concise** update on current events in the healthcare compliance arena **as it relates specifically to pharmaceutical and medical device manufacturers** that may have an impact upon your business and operating procedures. These news items and analyses are intended for informational purposes only.



Last week Rep Pete Stark (D-CA) and Rep Wally Herger (R-CA), Chairman and Ranking Member of the House Ways and Means Health Subcommittee, introduced HR 6130, the “Strengthening Medicare Anti-Fraud Measures Act.” The bill passed by voice vote and now awaits action in the Senate.

The legislation was designed to close a pair of loopholes in existing law.

- Currently, execs at companies that are convicted of fraud can be excluded from federal health care programs, but if an exec had left the company by the time of conviction, there was no mechanism to enforce a ban. Now, the HHS OIG can ban execs from doing business with these programs, **even if they later work elsewhere**. The bill would apply to anyone who maintained an ownership stake or controlling interest in the fraudulent company.
- It also **gives the OIG the ability to exclude parent companies that may be committing fraud through shell companies**. According to the OIG, companies that engage in fraud often set up shell companies to insulate themselves from liability. Criminal settlement negotiations can result in the dissolution of these shell organizations with no real penalty to the parent company. H.R. 6130 gives OIG the authority to exclude these parent companies from the Medicare program.

The bill came in response to requests made by Lewis Morris, the HHS OIG chief counsel, during testimony last June before a joint hearing of the Ways and Means subcommittees where he said, *“We think that one of the challenges we need to address is having executives understand that they will be held personally accountable for schemes that are then hatched and pushed downstream. To that end, we've offered some technical assistance that would allow us to exclude from the Medicare and Medicaid programs managing employees that are behind these schemes. **Although there are challenges to building a criminal case against a high-level executive -- there's a lot of plausible deniability built into these large companies -- it's an area where we and our partners at the Department of Justice are focusing on, because we recognize that the way we are going to change corporate cultures is by focusing on individuals. I think you're going to see in the coming months through our efforts and our partners at the Department of Justice different approaches so that Fortune 500 companies understand that they will be treated the same way as anyone else who abuses our program.**”*

As always, if you have any questions, comments, or concerns we can be reached at sreardo23@centurylink.net or at (908) 370-4085.