

## **On Capitol Hill, Pain Treatment Advocates Call on Congress to Help Patients, Restrain DEA**

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The fledgling effort to get Congress to do something about the creeping crisis in pain management in the United States took another small step forward September 17, when the Association of American Physicians and Surgeons and more than 60 endorsing groups brought a briefing on pain issues to Capitol Hill. While according to the National Institutes of Health, more than 48 million Americans suffer from chronic pain, the actions of the Drug Enforcement Administration (DEA) are only exacerbating the problem, a panel of experts and activists told a crowd of staffers, lobbyists, doctors and patients.

Although there has been a rising public clamor over DEA overzealousness in pursuing its goal of preventing "drug diversion," most particularly around the prosecution of physicians engaged in opioid pain treatment therapies, Congress has yet to take much interest. In July, Rep. Ron Paul (R-TX) and Rep. John Conyers (D-MI) made the first attempt in Congress to deal with the issue by seeking to amend the Justice Department appropriations bill to bar the DEA from prosecuting doctors for prescribing legal drugs, but that amendment was ruled out of order the same day

[<http://stopthedrugwar.org/chronicle/345/ronpaul.shtml>].

The same two representatives hosted the briefing, "The Politics of Pain and Painkillers: Drug Policy and Patient Access to Effective Pain Treatments," featuring presentations by doctors, pain treatment advocates and media critics. California physician Dr. Frank Fisher told a rapt audience his story of persecution at the hands of state authorities. The head of a pain clinic, Fisher was arrested and charged with murder in the deaths of three people. After years of prosecution, all the charges melted away, but despite Fisher's eventual exoneration, the damage has been severe. Fisher remains unable to practice medicine as he fights a final battle with the state medical board, and his patients have been scattered to the wind in an all-too-often fruitless search for adequate pain treatment.

"Frank Fisher's presentation was very powerful," said the Rev. Ronald Myers, an Arkansas-based physician and founder of the American Pain Institute (<http://www.americanpaininstitute.org>), who also addressed the briefing. "He has lost so much -- his practice, his livelihood -- because of an overzealous prosecution. It is really immoral that law enforcement went after that man," Myers told DRCNet. "But Frank Fisher was blessed because he had good legal representation. We've got other doctors

who haven't fared so well. Down in Florida, Dr. Freddy Williams in serving a life sentence now. Hear what I said: Jailed for life! We've got a real struggle ahead," he said.

A key element of that struggle is getting Congress to pay attention to the problem, said Siobhan Reynolds, founder and president of the Pain Relief Network (<http://www.painreliefnetwork.org>), an advocacy group for pain patients. "We want House and Senate judiciary committee and health committee hearings," she told DRCNet. "We cannot begin to address this problem until we understand the scope of and the enormity of the impact on the sickest people in our society," she said. "We will not make progress until Congress really begins to grapple with this."

Part of that process is grappling with misconceptions and media distortions, as panelists Ronald Libby and Maia Szalavitz did on the Hill that afternoon. Libby, a political scientist from the University of North Florida, explained to the attentive audience how a poorly and sensationally reported series of articles about in the Orlando Sentinel painting Oxycontin abuse as a serious public health menace helped pave the way for February congressional hearings on "the national epidemic of Oxycontin addiction." The series seriously overstated the number of Oxycontin-related overdose deaths, Libby said, a charge which the newspaper has accepted, publishing a retraction of its reporting and firing the reporter this year.

Libby also drew an analogy to the 1914 Harrison Narcotics Act, which early 20th century law enforcement used to arrest and prosecute thousands of doctors for the then-common practice of prescribing opiates for maintenance purposes to addicts. The law did not explicitly ban maintenance prescribing, but enforcement agencies claimed that such prescriptions went outside the realm of accepted medical practice and therefore violated the Act. Today's prosecutors are out of control in a similar fashion, reshaping the practice of medicine according to an agenda not determined by doctors or informed by medical realities, through prosecutions of physicians accompanied by draconian prison terms or the threat thereof.

(The late Rufus King detailed this history in a 1953 Yale Law Journal article, "[The Narcotics Bureau and the Harrison Act: Jailing the Healers and the Sick](#)" an article which he considered the most important he ever wrote. King found, among other things, that the US Supreme Court had upheld the right of addicts to be prescribed opiates by doctors for maintenance in its [Linder ruling](#), but enforcers simply ignored the ruling and continued the prosecutions. Visit: [[www.doctordeluca.com/Library/WOD/%20King-50YearFolly.htm](http://www.doctordeluca.com/Library/WOD/%20King-50YearFolly.htm)] or [<http://www.druglibrary.org/special/king/king1.htm>] to read it online.)

Szalavitz, a journalist and fellow with the media watchdog group STATS, described an atmosphere of fear pervading pain management as leading specialists like Virginia's William Hurwitz and Cecil Knox face prosecution and possible years in prison as drug dealers for trying to treat pain with opiates. Szalavitz, too, cited media sensationalism as contributing greatly to the problem.

"We are not going away," said Kathryn Serkes of the Association of American Physicians and Surgeons, who emceed the briefing. "We are approaching this issue methodically. If

we have to keep coming back to educate people on the Hill 40 or 50 at a time, we'll do it," she told DRCNet. "This issue is really just beginning to appear on congressional staffers' radar now, since Reps. Paul and Conyers made their bid to defund the DEA war on doctors in July. We didn't really expect any concrete action at this point; it is an educational process and we're in it for the long haul," she said.

One thing the briefing did accomplish, said Serkes, was to show that concern about the crisis in pain treatment is not an issue that belongs to one political party. "We wanted to show that this is a bipartisan effort, and with Conyers and Paul, people are starting to understand that," she argued. "Our panel was another example. We had people who are very conservative and people on the left. The people on the panel put aside political differences on other issues to work together on this."

"This is an educational effort," concurred the Pain Relief Network's Reynolds. "And we were really encouraged by the receptivity of the audience. People's mouths were hanging open as they listened. People are just thunderstruck when they're confronted with the reality of what is going on, with doctors being hunted down, with pain patients like Richard Paey sitting in prison for 25 years. People just cannot believe it."

"We are getting more attention from members of Congress, but we need to have hearings," said the Rev. Myers, who will lead the second annual pain patients march on Washington in April. "The DEA is out of control, and Congress is the only body that can rein it in. To me, the DEA is like the IRS used to be. It was abusing people, and that didn't change until there were hearings in Congress. We need hearings."

"We have US attorneys saying they want to hunt down doctors 'like the Taliban'," said Serkes, "and the Justice Department is asking Congress for almost \$25 million for DEA drug diversion initiatives in the current budget. "At the same time the DEA is hunting down doctors 'like the Taliban,' it is having trouble finding real terrorists. Our spending priorities are out of whack."

The issue will only grow, said Reynolds. "This affects millions of Americans, it effects the elderly, it affects children with cancer. This is about the denial of ethical medical treatment to Americans because of government action against physicians, but to have the whole medical system driven by fear of a small number of addicts while millions of pain patients suffer is insane."