

# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

December 17, 2008

## Via Electronic Transmission

James W. Wagner, Ph.D.  
President  
Emory University  
201 Dowman Drive  
Atlanta, GA 30322

Dear Dr. Wagner:

The United States Senate Committee on Finance (Committee) has jurisdiction over the Medicare and Medicaid programs and, accordingly, a responsibility to the more than 80 million Americans who receive health care coverage under these programs. As Ranking Member of the Committee, I have a duty to protect the health of Medicare and Medicaid beneficiaries and safeguard taxpayer dollars appropriated for these programs. Actions taken by key opinion leaders often have profound impact upon the decisions made by taxpayer funded programs like Medicare and Medicaid and the way that patients are treated and funds expended.

On December 5, 2008, Emory University (Emory) responded to my letters of inquiry regarding Dr. Charles Nemeroff's promotional talks for GlaxoSmithKline (GSK). In the response, Emory stated that "Dr. Nemeroff's talks were substantive, focused on medical education, and were not product specific or promotional." Emory further stated:

We recognize that GSK's descriptions of the payments contained in the spreadsheets that GSK provided to you could have led one to the conclusion that Dr. Nemeroff gave "promotional talks for GSK on Paxil and Lamictal" as set forth in your letter. However, our investigation, including the information cited above, suggests to us that such a conclusion is not accurate.

Emory also stated:

Dr. Nemeroff contends that the relevant PHS regulations and internal Emory policies were not clear with respect to the obligations to disclose fees received from talks of the type he provided to GSK and others, which he classifies as "CME-like" and thereby exempt from disclosure.

Neither anyone on my staff, nor any medical expert that they have contacted, have ever heard of the term "CME-like." It appears to be a new term created at Emory University.

In an effort to reconcile the information that I received from GSK with the information that I received from Emory, I re-contacted GSK. I asked GSK to clarify the nature of the information that I made public on September 16, 2008, regarding Dr. Nemeroff's promotional talks for its drugs. GSK responded that the public document "contained information for product talks." Other activities such as National Advisory Board meetings were also identified, but GSK did not identify Dr. Nemeroff's promotional talks as "substantive" or "focused on medical education."

Since I am seeking this information as part of a Congressional inquiry, I want to ensure that Emory and/or Dr. Nemeroff are fully aware of the penalties for making false statements and/or obstructing Congressional investigations. To that end, I am attaching the relevant provisions of law. I have also attached GSK's letter which explains the nature of Dr. Nemeroff's promotional talks for its products.

As you know, in cooperating with the Committee's review, no documents, records, data or information related to these matters shall be destroyed, modified, removed or otherwise made inaccessible to the Committee. All correspondence should be sent electronically in PDF format to [Brian\\_Downey@finance-rep.senate.gov](mailto:Brian_Downey@finance-rep.senate.gov) by no later than January 7, 2008. If you have any questions, please do not hesitate to contact Paul Thacker at (202) 224-4515.

Thank you in advance for your cooperation.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on Finance

Attachments

TITLE 18--CRIMES AND CRIMINAL PROCEDURE

PART I--CRIMES

CHAPTER 47--FRAUD AND FALSE STATEMENTS

Sec. 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to--

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

TITLE 18--CRIMES AND CRIMINAL PROCEDURE

PART I--CRIMES

CHAPTER 73--OBSTRUCTION OF JUSTICE

Sec. 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress--

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.