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Joan Claybrook, President

Thomas Scully's Potential Employer and Their Clients

Thomas A. Scully, Administrator for the Center for Medicaid and Medicare Services (CMS), announced on December 18, 2003 that he will be joining Alston & Bird, a law firm that lobbies for several health care industry companies. These companies are significantly affected by the Medicare law that Scully, on behalf of the Bush administration, negotiated with Congress. Scully also announced that he will be working part-time for Welsh, Carson Anderson & Stowe, an investment firm with interests in several more companies affected by the new law.

After the Medicare legislation had passed Congress, but while Scully was still at CMS, he disclosed the names of three law firms and two investment firms with which he had employment talks during 2003. In all, Scully's potential employers had business connections with at least 41 companies or associations that had financial interests in the Medicare legislation. Among them, the three law firms lobbied for at least 30 companies or associations that are affected by the new Medicare law. And, combined, the two investment firms own substantial stakes in at least 11 companies that are affected by the Medicare law.

Pharmaceutical Companies

Twelve pharmaceutical companies and their trade association, the Pharmaceutical Research and Manufacturers of America (PhRMA), are clients of the three law firms in talks with Scully.¹ These include five of the 10 pharmaceutical companies that led the industry in 2002 revenues.²

Pharmaceutical companies were widely considered the biggest winners in the passage of the Medicare bill, which subsidizes private insurers to provide prescription drug coverage to seniors, thereby increasing demand for drugs; bans Medicare administrators from bargaining for lower drug prices; and effectively prohibits the reimportation of lower-priced drugs from Canada. In addition to PhRMA, the drugmakers represented by Scully's potential employers include:

- Abbott Laboratories (fifth in industry revenues, with \$17.7 billion in 2002)
- AstraZeneca
- Aventis Pharmaceuticals
- Bristol-Myers Squibb (fourth in revenues, with \$18.1 billion in 2002)
- Celgene

¹ All client information is from lobby disclosure reports filed with the U.S. Senate, available online at <http://sopr.senate.gov>. Records are available only for the first six months of 2003.

² *Fortune*, April 17, 2003, "Fortune 500," pp. F-26 and F-59.

- Eli Lilly (eighth in industry revenues, with \$11 billion in 2002)
- Johnson & Johnson (second in industry revenues, with \$36.3 billion in 2002)
- Novartis Pharmaceutical Corp.
- Ortho Biotech
- Pfizer (third in industry revenues, with \$35.3 billion in 2002)
- Praecis
- SuperGen

Health Care Providers, Companies and Associations

Four health care providers, four trade associations representing health care providers and three physician professional organizations are lobbying clients of the three law firms that had employment discussions with Scully. Another six health care providers are wholly or substantially owned by the two investment firms that talked with him.

Health care providers had a tremendous financial stake in the Medicare bill. Among other things, the law rolled back a 4.5 percent decrease in physician payments for Medicare patient services scheduled for 2004. Instead, it includes an *increase* in physician payments of 1.5 percent in 2004 and 2005 and sets up a system to provide future increases. The American Medical Association estimated that the scheduled decrease would have cost providers \$2.96 billion.³ Premier, the hospital and home care trade association, estimates that the increase in government payments to providers will total \$3.5 billion.⁴

Managed care companies, also among Scully's potential employers' interests, will be paid an extra \$14.2 billion over 10 years under the bill to entice them to offer drug coverage to Medicare patients, according to data from the Congressional Budget Office (CBO).

Health services sector groups and companies connected to Scully's potential employers include:

Trade Associations Representing Health Care Providers :

- National Association for Home Care and Hospice
- American Medical Group Association (represents 250 groups and 60,000 physicians)
- Disease Management Association of America
- Premier (industry association of hospitals and health care systems)

Physicians Professional Organizations:

- American Society for Therapeutic Radiology and Oncology
- College of American Pathologists
- American Society for Clinical Oncology

³ American Medical Association, "AMA Projections of Changes in Federal Medicare Fee-for-Service Payments: Impact of 4.5% Cut in 2004 by State."

⁴ Premier, Inc., "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," p. 5.

Health Care Providers:

- Ardent Healthcare
- Genesis Health Ventures, Inc.
- Magellan Health Services
- HMD-The Smart Hospital Co.
- Iowa Clinic
- Methodist Healthcare
- Renal Care Group
- Select Medical Corporation
- United Surgical Partners
- US Oncology

Managed Care Companies:

- Oxford Health Plans, a health insurance provider owned by Texas Pacific Group

Among the specific interests some of these companies and associations had in the Medicare bill are:

- Disease Management Association of America sought and received payments to its members for treating chronically-ill Medicare patients. It also sought the prescription drug benefit.
- Genesis Health Ventures and Select Medical Corporation may now receive payments for providing physical therapy to Medicare patients, which was previously uncovered.
- National Association for Home Care and Hospice was concerned with versions of the Medicare bill that cut \$7 billion in funding to home care companies.⁵ Most, but not all, of the cuts were preserved in the conference bill.

⁵ American Association of Homecare press release, "American Association For Homecare Launches Ad In Roll Call Today," Sept. 29, 2003.

Lobbying Clients Represented by Thomas Scully's Potential Employers

The three law firms that Thomas Scully had employment talks with have registered in 2003 to lobby on behalf of the following clients. Unless otherwise noted, the firms registered to lobby specifically on the Medicare bill. Each entry includes a general description of the client and, whenever possible, a specific description of the interest area described on the lobbying disclosure forms.

Clients – Alston & Bird

- **Johnson & Johnson:** A pharmaceutical company. (“Payment mechanisms and formulae for health care devices and pharmaceuticals, other health product [sic], regulation, and legislation.”)
- **National Association for Home Care and Hospice:** A trade association of homecare and hospice providers. (“Medicare and prescription drug coverage.”)
- **Praecis Pharmaceuticals:** A pharmaceutical company. (“Medicare prescription drug reimbursements.”)
- **Renal Care Group:** Dialysis services provider. (Registered to lobby on Medicare legislation, but no description given.)
- **Vitas Health Corp:** A home care and hospice provider. (“Health care and Medicare legislation and regulations pertaining to physical, emotional, and spiritual care at the end of life for persons in hospice.”)

Clients – Baker, Donelson, Bearman, Caldwell & Berkowitz

- **American Health Quality Association:** A trade association of Quality Improvement Organizations (QIOs) – health care quality control companies and organizations. (“Lobbied for extension of current scope of work to include new areas of Medicare created by proposed legislation, lobbied for QIO access to pharmacy data newly collected by govt. agencies under proposed legislation.”)
- **American Medical Group Association:** A trade association of health care provider groups whose members treat 50 million patients. (“Medicare reform and physician management issues.”)
- **American Society For Therapeutic Radiology & Oncology:** A professional association of chemotherapy health care providers. (Registered to lobby on Medicare legislation, but no description was given.)
- **College of American Pathologists:** The professional association for pathologists (“Monitoring Federal Medicare and Medicaid legislation, relative to BBA relief, and sought extension of the BIPA TC provision”) Balanced Budget Act (BBA) “relief” aims to reverse cuts in Medicare payments to hospitals made in 1997 to balance the federal budget. The BIPA TC provision allows providers who treat Medicare patients to bill Medicare for off-site lab pathology work.
- **Disease Management Association of America:** A trade association of chronic disease health care providers, including pharmaceutical companies, disease management companies, health plans, physicians groups and pharmacy benefit managers. (“Disease management in Medicare and Medicaid” and “Medicare Rx: Medicare reform.”)
- **HMD- The Smart Hospital Co.:** A hospital owner and operator. (“Physician-ownership of hospitals and Medicare physician referral law.”)

- **Innovatrix:** A health care industry services company. (Registered to lobby on Medicare legislation, but no description was given.)
- **Iowa Clinic:** A Health care provider. (Registered to lobby on Medicare legislation, but no description was given.)
- **Methodist Healthcare:** A health care provider that owns and operates hospitals and clinics. (Registered to lobby on Medicare legislation, but no description was given.)
- **Premier, Inc.:** An industry association of hospitals and health care systems. (Registered to lobby on Medicare legislation, but no description was given.)

Clients – Ropes & Gray

- **Pharmaceutical Research & Manufacturers Of America (PhRMA)** The trade group for the name-brand drug industry. (A registered client of Ropes & Gray, but was not registered to lobby on Medicare legislation for the first six months of 2003. Report for the second six months has not yet been filed.)
- **Abbott Laboratories:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **American Society of Clinical Oncology:** The professional association of cancer physicians. (“Medicare payment for drugs and drug-related services; reimbursement for self-administered drugs.”)
- **AstraZeneca:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **Aventis Pharmaceuticals:** A pharmaceutical company. (A registered lobby client of Ropes & Gray, but was not registered to lobby on Medicare legislation for the first six months of 2003. Report for the second six months has not yet been filed.)
- **Bristol-Myers Squibb:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **Cancer Leadership Council:** Group representing survivors, physicians and research organizations. (“Medicare payment for drugs.”)
- **Celgene Corp:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **Eli Lilly:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **GlaxoSmithKline Consumer Healthcare:** A pharmaceutical company. (A registered lobby client of Ropes & Gray, but was not registered to lobby on Medicare legislation for the first six months of 2003. Report for second six months has not yet been filed.)
- **Ortho Biotech:** A biotech/pharmaceutical subsidiary of Johnson and Johnson. (Medicare reimbursement for oral anti-cancer therapies.”)
- **National Coalition for Cancer Survivorship:** A cancer survivor advocacy organization. (“Medicare cancer care reimbursement.”)
- **Novartis Pharmaceutical Corp:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **Pfizer:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)
- **SuperGen:** A pharmaceutical company. (“Medicare reimbursement for oral anti-cancer therapies.”)

Companies in Which Thomas Scully's Potential Employers Hold Investment Interests

The investment firms that had employment talks during 2003 with Thomas Scully are reported as having a substantial ownership in the following companies.⁶

Welsh, Carson, Anderson & Stowe

A private equity investment firm with many investments in health care businesses. Its portfolio lists:

- **AmeriPath:** A provider of cancer diagnostics, genomics and related information services.
- **Ardent Healthcare :** An acute care and psychiatric hospital owner and operator.
- **Concentra, Inc.:** This corporation, which acquired Health Network Systems and National Health Resources, is a worker's compensation health care services and cost containment company.
- **LabOne, Inc.:** A laboratory testing and services provider for the insurance and health care industry.
- **Select Medical Corporation:** Owner and operator of long-term care centers and rehabilitation centers and provider of related services. Medicare payments for physical therapy increased greatly under the Medicare bill.
- **SHPS:** A provider of outsourced employee benefits and care management services.
- **United Surgical Partners :** An owner of U.S. surgery centers and an owner and operator of European acute care hospitals.
- **US Oncology:** A cancer treatment and drug provider. (US Oncology hired the Stanton Park Group to lobby for it on the Medicare bill concerning "medicare payments" and "prescription drug issues." The Medicare law slightly reduces US Oncology's drug reimbursements but creates and increases payments for other services.)

Texas Pacific Group

A private investment partnership with investment positions in the following health care enterprises:

- **Genesis Health Ventures, Inc.:** A long-term care company and provider of physical therapy services.
- **Magellan Health Services:** A behavioral health care provider.
- **Oxford Health Plans:** A health care plan provider. (Oxford Health hired HC Associates to lobby on the Medicare bill.)

⁶ Information is from the investment firm's Web sites and news reports.