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WLF Calls on Centers for Disease Control to Cease Secret Deliberations and Comply with Federal Law

(In re: CDC Guideline for Prescribing Opioids for Chronic Pain)

“CDC’s effort to develop prescription guidelines in secret is a blatant violation of federal law.”—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—Washington Legal Foundation today called on the Centers for Disease Control and Prevention (CDC) to withdraw its *Draft Guideline for Prescribing Opioids for Chronic Pain* and generate reliable data on ways to ensure adequate treatment of patients while preventing opioid abuse before renewing any efforts to write guidelines. In formal comments, WLF argues that CDC has been conducting its administrative proceeding secretly in clear violation of the transparency requirements of the Federal Advisory Committee Act (FACA).

The CDC Draft Guideline—which CDC never publicly released but which was leaked in late September—calls on doctors to cut back significantly on prescriptions of opioids to treat patients with chronic pain, as a means of reducing the possibility of drug addiction and abuse. Many advocates for patients suffering from chronic pain have decried CDC’s proposal; they fear it would deprive patients of adequate treatment. CDC has been developing its proposed Guideline since 2014 and is scheduled to issue a final version in January 2016, but its administrative process has been conducted largely in secret. It established an advisory committee—consisting of medical professionals who deal with addiction issues—to assist in preparing the Guideline, but it refused to disclose any details of the committee’s work.

WLF’s formal comments argue that CDC is violating FACA by failing to make public the work of its advisory committee, known as the Core Expert Group (CEG). WLF contends that the CEG’s operations meet FACA’s definition of an “advisory committee.” FACA requires that the work of such committees be open to the public. WLF argues such blatant violations of FACA taint the entire administrative process and require CDC to restart that process from scratch. WLF cites one particularly egregious FACA violation: CDC’s failure to ensure “fair balance” among CEG members with respect to viewpoint, with the result that several CEG members are committed opponents of opioid prescriptions and suffer from blatant conflicts of interest.

After filing its comments, WLF issued a statement by Chief Counsel Richard Samp: “CDC should cease its efforts to evade the requirements of FACA, a federal statute that requires agencies to operate transparently. CDC’s effort to develop prescription guidelines in secret is a blatant violation of federal law. All stakeholders should be permitted to play a meaningful role in developing guidelines that could end up depriving patients of needed pain medication.”

WLF is a public interest law firm and policy center that regularly litigates to ensure that federal administrative agencies comply with statutes designed to ensure procedural fairness.

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