

MOUNTAIN VIEWS: BIRD FLU SCAM TO COST US PLENTY

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OLEAN -- The current U.S. Congress has many qualities that are not endearing, but one of the worst is its addiction to hidden agendas. Case in point:

In the middle of last week, one short day after the bill had been introduced, the powerful Senate Health, Education, Labor and Pensions Committee -- by a quick, simple voice vote of the full panel -- passed something called the "Biodefense and Pandemic Vaccine and Drug Development Act of 2005."

It will probably hit the Senate floor this week for a full vote of that august chamber (and may have already done so by the time you read this). A similar companion bill is expected to be introduced in the House of Representatives before week's end. The lobbying lubrication needed in that conservative chamber to ram it through passage will be even less than in the Senate.

The Senate proposal (S.1873) -- authored and filed by North Carolina Republican senator Richard Burr, an obedient favorite of the current Bush administration -- sounds innocent and altruistic enough, right?

It would establish an efficient-sounding Biomedical Advanced Research and Development Agency (BARDA) to speed up and "provide incentives and protections" for the "domestic manufacture of medical countermeasures" -- vaccines and drugs -- that would help stop pandemic or epidemic sickness within the United States.

Burr said in introducing the bill that it will simply give the Cabinet-level Department of Health and Human Services (HHS) the "additional authority and resources to partner with the private sector to rapidly develop drugs and vaccines."

So, who could be against such a lofty goal? Well, I could, for one. This bill is a slavering wolverine masquerading as a furry little lab rat.

First of all, whenever you -- as consumers, taxpayers and citizens -- hear any federal government source saying it wants "to partner with the private sector," you should grab your wallet with both hands and hold on tight. In this case, you should also take your children into your arms. I'm not the only one who's noticed the danger in this proposal.

Barbara Loe Fisher, president of the National Vaccine Information Center (NVIC) -- a private, non-governmental advocacy group pushing for safer vaccines -- calls the Senate bill "a drug company stockholder's dream and a consumer's worst nightmare."

It is, simply put, a legislative genuflection to Big Pharma -- the steamroller-powerful drug-making sector of the economy. The pharmaceutical mega-firms contribute millions to the coffers of congressional members, but if this is signed into law, they potentially could save billions.

That's because this proposed legislation will strip Americans of the right to a trial by jury if they are harmed by either an experimental or licensed drug or vaccine they are forced by the government to take whenever federal health officials declare a public health emergency.

This bill gives the HHS secretary the sole authority to decide if a drug manufacturer violated laws that mandate drug safety, and it bans any citizen from challenging the HHS head's decision in the civil court system. Big Pharma has been pushing for protection like this for several years. In this millennium, the angst and sense of loss following 9/11 was manipulated to produce similar legislative efforts designed to protect drug and vaccine makers even if they manufactured products that were not properly tested, nor clinically proven safe.

"This proposed legislation," said NVIC's Fisher, "like the power and money grab by federal health officials and industry in the Homeland Security Act of 2002 and the Project Bioshield Act of 2004, is an unconstitutional attempt by some in Congress to give a taxpayer-funded handout to pharmaceutical companies for drugs and vaccines."

Further, Fisher points out, the government, under this bill, "could force all citizens to

use these drugs and vaccines while absolving everyone connected from any responsibility for injuries and deaths which occur" in their wake.

Sen. Burr is himself the chairman of the Senate Subcommittee on Bioterrorism and Public Health Preparedness. In his bill, BARDA -- the new R and D agency mentioned above -- would be established as the single point of authority in the federal system for the advanced research and development of vaccines and drugs in response to bioterrorism and outbreaks of natural disease.

And BARDA would operate in secret.

The agency would be exempt from the Freedom of Information Act and from the Federal Advisory Committee Act, which requires public transparency -- making it almost certain that no evidence of injuries or deaths caused by drugs and vaccines labeled as "countermeasures" to bioterrorism or new disease epidemics would ever become public. The bill would not only provide Big Pharma impenetrable cover, it would exempt lots of federal cost oversight requirements, and would forbid government purchases of generic versions of such new drugs or vaccines, a current practice that saves taxpayers millions of dollars.

The Burr bill means, notes vaccine safety advocate Fisher, "that if an American is injured by an experimental flu or anthrax vaccine he or she is mandated to take, that citizen will be banned from exercising the constitutional right to a jury trial even if it is revealed that the vaccine maker engaged in criminal fraud and negligence in the manufacture of the vaccine."

Burr himself has acknowledged that "liability exposure" is one of the factors that has left drug firms "reluctant to invest" in biodefense and influenza countermeasures.

The timing of the new attempt at congressional protection for Big Pharma -- the Burr bill -- is exquisite.

The wording "natural outbreaks" of disease and "pandemics" mentioned by Sen. Burr in his call for support of the bill are designed to make citizens and fellow senators alike think of one thing -- avian flu.

This new biological "threat" is increasingly on the minds of Americans and is reaching near-panic level in terms of public perception.

David Daigle, a spokesman for the federal Centers for Disease Control and Prevention, said the CDC has been experiencing an incredible average of 447,000 hits a day on its bird flu information Web site. He pegged the Internet traffic level "insane."

Americans are avalanching health officials, newspapers, TV stations, their doctors and other public information sources with anxious questions about keeping bird-feeders in their back yards, whether they can eat turkey this Thanksgiving, and whether they should report sightings of dead birds along the roadside. (You can, you can, you don't have to.) Worried patients are asking their doctors for Tamiflu, designed to treat ordinary human flu -- not bird flu.

And guess the number of Americans who have died of avian flu already? Zero.

How many human cases of the bird flu have been reported in the United States? Zero.

That's right, none. The bird flu, which originated in South Korea more than two years ago, rarely spreads from birds to humans, and hasn't even been shown to affect poultry yet in this country. Only 120 or so humans have ever come down with this rare viral strain of influenza -- H5N1 -- and all of them in Asia. Most of the 60 deaths so far -- 43 -- have occurred in Vietnam. Thailand has the next largest number of deaths, 13.

The disease in birds is just now reaching eastern Europe through avian migration. Turkey, Romania, and European Russia have cataloged the dangerous strain.

The virus might be an eventual threat to the flocks of poultry farmers here, but many scientists seem to think H5N1 influenza won't sicken or kill humans on a mass basis unless its mutating properties change dramatically.

Can Senate Democrats stop the passage of Burr's bill? Not bloody likely.

Several Democrats in that chamber have criticized the Burr bill, but mostly from the perspective that it would do little to provide any response to an avian flu outbreak.

"I hope that people don't think this is going to solve the problem of the possible avian flu pandemic that is on our doorstep," warned Sen. Tom Harkin, an Iowa Democrat.

This legislation is obviously fast-tracked. Senate Majority Leader Bill Frist, the Tennessee Republican, is a co-sponsor, as is Senate Budget Committee Chairman Judd Gregg, a Republican from New Hampshire.

They obviously don't care that if signed into law, this proposal would eliminate both legal and regulatory safeguards, applied to vaccines and drugs, that need strengthening, not weakening or elimination. They obviously don't care if children or adults harmed by vaccines and drugs will have to forfeit their right to present a case in front of a jury in a civil court of law.

Don't think this never happens. The Food and Drug Administration is legally responsible at present for regulating Big Pharma, and for ensuring that vaccines and drugs released to the public are safe and effective. Drug companies marketing pain-killer and anti-depressants that have injured thousands are being held accountable in civil courts all the time. And the FDA has come under intense criticism for keeping information from the American public about drug dangers.

For almost two decades, vaccine makers have already been protected from most liability in civil courts through the National Childhood Vaccine Injury Act of 1986 and a concurrent compensation program that offers victims an alternative to civil courts. That program has already awarded almost \$2 billion to injured victims of mandated vaccines -- yet two-thirds of the plaintiffs are turned away from such compensation through vigorous defense of the manufacturers by Justice Department lawyers.

"The drug companies and doctors got all the liability protection they needed in 1986," says Fisher of the NVIC, "but they are greedy and want more."

She continues: "It's a sad day for this nation when Congress is frightened and bullied into allowing one profit-making industry to destroy the Seventh Amendment to the

Constitution guaranteeing citizens their day in court in front of a jury of their peers."

Amen to that.

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