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May 28, 2008

Hon. Andrew C. von Eschenbach, M.D.
Commissioner
U.S. Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, Maryland 20852
Fax 301-827-6870

REF: Notice of intent to bring lawsuit, demand for archival of e-mail

Dear Sir:

It has come to my attention that you regularly receive policy suggestions from a group known as “***Advancing Patient Safety Coalition***”. I have observed several public postings of letters written to you by A.P.S.C. on stationary which does not include an address or contact information.

I call to your attention the Federal Advisory Committee Act (F.A.C.A.), 5 U.S.C. § 3(2) that addresses the appropriate use of “advisory committees”. It appears the F.A.C.A. was written with the A.P.S.C. in mind, as it appears the A.P.S.C. purports to be an “expert panel”, using propaganda techniques, to drive the “Uniform Device Identification” (“UDI”) agenda for implanting UDI devices capable of Radio Frequency Identification (R.F.I.D.) operation.

I call to your attention the recent false and misleading award, entitled “Healthcare Transformation Award”, presented to **Congresswoman Darlene Hooley (D-OR)** by the Adventist Health System’s Larry Mitchell (now the “Government Affairs” lead at Adventist Health). See press release of April 9, 2008:

**Premier Healthcare Alliance, Adventist Health and Salem Hospital
Recognize Rep. Darlene Hooley for Her Efforts to Improve Patient Care
While Safely Reducing Costs**

You are hereby placed on notice that I shall initiate legal action in the federal district court serving the District of Columbia to enjoin any further “lobbying” efforts made to “push” “UDI” by the A.P.S.C. which appears to be using the Adventist Health System as it’s marketing mouth piece, via Larry Mitchell.

As the Secretary of Health and Human Services is keenly aware, Larry Mitchell presided over one of the worst nightmarish and catastrophic public affairs blunders in the health care industry; the egregious violations of the criminal sanctions of the Health Insurance Portability and Accountability Act (HIPAA, 1996, Ted Kennedy). Now he is at it again.

Am I to understand that Larry Mitchell, once “Director of HIPAA Programs” for the Roseville, California hospital chain, is now a leading spokesperson for “Healthcare Transformation” and is using non-profit charitable funds to create false and misleading awards presented by dubious “expert panel” groups with no contact information on their stationary to Members of Congress to incur their favor?

This is clearly a violation of the F.A.C.A. and I intend to hold your office accountable.

Respectfully,

Barbara Clark

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