

Press Release

Washington Legal Foundation
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ACCME URGED TO SCRAP PROPOSED CME STANDARDS

PROVIDERS URGED TO CEASE SEEKING ACCREDITATION

The Washington Legal Foundation (WLF) yesterday blasted the ACCME (Accreditation Council for Continuing Medical Education) for its proposal to impose severe new restrictions on who may speak at CME (Continuing Medical Education) activities. In comments filed with ACCME, WLF argued that the proposed restrictions are an unwarranted infringement on free speech rights.

Also, WLF is investigating what role, if any, the Food and Drug Administration (FDA) has played in proposing the new standards. If WLF can establish through its Freedom of Information Act requests that FDA had a hand in developing the new standards, then they are subject to attack as violations of the First Amendment, WLF attorneys contend. If both FDA and State governments deny any direct interest in the new standards, then WLF is urging CME providers to cease seeking ACCME accreditation if the new standards are adopted. "If CME providers comply with the new standards, the resulting suppression of truthful speech will significantly impair health care delivery in this country," said WLF Chief Counsel Richard Samp after filing WLF's comments.

The ACCME is a private organization that accredits CME programs. CME providers generally seek ACCME accreditation for their programs because: (1) state medical authorities often will not grant credit to doctors who attend unless the event is accredited by ACCME; and (2) FDA in recent years has not sought to regulate CME particularly closely, preferring to rely on the ACCME accreditation process. Current ACCME standards are designed to ensure unbiased CME presentations by, among other things, requiring speakers to disclose whether they have received any funding from the manufacturer of any of the drugs being discussed.

The proposed standards go considerably farther; they would altogether prohibit doctors who have been compensated by a pharmaceutical company from speaking at a CME activity. In its comments, WLF noted that most of the top medical authorities in the country are employed in

some capacity by one or more of the country's pharmaceutical companies -- and thus would no longer be permitted to participate in CME events. "It is entirely appropriate that most good doctors are paid money by the drug companies. The nation's health care system benefits greatly when companies in the business of developing innovative life-saving products have access to the best minds in the field. The success of the American pharmaceutical industry in developing such products is unparalleled, in no small part because of the assistance the industry receives from leading doctors," Samp said. Without the participation of top doctors, CME would no longer be the important source of new medical information that it is today, WLF argued.

WLF also noted that in its landmark First Amendment victory over FDA, *WLF v. Friedman*, the U.S. District Court for the District of Columbia held that FDA violated the First Amendment when it attempted to restrict manufacturer support of CME activities at which the manufacturer's product were discussed. WLF argued that if either FDA or State medical boards had a hand in developing, or will have a role in enforcing, the proposed ACCME standards, then the standards would constitute government content-based suppression of speech, in clear violation of the First Amendment. If FDA and State governments deny any interest in enforcing the new standards, then WLF is calling on CME providers to cease seeking ACCME accreditation if the new standards are adopted.

WLF stated that it was particularly disturbing that the ACCME was proposing a "radical revision" of existing standards in the absence of any significant evidence that the current standards are not sufficient to prevent the dissemination of biased information. WLF argued that before adopting revised standards, the ACCME should at least attempt to outline the evidence it deems sufficient to warrant scrapping the existing standards. The ACCME has been silent on that point, WLF charged.

WLF is a public interest law and policy center with supporters in all 50 States. It devotes a considerable portion of its resources to defending the due process rights of those who work in America's free enterprise system.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF's comments to ACCME has been posted on its website, www.wlf.org.