

# California and National News

**Toxic Counterfeit Drugs Linked to China:** Diethylene glycol is an industrial solvent and major ingredient in some antifreeze. This sweet-tasting toxic solvent has been substituted for more expensive safe syrups (such as glycerin) in a variety of medicines (such as antipyretics, antitussives and injectable drugs), foods and toothpastes. Such toxic syrups have been implicated in at least eight mass poisonings in several countries. Although the precise origin of the poison has not always been determined, three of the last four have been traced to China. Panama was the most recent victim in which government officials unwittingly used diethylene glycol in cold medicines, leading to almost 400 deaths. The 46 barrels of counterfeit medicine originated in the Yangtze Delta in China (the manufacturer was found not to be certified to produce pharmaceuticals), having made its way through Beijing and Barcelona before its delivery to Panama. Three trading companies on three continents failed to test the syrup, and false certificates of purity were also involved in this global market poisoning. As with other products, China's flimsy (if any) safety regulations have failed to keep up with its explosive growth as a low-cost supplier in the world. The U.S. FDA has responded by asking that such glycerin shipments be tested. China already has been exposed for its exportation of wheat gluten that contained melamine, an industrial chemical that was used for pet food and livestock feed, and the FDA recently banned Chinese gluten imports. *Digest of article by Walt Bogdanich and Jake Hooker, New York Times, May 6, 2007.*

**Physician Rankings Based on Inaccurate Data:** Physicians increasingly are being rated on quality care and cost efficiency—and not necessarily in that order of importance—as the analyses are conducted by insurers and employers in an effort to contain rising health care costs. These analyses rate physicians using billing data, health records, and software systems, but these data often are incorrect, and physicians have no way to correct them. Good ratings may lead to being included on a preferred provider listing, while low rankings may lead to removal from such networks or even higher co-payment to patients. The end result is that physicians are losing control of their reputations as electronic data are mined for conclusions and even posted online. The New York Attorney General, Andrew Cuomo, has warned United Healthcare, Aetna, and Cigna that such ranking programs have the potential to confuse or deceive consumers because of the programs' design. Cuomo criticized the rankings for failure to disclose the accuracy of the pronouncements, and because such insurers might well have a profit motive to recommend physicians who cost less but might not be the most qualified. Such a system also could lead to cherry-picking healthier patients whose problems cost less to treat and whose results would be more favorable. The AG's counsel for economic and social justice claimed that the rating system carried "significant risk" for consumer

confusion, if not deception, and a loss of transparency for the consumers. *Summary of two articles in the Wall Street Journal, July 25 and August 17, 2007.*

### **Grand Jury Clears Katrina Physician Hero of Murder Indictments:**

Anna Maria Pou, M.D., the heroic ENT professor at LSU University of Medicine who stayed four days in chaotic and horrific conditions to care for patients stranded in New Orleans' Memorial Medical Center, was cleared by the Grand Jury of accusations by the state Attorney General of murdering four patients with an alleged "lethal cocktail." The facts were that Dr. Pou had provided appropriate palliative care to terminally ill patients. It was hoped that resolution of this headline-grabbing travesty by prosecutors would put an end to those political opportunists who would try to seize the moment and second-guess and criminalize physicians' medical judgment under catastrophic conditions. The AMA plans to develop model legislation to shield physicians from civil or criminal liability when volunteering to care for patients in a declared disaster area. *From the AMA News, August 13, 2007.*

### **CA AG Rejects the Sale of Anaheim Memorial to Prime Healthcare:**

On July 11, the office of California Attorney General Jerry Brown rejected the bid of Prime Healthcare to purchase Anaheim Memorial Medical Center, a 217-bed acute care community hospital, for \$55 million.

*"California law requires the Attorney General's review and consent to any sale or transfer of a health facility owned or operated by a nonprofit corporation whose assets are held in public trust. This requirement covers health facilities that are licensed to provide 24-hour care.... The AG's decision often requires the continuation of existing levels of charity care, continued operation of emergency rooms and other actions necessary to avoid adverse effects on healthcare in the local community."*

The seller was Anaheim Memorial Medical Center, a nonprofit corporation that is a part of Memorial Health Services, the nonprofit chain of hospitals. The buyer was Prime Healthcare Services, Inc., a Delaware for-profit corporation, and Prime Healthcare Anaheim Regional, LLC, a Delaware limited liability company. Prime Healthcare's business model is manifest in the cancellation of most insurance contracts and a maximization of economic efficiency that appears to involve a high rate of admissions from the Emergency Room, and the elimination of unprofitable services.

The AG declared that it could not conclude "the sale is fair to Anaheim, reflects fair market value ... and is consistent with the public interest."