

Drugs in the News 3/7/09 – More High “Quality” Drug Information: WebMD, Medscape and CME States Say Medscape CME Part of Off-Label Promotion Scheme



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States Say Medscape CME Part of Off-Label Promotion Scheme

Last week, a federal court in Boston unsealed a whistleblower-initiated lawsuit backed by 17 states and the District of Columbia that accused WebMD and Medscape of being part of an illegal conspiracy to promote the off-label use of two of Amgen's flagship products -- Aranesp for anemia and Enbrel for rheumatoid arthritis.

The allegations were part of a broad civil complaint filed in 2007 that accused the nation's largest and most successful biotechnology firm of:

- * Giving physicians illegal kickbacks when using the drugs;
- * Concealing true wholesale price from government payers like Medicare and Medicaid; and
- * Giving free samples to physicians and clinics in the form of oversized vials and then encouraging providers to bill the government for the extra volume.

But the complaint also accused Amgen of "conspiring to market Aranesp and Embrel for off-label purposes through the website www.medscape.com" and "conspiring to promote Aranesp and Enbrel through an online Continuing Medical Education program" contained on the website. "The scheme was to increase market share through the covert commercialization of CME programs," the complaint said.

Amgen, which raked in \$3.1 billion and \$3.8 billion in 2008 from Aranesp and Enbrel, respectively, will "vigorously defend" itself, according to the *Wall Street Journal*, which first [reported](#) the lawsuit. A New York-based WebMD spokeswoman told the paper that "after a preliminary review of the WebMD programs that may be relevant, WebMD believes we complied with the rules and regulations applicable to our services."

I held off commenting on this suit when I first heard about it last week because I wanted to read the detailed description of how Amgen allegedly used CME to illegally promote its drugs. A quick search of the [Medscape website](#) revealed at least six articles on Aranesp that could be read for CME credits and a dozen on Enbrel.

So what did the complaint accuse Medscape of doing wrong? Nothing -- or nothing that I could read.

Under the section of the complaint entitled "Defendants' Illegal Use of Medscape: The 'Branding' of Disease States for Aranesp and Embrel," 16 of 19 paragraphs were redacted by the judge -- nothing but white space (and for this I paid \$10 to download the document from the U.S. Court's Pacer system?). The three paragraphs left in the document gave only hints of the nature of the allegations:

The Enbrel team had been successful in promoting Enbrel for off-label purposes with Medscape had allowed them to influence ostensibly independent editorial content in return for commercial sponsorship of a promotional site for Enbrel. . .

The relationship between Amgen and Medscape described herein is founded on illegal kickbacks offered and received in return for Medscape arranging for and recommending the ordering and purchasing of Aranesp over other drugs (including for off-label purposes). . .

Sales representative was promoting Enbrel for the off-label purposes of the treatment of neurological spine pain.

The complaint covered the years 2000 to 2006. The Food and Drug Administration didn't approve Enbrel for spine pain until July 2003.

In the past year, there has been a growing chorus of critics seeking to cut the financial ties between CME providers like Medscape and drug and device companies, which now provide more than half the financial support for the \$2.4 billion industry. The American Medical Association's ethics committee is considering a resolution that would encourage reducing industry's role in CME.

Dr. Arnold Relman, the former editor of the *New England Journal of Medicine*, made a special plea for cutting those ties last year in the *Journal of the American Medical Association* -- see this [GoozNews post](#). For my own take on why we need independent CME, see [The Shame of CME](#).

CME providers who depend on industry funding for financial support often say that the only problem generated by that relationship is public perceptions. Industry has no influence over

content, they say, pointing to the Accreditation Council for Continuing Medical Education rules that prohibit industry from exercising any control over CME content, even if they supply the funds to support the activity.

Apparently, the attorneys general in 17 states and the District of Columbia believe differently. For those of us engaged in a dialogue with CME providers about getting industry influence out of the system, it would have been nice to read the actual details of the allegations. But even without knowing the details, ACCME has a responsibility to launch its own investigation of Medscape. If it violated ACCME rules prohibiting industry influence over the content of the online courses that physicians can take for CME credits, the organization -- itself a for-profit CME provider -- should be sanctioned.

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