

Dr. William Tong

Female: Welcome to Conversations on Health Care with Mark Masselli and Margaret Flinter, a show where we speak to the top thought leaders in health innovation, health policy, care delivery, and the great minds who are shaping the health care of the future.

This week Mark and Margaret speak with Connecticut Attorney General William Tong leading a group of attorneys general from 51 states and territories in a large antitrust suit against multiple pharmaceutical entities accused of colluding in a generic drug price-gouging scheme, probably the worst drug cabal in history. He's also taking on pharmaceutical companies intimidating safety net providers protected by 340B drug pricing allowing them to offer low cost drugs to their vulnerable patients.

Lori Robertson also checks in, the Managing Editor of FactCheck.org looks at misstatements spoken about health policy in the public domain, separating the fake from the facts. We end with a bright idea that's improving health and well-being in everyday lives. If you have comments, please e-mail us at chcradio@chc1.com or find us on Facebook, Twitter, or wherever you listen to podcast. You can also hear us by asking Alexa to play the program. Now stay tuned for our interview with Connecticut Attorney General William Tong here on Conversations on Health Care.

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Mark Masselli: We are speaking today with Connecticut Attorney General William Tong, the first Asian-Pacific American attorney general elected statewide in Connecticut's history. Prior to becoming AG, he served for 12 years in the Connecticut House of Representatives.

Margaret Flinter: From 2015 to 2019, Tong served as House Chairman of the Judiciary Committee where he was responsible for all of Connecticut's legal system matters. Following the Sandy Hook School shooting, he was instrumental in passing a number of new gun laws. Now he leads a national coalition of attorneys general in a large antitrust suit against multiple generic drug manufacturers for alleged price fixing. Attorney General Tong, we welcome you to Conversations on Health Care.

Dr. William Tong: Thank you both. Glad to join you.

Mark Masselli: Well, Attorney General Tong, I think you know that community health centers provide quality affordable health care to 30 million of the nation's vulnerable populations, and critical to that mission is securing affordable life saving drugs for low income patients. In 1992, Congress passed the 340B Drug Pricing Program. Now that may not be a program that rolls off the tongue of many Americans but it makes life saving drugs affordable to millions of them. Recently, some major drug manufacturers have issued some very restrictive protocols that

Dr. William Tong

will undermine the integrity of that program and potentially put many lives at risk. Really, on the heels of those actions you sent request to a number of these drug makers demanding they abandon these unlawful actions threatening access to affordable prescriptions. I wonder if you could tell our listeners more about that.

Dr. William Tong:

Yeah, well first of all, thank you both for having me and thank you for the work that you and community health centers do across Connecticut and across the country. Really just providing health care and services to people in your communities and also particularly to vulnerable populations and people who really need your help. That's what the 340B Drug Pricing Program is about. When Congress can get together on important legislation as it did in 1992 and as it did on the Affordable Care Act, it can really make a huge difference in the lives of people and their access to health care. Not just life saving but life enabling drugs, right, the drugs and medicines and pharmaceuticals that we rely on every day. I hope we get a chance to talk about generic drugs in a minute because, again, it's not just drugs for major heart conditions or cancer. It's the antibiotics that we take every day. It's the drugs that people need to have a good and strong quality of life and health for themselves and their families.

Congress made a determination now almost 30 years ago, that it was going to help community health centers, safety net hospitals, various other types of clinics that help targeted populations, pay for and afford these drugs that every year get ever more expensive. For reasons that I cannot discern, major drug companies including AstraZeneca and others, Eli Lilly and Sanofi, have decided to cut us out of that program, cut community health centers out of that program unilaterally. There is very little explanation given as to why they've done that.

There also it appears, and I say it appears because it's not clear what's going on here. It appears that they're adding new conditions to the program. Were they to resume providing drugs at a discounted price under 340B? They require extensive new information from community health centers about you and your business model and also your patient, which to me, by the way, I do a lot Connecticut is a leader in data privacy and cyber security that also gives me great concern. At the urging of you and your colleagues and many other health care providers that need this lifeline 340B, I sent a letter to a number of manufacturers, asking them what's going on here? Why -- and that was to, Eli Lilly, AstraZeneca, Merck, Sanofi and Novartis so far, why have you cut communities, not just community health centers but communities out of the 340B Program? You appear to be breaking the law. It is contrary to the 340B law passed by Congress, I want an explanation. That's usually how this starts.

Dr. William Tong

An attorney general, my job is to protect consumers and to protect the people in my state and exercising that authority. This often begins with a letter, an inquiry that says, look you're doing something that I think is unlawful, I want you to explain it to me before I take further action. If I don't get a satisfactory response, that's when I look at all the range of actions and options that are at my disposal as attorney general and I can take the next step. Sometimes that includes further investigation, could include a lawsuit, could include -- and this is where you really AGs in action, linking arms with other AGs as we did in Big Tobacco as we're doing in my generic drug price fixing case and taking action as a multi state and coordinated coalition.

Margaret Flinter: Well, Attorney General Tong, you clearly really understand and get the impact of the 340B Program on people's lives. Thank you for the recognition of the work that community health centers do, not just here in Connecticut, but all across the country. For our listeners, federally qualified health centers are already pretty heavily scrutinized and monitored by HRSA, the Health Resources and Services Administration at HHS, which also oversees the 340B Drug Pricing Program. It's pretty well documented by research that FQHCs are a model of cost effective and high quality care, particularly primary care and particularly for people who are at high risk because of social determinants of health and other issues. The only system in the country organized around meeting the needs of the uninsured and low-income people.

Just for our listeners I want to make it clear how critical this issue is. Take diabetes, health centers take care of 2.7 million diabetics and the first drugs they went after were the insulins. What's motivation from the industry and also from the White House that issued that executive order at this point?

Dr. William Tong: Money. I don't mean to be facetious about that. It's hard to discern any rational policy motive. Frankly, it's hard to discern a rational policy motive for attacking the Affordable Care Act or attacking access to reproductive health care. Particularly in the middle of a global pandemic and public health emergency, the likes of which I have never experienced in my lifetime, and most people today have not, why an attack from the federal government on health care? I cannot tell you. I can tell you that based on my experience, confronting taking on the big pharmaceutical companies, not just in this space in terms of 340B, but in the generic drug price fixing case, in my work on opioids. I'm on the National Executive Committee of attorneys general, fighting the opioid crisis. We unfortunately see a preponderance, a significant number of major companies, pharmaceutical companies across the country across the globe, who in these respects are bad actors and have broken the law. From what I can tell it's motivated by their bottom line and desire to maximize

Dr. William Tong

their profits. I have no other explanation. I hope they can give me one but I'm not terribly hopeful.

Mark Masselli:

Attorney General Tong, obviously, these actions the drug manufacturers taking or impacting patients, Margaret talked about those facing dealing with chronic and complex diseases like diabetes and hypertension. Patients are impacted, health centers are impacted, safety net providers, and as you've said communities in all 50 states and the territories. You also, and I just want to pick up on the thread talking about your role as an attorney general is protecting the people in your state.

I'm just wondering, for our health centers or patients across the country, how might they approach their own attorney general's office in terms of communicating their concern? What type of information do you look at when someone brings it? I also want you to just pick up on the thread, you're on the executive director of the AG association, but you've led and participated in many state coalitions of attorney generals in bipartisan actions. Maybe walk us through how one should approach their attorney general's office, and then talk a little bit about the coalition that might be built on a potential action here.

Dr. William Tong:

Let me just say, first of all, that health care is extraordinarily complicated. I don't live and breathe it like you do and the people in your health centers do. I can't profess to be an expert in all of the various levers in the health care industry. It is confounding, I'm sure even to you, right, and dizzying the number of different levers and inputs and outputs and factors. But for me it's pretty simple, okay, and so I guess I'm just a country lawyer from Connecticut, right, and it's pretty basic. I get a phone call from a community health center and they say, we're under attack by some of the biggest pharmaceutical companies on Earth. We need you to help us, right? My response is, how can I help?

That plays out over and over again, with our constituents who call and say for example, I went down to buy hand sanitizer at my local convenience store and I think they're gouging us in the middle of the pandemic. They're charging us 30 bucks for a bottle of hand sanitizer. I say, how can I help, right? I sent an investigator down to check it out. I send a letter to the big pharmaceutical companies to check it out. That's how it started with General Blumenthal more than 20 years ago, when people in Connecticut said you really ought to help us stop this epidemic of youth smoking and the targeting of young people, it is more than 20 years ago. Because I was targeted, I was a generation of kids that were targeted by appealing advertising. Joe Camel was the character that came on cigarettes used to target young people to get us to smoke. General Blumenthal joined with 45 other attorneys general across the country and brought the biggest multi state

consumer protection action in history, which resulted in the biggest multibillion dollar settlement in history. We've since cut smoking by half in this country. People generally regard the Big Tobacco case as the big bang in attorney general multi state coordination.

The generic drug price fixing case that actually started, that was also pretty simple. A couple of lawyers in our office read an article in New York Times about a heart drug Digoxin, in the New York Times and how it had shot up 500% over a couple of years. They took the article upstairs to my predecessor George Jepsen. They said, George, this is weird, can we look at this? George said, go ahead, let's do it. That started now 49 state coalition taking on what I have called the largest corporate cartel in American history, the generic drug industry, which I have very strong evidence is engaged in a widespread conspiracy to fix prices and divide market share in violation of our state and federal antitrust laws. Then the final thing I say is, of course, opioids. I don't have to tell you where that comes from, that comes from the tremendous pain and suffering and death and destruction that we see in our communities across Connecticut.

We lose 1000 people a year and growing. We lose more than \$10 billion in terms of economic damage to our state from the opioid and addiction crisis. I hear all the time from families, from survivors, from victims about how they were targeted by opioid manufacturers, distributors, retailers, health care providers. I am ashamed to say that one of the prime bad actors in the opioid industry is a Connecticut based company in my home city of Stamford, Purdue Pharma. That means to me that I have a special responsibility and obligation to be aggressive. Joined with almost every other state we're taking on the addiction industry, and that comes from people that we're fighting for who are suffering every day in our state. The answer to your question is, it happens any number of ways, but it usually happens by somebody picking up the phone or sending us an e-mail and saying we got a problem.

Margaret Flinter:

Well, Attorney General Tong, it strikes me that health care is one of those areas that people often don't really understand these issues until they are personally affected by it. If you have great health insurance, low copays, not that many plans like that around anymore, low deductibles. If you're very healthy, you might be spared first hand knowledge of how bad the issue of pricing is in the industry. I remember a couple years ago the congressional hearings, when the cost of an Epipen, something not optional for a family that has a child with serious allergies to have one at home, one at school, shot up to I think \$400 or more and some action was taken. But we seem to be unique in America in this particular problem. Prescription medicines are not something people take casually, right? They take it because their provider said they really needed it to treat a condition or

Dr. William Tong

prevent worsening of a condition. Other countries seem to have a handle on this. I wonder if you have any thoughts about what other countries do to not have this issue of making drugs unaffordable to people who absolutely need them. If you looked at other models around the world or other first world countries.

Dr. William Tong: Yeah, it's really hard to extrapolate one answer, right, there are obviously, countries like Canada and the United Kingdom that have a much more nationalized and government sponsored or government run or government encouraged health care system. We've all engaged in these policy debates on what's better, what are the pluses and minuses, right. The argument that people in our country wouldn't want the type of health care that's provided in those countries or wouldn't stand for the waiting, or the lack of comprehensive care. Frankly, it's hard for any of us to know, because you read about it, but we don't live in those countries, we don't experience it.

Health care, for example, and other places particularly in Asia can be a matter of cash, right, cash and carries. If you've got money, you can get health care, if you don't have money, good luck. That's certainly not a system, I think, that anybody believes that we should have in this country, and would be very destructive. I think the overall, the real challenge is that there isn't enough accountability in our healthcare system and people are unchecked and untethered. Let me just say that in the generic drug industry, generic drugs account for 90% of our nation's prescriptions, 90% okay. When you say maybe some of us can get away without feeling the effects of this. I doubt there are that many people that haven't taken a generic drug at some point or another in the past six months or a year. I do. I have Rosacea, which I share with the nation on 60 minutes. It requires a basic antibiotic called Doxycycline, which was developed before I was born.

Margaret Flinter: Exactly.

Dr. William Tong: The time period for recouping the cost of developing that drug have lost, it's past, okay, and that drug decade ago was like, 40 bucks, 20 bucks, right? It's shot up 8000%. There's no reason for that. Why is Digoxin 8000% more expensive than it was a decade ago? Another drug I hope I pronounce it correctly, Metronidazole is a topical, again, skin ointment that use for inflammation, I also have that it's made by a generic drug manufacturer named Taro which I have sued. That drug has shot up a considerable amount over the past few years. I have e-mails, phone records, text messages that demonstrate widespread collusion by the generic drug manufacturers to artificially fixed prices and to raise them. That's illegal. Everybody knows that.

And I have e-mails, text messages, testimony, diaries, phone records that show that generic drug manufacturers are talking amongst themselves and colluding to divide market share. Hey you can sell to

Dr. William Tong

CVS, I'll sell the Walgreens, let's not compete with each other, and everybody wins. That's also highly illegal. You don't have to go to law school to know that. Major companies cannot collude on price, and they can't collude on market share to prejudice consumers, but they do and they get away with it. People ask me, this is shocking. Mr. Tong how can they get away with it? The answer is because if banks were too big to fail, these companies have gotten too big to care. I think it's just become a routine part of making money in this business.

There isn't enough accountability, meaning there aren't enough of us to say you just can't do that. What shocks me is how brazen this is, right? Not circumstantial evidence. It's not saying that I pieced together and you can infer that this is happening. I have the goods, and they still tell me, not true. We're not doing it. You're under indictment by the Justice Department you've entered into a settlement with the Justice Department admitting this wrongdoing. Yeah General Tong is wrong.

Mark Masselli: We're speaking today with Connecticut Attorney General William Tong. He recently sent a notice to pharmaceutical companies warning that they were crossing a dangerous line. General Tong the pandemic is still going on, and unfortunately, probably no end in sight in terms of waiting for a vaccine and then trying to figure out its efficacy. But there are millions of newly uninsured Americans who've lost their jobs and lost their health insurance and with the Affordable Care Act really hanging in the balance in the courts right now, and no viable alternative insight. Why are actions like yours and those of your fellow attorney generals so important in protecting the rights of the American health consumer?

Dr. William Tong: Every action that we're taking, and we're just -- we're talking about the tip of the iceberg. There are so many other regulatory rulemaking actions in front of the various federal agencies that touch in the health care system that we're engaged in. There's so much going on, and every piece of it is important and every bit helps. The Affordable Care Act litigation, that's us. My colleague unfortunately in Texas and a coalition of 18 attorneys general have sued as proxies for the President to repeal the Affordable Care Act, and they're not successful yet. But that cases in the Supreme Court and I'm joined with a coalition of attorneys general defending it.

Frankly, God bless if they're successful, because there isn't a good answer about what replaces it. God bless him their success with 340B, frankly, because there isn't a good answer about what community health centers are going to do if we don't have access to 340B. All of these are profound risks to the health care system, and to families and individuals in our communities. Let me just say one more thing. This is a health care talk and not a policy or politics talk. But number

Dr. William Tong

one, I think most of us understand how important this election is, so you got to vote. Get out there and vote. It matters to the health care system. You want to talk about what you can do? Vote, okay, to drive down the cost of health care, that's number one.

But number two is, even if we although -- the election goes off without a hitch, and from my perspective, we have a change in leadership. That doesn't mean everything goes back to being great tomorrow, okay. Tremendous damage has been done to the health care system. That Affordable Care Act case will continue, right, we'll still have all of these issues, the opioid crisis doesn't just go away. All of these initiatives are not only important, but they're ongoing and they will be ongoing for some time. That's why we just have to hunker down and fight these fights.

Margaret Flinter: We've been speaking today with Connecticut Attorney General William Tong, you can learn more about his important work by going to portal.ct.gov/AG, or follow him on twitter @AGWilliamTong. We want to thank you so much for your dedication to advocating for the American health consumer, for the most vulnerable among us for speaking truth to power and for your obvious understanding that healthcare can't be separated from policy and politics when we care about making sure that everyone has the care they need. Thank you so much for joining us on Conversations on Health Care today.

Dr. William Tong: Thank you both.

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Mark Masselli: At Conversations on Health Care we want our audience to be truly in the know when it comes to the facts about health care reform and policy. Lori Robertson is an award winning journalist and Managing Editor of FactCheck.org, a nonpartisan, nonprofit consumer advocate for voters that aim to reduce the level of deception in US politics. Lori, what have you got for us this week?

Lori Robertson: President Donald Trump has touted an 85% decline in the nation's COVID-19 case fatality rate since April, and has attributed the drop to improvements in treatment. But better treatment is only part of the story. Experts say part if not most of the decline can be explained by expanded testing and a shift toward younger people rather than higher risk older folks catching the coronavirus. Since the end of July, Trump has included the impressive sounding statistic in press briefings and rallies. In a July 27 briefing in North Carolina, Trump said, "Due to the medical advances we've already achieved and our increased knowledge in how to treat the virus. The mortality rate for patients over the age of 18 is 85% lower than it was in April." The case fatality rate is the percentage of deaths from the coronavirus among the confirmed cases.

Dr. William Tong

The President is correct that the case fatality rate has fallen substantially since April. We calculated a crude case fatality rate of 7.7% for all ages for April. That dropped 83% to 1.3% in the month of July, and further dropped to 0.9% for the month of August for a total decline of 88% since April. But Trump is wrong to attribute the steep decline only to treatment improvements when other factors are also at play. In the beginning of the pandemic when testing was still extremely limited US was not capturing many of the lists of your COVID-19 cases, which led to an artificially high case fatality rate. During the month of April, only about 5.3 million test were performed. But in July and August 23 million tests were performed in each month according to the COVID tracking project. It also matters who is getting sick, and that has also changed over time.

One expert told us that early on many outbreaks occurred in nursing homes where COVID-19 mortality is very high. But now more younger people are becoming infected and they are at lower risk of death. The Centers for Disease Control and Prevention said people ages 20 to 29 accounted for more than 20% of coronavirus cases from June to August. That's my fat check for this week. I'm Lori Robertson, managing editor of factcheck.org.

Margaret Flinter: FactCheck.org is committed to factual accuracy from the country's major political players and is a project of the Annenberg Public Policy Center at the University of Pennsylvania. If you have a fact that you'd like check, e-mail us at chcradio.com, we'll have FactCheck.org's Lori Robertson check it out for you here on Conversations on Health Care.

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Margaret Flinter: Each week Conversation highlights a bright idea about how to make wellness a part of our communities and everyday lives. People living in Sub-Saharan Africa have tougher odds of overcoming diseases. The problem is not just the lack of access to health care providers. But once someone is diagnosed with an illness, access to vital life saving medicine is out of reach for many who are sick simply because they can't afford them.

Gregory Rockson: Africa has some of the highest drug prices in the world, simply because it's a free pricing market. You can take a single medicine and two pharmacies next to each other will sell that same drug at wildly different prices.

Margaret Flinter: Gregory Rockson is the founder of mPharma, a nonprofit organization that seeking to address inequities in drug prices in Africa and the supply chain that often puts these life saving drugs out of reach of the people who need them. mPharma operates in four African countries, it decided to tackle the problem by redirecting the supply chain that forces small independent pharmacies and clinics to source their own

Dr. William Tong

drugs, and help offers these entities the chance to outsource their procurement for pharmaceuticals.

Gregory Rockson: We realized that if we could begin to bring together all these independent pharmacies and remove the pressure that they have to face in sourcing their own drugs, we can begin to address the issue of medicine availability and affordability.

Margaret Flinter: Rockson says they help improve the drug procurement supply chain by collecting data on actual drug sales, which allows health care entities to avoid over or under stocking, and it reduces their vulnerability to fraud and corruption, which sadly is rampant in drug supply chains in parts of the world.

Gregory Rockson: The beautiful thing about the service that we offer them is that not only are we taking ownership of the supply chain, we are also providing the financing to purchase the inventory. We offer them a simple value proposition, pay only when you dispense the drug to the patient. Beyond having the parts available, we actively help them manage their inventory.

Margaret Flinter: Rockson says another important benefit more affordable drug supplies help clinicians better manage patient outcomes. mPharma was a 2019 recipient of the School Foundation's Entrepreneurship Award.

Gregory Rockson: With our focus on bringing down the cost of drugs that there will be a systemic change that even other actors will be forced to reduce their prices.

Margaret Flinter: mPharma, a nonprofit entity that utilizes reliable data on drug usage, eliminates fraud and waste in the drug supply chains, makes life saving medications more readily available to some of the world's most vulnerable people, improves outcomes and saves money. Now that's a bright idea.

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Mark Masselli: You've been listening to Conversations on Health Care. I'm Mark Masselli.

Margaret Flinter: And I'm Margaret Flinter.

Mark Masselli: Peace and health.

Female: Conversations on Health Care is recorded at WESU at Wesleyan University, streaming live at www.chcradio.com, iTunes, or wherever you listen to podcast. If you have comments, please e-mail us at chcradio@chc1.com, or find us on Facebook or Twitter. We love hearing from you. This show is brought to you by the Community Health Center.