

BEFORE THE UNITED STATES

HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEE ON HEALTH

STATEMENT OF DAVID PROUTY

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ASSOCIATION

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Mr. Chairman and Members of the Committee:

My name is David Prouty, and I serve as the Chief Labor Counsel of the Major League Baseball Players Association. Thank you for the opportunity to testify today about smokeless tobacco products and their use by major league baseball players.

There is no doubt that smokeless tobacco products are dangerous, and that the long-term use of chewing tobacco and other smokeless tobacco products can cause serious health problems. These products are addictive. They greatly increase the risk of cancer, including esophageal and oral cancer, and cancers in the mouth, throat, cheek, gums, lips and tongue. It is impossible to listen to or read Mr. Von Behrens' testimony and not appreciate just how dangerous these products can be.

For these reasons, the Players Association has long discouraged its members, and everyone else, from using smokeless products. We have worked with Major League Baseball to educate players about the realities and consequences of using smokeless tobacco products.

As Mr. Manfred indicates in his testimony, Major League Baseball created the National Spit Tobacco Education Program (NSTEP) in 1994. The program's purpose was to encourage both players and the public not to start using smokeless tobacco products, to help those already using these products to quit, and to help educate all Americans on the dangers of smokeless tobacco.

The first chair of this program was Joe Garagiola, a well-respected former player and nationally respected broadcaster and someone with whom we worked in the effort to educate players about the dangers associated with the use of smokeless tobacco. Additionally, over the years, current and former players, including Derek Jeter, Henry Aaron, Jeff Bagwell and Alex Rodriguez, have assisted with a variety of educational efforts sponsored by NSTEP. In addition, in 2000 and 2001, Major League Baseball and the Association worked together to give smokeless tobacco special emphasis during spring training. Under the leadership of NSTEP, we held educational seminars, oral medical exams, and developed cessation programs that highlighted the addictive nature of these products.

As some of the members of this subcommittee know, each year we meet with every member of the Players Association during spring training to discuss a variety of issues of importance to the membership. Topics range from the state of collective bargaining, to issues involving competition and rules changes, to

developments concerning health issues, including smokeless tobacco. As you can expect, the subjects we discuss vary from club to club.

Over the last few years, much of the discussion in these meetings has focused on our drug testing program, and the ongoing changes we have made in its operation and administration, but through the leadership of our new Executive Director Michael Weiner, we have already begun working with the Partnership for a Drug Free America on a new program we call Healthy Competition. The purpose of the program is to begin to address the difficulties in getting both parents and children to focus on how to make good choices our health and nutrition. Our members understand that it is not enough simply to say to young people “do not do this” or “do not take that.” Such advice begs the question of what one should do. Consequently, we are working with the Partnership on the development of a variety of different educational materials utilizing different mediums to explain how we all can do a better job of making the right choice when it comes to fitness, exercise, dietary supplements, drugs, alcohol and tobacco. Obviously, educating young people, especially young athletes, about the dangers of smokeless tobacco products is a key component of this effort.

I realize there are some who believe that the key to eradicating the use of smokeless tobacco products is to ban their use by baseball players during games or

in the clubhouse. After all, it is argued, baseball has banned smoking of cigarettes during games and in the clubhouse. We respectfully disagree.

First, we believe baseball players should not be prohibited from using substances that are perfectly legal and available to the general public. Congress and the federal government are the ultimate arbiters of what products may be consumed or used by the adults, regardless of their wealth or celebrity. Should Congress in its ultimate wisdom decide that smokeless tobacco should be banned, the MLBPA would not oppose that effort, and might very well support it. Reaction among our members would undoubtedly be similar to the reaction in the general public. Many would applaud the decision. Some would oppose it.

Second, on a practical level, the use of smokeless tobacco is not the same as the use of cigarettes. Cigarettes impact the ability to play the game, are banned from public use under a variety of state and municipal laws, and may endanger the health of those in the immediate area.

Third, there are a variety of smokeless tobacco products that can be used without any of the telltale signs normally associated with the use of chewing tobacco. In fact, it would be impossible for fans either at the stadium or watching on television to know whether a player was using one of them. Our objective, however, is not to hide the use of smokeless tobacco but to convince players

through education that it is in their long term interest to stop using any tobacco products, visible or not, both at work and at home. But until a player reaches that decision, we do not believe he should be banned from using products Congress has thus far concluded may be used by all other adults.

I would be remiss if I did not use this opportunity to raise, once again, another problem of singular concern to our Association. As our Executive Director noted in his testimony last November before the Subcommittee on Commerce, Trade, and Consumer Protection and, as our former Executive Director noted in a series of letters to members of the full Committee last year, the current regulatory scheme for dietary supplements is not working.

Nearly half of all Americans claim to use supplements, many on a daily basis. Those individuals are worthy of the same basic protection promised those who consume traditional food – the assurance that the products regulated by the FDA, that are sold without restriction throughout the country to adults and children, are safe and that the products' labels can be trusted.

There are many reputable supplement manufacturers who provide quality products but, unfortunately, our country is still awash with supplements that contain pharmaceuticals and other dangerous ingredients. In many instances, there is no indication on the label of products sold on the shelves of national chain

nutrition stores that indicate what is really inside the bottle. There is no warning that the supplement may contain substances prohibited by the FDA which also happen to be banned under our drug testing program. Indeed, members of our union have suffered the consequences of positive tests and the resultant suspensions under just such circumstances.

The MLBPA has done what it can to advise our members when we become aware of such dangerous supplements and the substances they contain but, as a private organization, we are limited in what we can do by ourselves. We believe a broader effort is necessary if this problem is to be effectively curtailed. Until that happens, countless Americans of all ages, athletes and non-athletes, will be misled about what is inside the supplement products they are taking. It has been over a year since we first raised this problem with the Committee and asked for assistance. We hope you will find time to give this matter the attention it deserves.

Again, thank you Mr. Chairman. I appreciate the opportunity to testify, and I look forward to answering any questions you may have.