need outpatient therapy services after January 1, 1999. I urge my colleagues to investigate the consequences of this pending change in Medicare payment and remedy the situation before it begins to cause serious harm to beneficiaries with disabilities and chronic health conditions and their families.

MISPRINT ON THE STATEMENT OF MANAGERS ON S. 1260

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1998

Mr. DINGELL. Mr. Speaker, as Ranking Member of the Committee on Commerce and one of the conferees appointed on behalf of the House (September 16, 1998, CONGRESSIONAL RECORD at H7888), I rise to bring to the attention of the House a matter involving the conference report on S. 1260, the Securities Litigation Uniform Standards Act of 1998, and to correct the record.

The circumstances surrounding the publication—first of an incomplete conference report, and then of a conference report appending extraneous material—may be just another mix-up by the gang that couldn't shoot straight. On the other hand, worse.

To wit, the joint explanatory statement of the committee of conference on S. 1260, both as printed by the Government Printing Office (GPO) in Report No. 105–803 and as it appeared in the CONGRESSIONAL RECORD for Friday, October 9, 1998 at H10270, was incomplete. The final page mysteriously disappeared. Curiously, this page contained important language regarding scienter, recklessness, and the pleading standard applied by the Second Circuit Court of Appeals, language essential to the conference agreement. Even more mysterious, the official papers filed in the Senate on October 9th were complete and did contain the final page.

In order to clarify this situation, a star print of the complete conference report has been ordered from GPO. Also, during House consideration on October 13th, Commerce Committee Chairman BLILEY asked unanimous consent to include in the RECORD ''a complete copy of the conference report on S. 1260'' and made the following remarks:

> When the conference report was filed in the House, a page from the statement of managers was inadvertently omitted. That page was included in the copy filed in the Senate, reflecting the agreement of the managers. We are considering today the entire report and statement of managers as agreed to by conferees and inserted in the RECORD.

Therefore, the complete joint explanatory statement of the committee of conference begins on page H10774 of the CONGRESSIONAL RECORD for October 13, 1998 and concludes on page H10775 where the names of the House and Senate Managers appear. The unidentified material that follows the names of the Managers, although erroneously printed in the same typeface as the conference report, an error that has been corrected by reprinting the material in the appropriate typeface and identifying its source in the October 15, 1998 CONGRESSIONAL RECORD at H11021–22, is not part of the conference report's joint explanatory statement and does not represent the views of the Managers. In point of fact, the phantom language directly contradicts the joint explanatory statement (the Statement of Managers).

In any event, it is the conference report itself, in particular the Statement of Managers, and not the dissenting views expressed by one or more Members, that reflects the agreement of both Senate and House conferees as to the bill's intended operation and consequences. The language of the Statement of Managers could not have been more clear and direct as to the bill's ratification of uniform pleading and liability standards:

> It is the clear understanding of the Managers that Congress did not, in adopting the Reform Act, intend to alter the standards of liability under the Exchange Act . . . Additionally, it was the intent of Congress, as was expressly stated during the legislative debate on the Reform Act, and particularly during the debate on overriding the President's veto, that the Reform Act establish a heightened uniform Federal standard on pleading requirements based upon the pleading standard applied by the Second Circuit Court of Appeals.

The Statement of Managers on S. 1260 clarified confusion arising from the Statement of Managers on the 1995 Securities Litigation Reform Act. The 1995 Statement of Managers noted that the language of the pleading standard was ''based in part on the pleading standard of the Second Circuit.'' However, the 1995 Statement of Managers also contained some murky language which, as the gentleman from Massachusetts, Mr. MARKEY, has correctly noted was slipped into a footnote by a staffer at the last minute without our knowledge or concurrence (October 13, 1998 CONGRESSIONAL RECORD at H 10782), to the effect that the conferees ''chose not to include in the pleading standard certain language relating to motive, opportunity, and recklessness.'' Largely, as a result of this language, the President vetoed the 1995 Reform Act for fear that it might be construed to mean that Congress was adopting a pleading standard even higher than that of the Second Circuit. Congress overrode the President's veto. As is apparent from the post-veto debate in both the House and the Senate, Congress did so, not because Congress wanted a pleading standard higher than the Second Circuit's, but because the pleading standard adopted in the Reform Act was, in fact, the Second Circuit standard.

Nevertheless, uncertainty and confusion quickly emerged in various District Court cases, to the delight of those who sought to undermine what the majority of Congress had concluded the pleading standard should be, but to the grave disadvantage of investors. Because of this uncertainty, the Administration and the SEC insisted that Congress restate the applicable liability and pleading standards of the 1995 Reform Act in the legislative history of this bill. That restatement was necessary to the legislative history of this bill because the liability and pleading standards from the 1995 Reform Act will apply to the class actions that are covered by S. 1260. The White House wrote to Senators D'AMATO, GRAMM, and DODD on April 28, 1998 that the Administration would support enactment of S. 1260 only ''so long as amendments designed to address the SEC's concern are added to the legislation and the appropriate legislative history and floor statements of legislative intent are included in the legislative record,'' noting that ''it is particularly important to the President that you be clear that the federal law to be applied includes recklessness as a basis for pleading and liability in securities fraud class actions.'' Only after the Managers clarified that the 1995 Reform Act had not altered the substantive liability standards that allow investors to recover for reckless misconduct and that the Reform Act had adopted the Second Circuit pleading standard did the SEC agree to support enactment of S. 1260. The SEC's letter of October 9, 1998 to Senators D'AMATO and SARBANES states:

> We support this bill based on important assurances in the Statement of Managers that investors will be protected. . . . The strong statement in the Statement of Mangers that neither this bill nor the Reform Act was intended to alter existing liability standards under the Securities Exchange Act of 1934 will provide important assurances for investors that the uniform national standards created by this bill continue to allow them to recover losses caused by reckless misconduct. The additional statement clarifying that the uniform pleading requirement in the Reform Act is the standard applied by the Second Circuit Court of Appeals will likewise benefit investors by helping to end confusion in the courts about the proper interpretation of that Act. Together, these statements will operate to assure that investors' rights will not be compromised in the pursuit of uniformity.

The Second Circuit standard allows plaintiffs to allege facts showing either (a) the defendant had a motive and opportunity to engage in the fraud, or (b) the defendant acted either recklessly or knowingly. Dissenters argue that Congress meant to eliminate allegations of motive, opportunity and recklessness. This is flat wrong. It is simply not logical or believable to argue that we adopted a pleading standard ''based upon'' the Second Circuit standard, but yet rejected allegations of motive, opportunity, and recklessness—core elements of that standard. Allegations of recklessness or motive and opportunity continue to suffice as a basis to plead fraud. This is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and honest securities markets.

TRANSFERRING THE OFFICE OF MOTOR CARRIERS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1998

Mr. WOLF. Mr. Speaker, I rise today to bring to the attention of the House an important development in the safety of our nation's highways: transferring the Office of Motor Carriers (OMC) from the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA).

Mr. Speaker, as the members of the body know, the Office of Motor Carriers monitors an important component of our country's economy: the trucking industry. Not only does OMC monitor and enforce compliance with rules, regulations, and laws, it is expected to improve the safety of trucks that share the road with passenger vehicles.

After learning alarming statistics about truck safety violations and truck accident rates, the House transportation appropriations subcommittee included a provision in the FY 1999

Department of Transportation appropriations legislation to transfer OMC to NHTSA. Our Senate colleagues agreed. That office transfer, in my opinion, is not only bold, but necessary. It will save lives.

Now, we see, though, that the trucking industry lobby convinced some in Congress to strike the transfer provision from the omnibus appropriations legislation, which includes the transportation spending bill. I am extremely disappointed that the OMC provision has been dropped.

I understand that assurances have been given that comprehensive hearings to investigate truck safety will be held early next year on this critical safety issue in both the House and Senate authorizing committees. I pledge, too, that the House transportation appropriations subcommittee will not let this matter drop. We will also hold hearings on highway and truck safety and how the mission of OMC could be enhanced by transferring the office to NHTSA.

In addition, because the issue of truck safety is literally one of life and death, I have written the Inspector General at the Department of Transportation and the General Accounting Office asking that both investigate the truck safety issue. Copies of those letters are submitted for the record. I continue to believe that the Office of Motor Carriers should be transferred to the nation's top highway traffic safety office, and our colleagues should know that this matter will continue to be at the top of our agenda.

With regard to the trucking industry, there can be no higher priority than improving safety. However, it is not clear that the industry believes safety is its number one priority. Let me share some alarming statistics with you:

Commercial trucks represent just 3 percent of all registered vehicles in the United States, but they were involved in 13 percent of the total traffic fatalities in 1997.

Over the past ten years, the fatal accident rate for all vehicles has been declining. However, commercial motor vehicle accidents, fatalities, and fatality rates are increasing. Last year 5,335 people died on U.S. roads in accidents involving heavy trucks. The national figure reflects a 4.5-percent increase in truck-related deaths from the prior year and is this decade's highest one-year tally so far.

One out of eight traffic fatalities in 1997 resulted from a collision involving a large truck. Large trucks are more likely to be involved in fatal, multiple vehicle crashes.

Over the past eight years, the Department of Transportation's Federal Highway Administration has not been able to significantly reduce the number of commercial motor vehicles or drivers operating on our roadways that are not fit to be in service. One in five trucks is operating with mechanical defects so serious that the truck is legally not allowed to continue the trip until the problems are corrected. Eight percent of the drivers are placed out-of-service. Neither of these statistics has altered significantly since 1990.

In 1997, the Virginia State police conducted 42,256 motor carrier inspections. Of those trucks inspected, the state police found 25,221 defects (60 percent) and 19,861 drivers in violation (46 percent). I submit for the RECORD a report I received from the Virginia State Police with those alarming statistics.

The Department of Transportation's Inspector General (IG), in a review of the motor carrier safety program, concluded

> that FHWA's enforcement efforts were not effective in inducing prompt and sustained compliance with regulations and safe on-the-road performance. Seventy five percent of the carriers sampled did not sustain a satisfactory rating, and after a series of compliance reviews, 54 percent of the carriers had vehicle out-of-service rates from roadside inspections higher than the national average.

There is a growing concern that trucks are dangerous. I want to be clear, though, that I believe many in the trucking industry work hard to maintain safe trucks. To be sure, however, there are a number of trucks operating on the nation's highways which are unsafe and dangerous. This concern is worsened by the fact that most of the fatal injuries in trucking accidents are to the occupants of the other, typically smaller, vehicle. It is because of these concerns that I, as chairman of the House Appropriations Subcommittee on Transportation, recommended moving OMC from FHWA to NHTSA, because the functions of OMC are much more closely aligned with those of NHTSA. The National Highway Traffic Safety Administration as its name implies, is focused on safety.

Moving OMC to NHTSA would strengthen and consolidate the Department of Transportation vehicle safety programs. A single modal administration can provide a more consistent and synchronous safety program and agenda. An agency with a consolidated safety focus will see the entire safety picture rather than a system where one agency looks at truck safety and another looks at passenger care safety, as is currently in place. After all, trucks and cars share the same roads.

With the striking of the OMC transfer provision, I believe, safety will be diminished and lives will be lost. More accidents will occur like the one last month in Knoxville, Tennessee. According to the accident report, a tractor-trailer came upon traffic stopped because of construction several miles ahead. The truck, running at almost 70 miles per hour, ran into the back of a sport utility vehicle, knocking it into a concrete barrier; sideswiped another tractor trailer while swerving into the right hand lane; and smashed into the back of a van, pushing it into the trailer of a third truck in front. The van immediately exploded. The lone occupant of the sport utility vehicle and the lone occupant of the van were killed immediately. None of the truck drivers were injured. This is emblematic of the fears most Americans hold for heavy trucks every day they are on the Nation's highways.

Knowing that information about trucks on our highways just increases my disappointment that the office transfer will not occur this year. My view that such a move will save lives is also shared by The Washington Post, which said in a September 19, 1998, editorial:

> The office of motor carriers is responsible for truck safety requirements such as the length and weight of the vehicle and the time a trucker may drive; the logical home for this office is in the agency that deals with other vehicle safety issues.

The full editorial is submitted for the RECORD.

Our colleagues should also know I received a recent letter from an employee at OMC who said,

> I just want you to know that you have a great deal of support from the actual workers within the Office of Motor Carriers. *** [T]he average investigator completes 1 compliance review per month. Last year it was 2.5 compliance reviews per month and the year before it was more than five compliance reviews per month and so forth. *** I think OMC should get moved to NHTSA. Clearly, nobody at the top within the FHWA recognizes the importance of compliance and enforcement. According to the impact assessment model developed within OMC, compliance reviews save lives. Why aren't we doing enough of these? ***

Mr. Speaker, indeed, why aren't we doing enough? I pledge to our colleagues that we will focus our effort and energy next year to shining the spotlight on truck safety in America, and to finding the answer to that critical question.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 20, 1998.

Mr. KENNETH MEAD,
Inspector General, Department of Transportation, Washington, DC.

DEAR MR. MEAD: I am writing to request that the Inspector General (IG) update its 1997 audit report on the Motor Carrier Safety Program. On March 26, 1997, you concluded ''that FHWA's enforcement efforts were not effective in inducing prompt and sustained compliance with regulations and safe on-the-road performance. Seventy five percent of the carriers sampled did not sustain a satisfactory rating, and after a series of compliance reviews, 54 percent of the carriers had vehicle out-of-service rates from roadside inspections higher than the national average''.

I have received information from Federal Highway Administration (FHWA) employees who are concerned about the level of compliance and enforcement activities being conducted. This letter states that ''[T]he average investigator completes 1 compliance review per month. Last year, it was 2.5 compliance reviews per month, and the year before it was more than 5 compliance reviews per month''. Information our Subcommittee has obtained from the Federal Highway Administration confirms this decline. I am concerned that this is having a negative and growing impact on truck safety. Your investigation should address, but not be limited to, the following areas:

1. A review of the number of compliance reviews conducted by FHWA in fiscal years 1995, 1996, and 1997. As part of this investigation, the IG should determine whether or not FHWA has targeted poor performance carriers for these compliance reviews and what impact these reviews have had on the overall safety ratings of these carriers.

2. An analysis of the enforcement actions taken by FHWA to determine whether or not the enforcement program has been strengthened since your earlier audit.

3. A determination of the adequacy of the penalties assessed for continued noncompliance.

I would appreciate a briefing on this issue prior to our hearing on the Federal Highway Administration's 200 federal appropriations, which is tentatively scheduled for late February or early March, 1999. A report should follow shortly thereafter.

If you have any questions about this request, please contact Stephanie Gupta of the Subcommittee staff on (202) 225–2141.

Sincerely,

FRANK R. WOLF,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 20, 1998.

Acting Comptroller General JAMES HINCHMAN,
General Accounting Office,
Washington, DC

DEAR MR. HINCHMAN: There is a growing concern that trucks are dangerous. Currently, commercial trucks represent just 3 percent of all registered vehicles in the United States, but they are involved in 13 percent of the total traffic fatalities. Over the past ten years, the fatal accident rates for all vehicles have been declining; however, commercial motor vehicle accidents, fatalities, and fatality rates are increasing.

I am writing to request that the General Accounting Office conduct an investigation on the effectiveness of the Federal Highway Administration's motor carrier safety program in reducing truck accident and truck safety violations in the United States. This review should focus on trends since 1990.

I would appreciate a briefing on this issue prior to our hearing on the Federal Highway Administration's 2000 federal appropriations, which is tentatively scheduled for late February or early March. A report should be issued by June, 1999.

If you have any questions about this request, please contact Stephanie Gupta of the Subcommittee staff on (202) 225–2141

Sincerely,

FRANK R. WOLF,
Chairman.

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF STATE POLICE,
Fairfax Station, VA, August 28, 1998.

Hon. FRANK R. WOLF,
Herndon, VA.

DEAR CONGRESSMAN WOLF: On August 26, 1998, members of the Coalition for Safe Roads met with you at your Herndon office to discuss legislation relative to trucks with triple trailers using our highways. I was invited to attend, and spoke to you about the number of motor carrier checks our troopers had conducted during 1997.

During the meeting you expressed interest in the statistical information the Virginia Department of State Police had concerning motor carrier checks and the drivers and trucks/buses placed out-of-service. I have outlined below statistical information for both the entire State of Virginia during the calendar year of 1997:

Inspection summary	Statewide	NOVA
Inspections conducted	42,256	13,915
Drivers in violation	19,861	5,250
Defective vehicles	25,221	7,721
Drivers taken out-of-service	3,627	1,034
Vehicles taken out-of-service	8,982	3,117
Out-of-service violations	18,692	6,262
All other violations	90,269	24,660

The all other violations row above includes all deficiencies found, and an arrest, summons or warning was given.

I greatly appreciate the opportunity to speak with you about the issue of highway safety specifically as it relates to trucks and tractor-trailers. Your support for highway safety is most important in providing America's citizens a safe means of travel. If my staff or I can be of assistance to you, we may be contacted at 703–323–4500.

Thanks again.

Sincerely,

DONALD P. GARRETT,
Captain,
Division Seven Commander.

[From the Washington Post, Sept. 19, 1998]

ROAD SAFETY—AND HILL PITFALLS

A House-Senate Transportation appropriations conference is wrestling to resolve differences over two important highway safety issues that shouldn't even be in dispute: the identification of trucks carrying agricultural chemicals, and a proposal to consolidate federal highway safety responsibilities under a single agency best organized to do the job.

The battling over hazardous-materials warnings has to do with a federal requirement that, effective Oct. 1, trucks carrying agricultural chemicals such as fertilizer, pesticides, herbicides and insecticides must carry placards identifying the material on board and providing an emergency telephone number. Rep. Frank Wolf (R-Va.), chairman of the transportation appropriations subcommittee in the House, explains that the placards will provide emergency response teams with important information on the substances they are called upon to handle. For instance, a truck carrying topsoil should be handled quite differently from one transporting ammonium nitrate.

In the Senate bill, an exemption to the placard requirement has been granted for a number of states. Opponents claim the identification requirements burden farmers. It can't be much of a financial burden, through: Advocates for Highway and Auto Safety, which supports the requirement, calculates the cost of 58 cents a placard. The lack of a placard advising rescue teams of what is on board could cost lives. Dozens of national and local firefighting units oppose any weakening of the provisions.

The second proposal involves more than a mere shift of boxes on federal agency flow charts. It would relocate the Transportation Department's Office of Motor Carriers—which oversees trucking laws—from the Federal Highway Administration to the National Highway Traffic Safety Administration, which focuses on safety. The point: The office of motor carriers is responsible for truck safety requirements such as the length and weight of the vehicle and the time that a trucker may drive; the logical home for this office is in the agency that deals with other vehicle safety issues.

ON EDUCATION AND DRUGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1998

Mr. SOLOMON. Mr. Speaker, there is something missing from the recent education debate . . . and what is missing is President Clinton's record on illegal drugs and its effect on the America's education system.

The media seem to buy the Democrat's claim that they care more about education than do Republicans. What seems to be missing from this debate—or what the media seems willing ignore is the fact that illegal drug use by school age children has doubled since President Clinton took office. Studies show that illegal drug use—including marijuana—robs students of their motivation and self-esteem, leaving them unable to concentrate and indifferent to learning.

There is not a parent in America who sends their children off to school without worrying that they will become exposed to illegal drugs. And it's not just teenagers anymore.

Parents are now concerned about their 6th, 7th and 8th grade children getting involved with illegal drugs. Since 1992, marijuana use has jumped 150% among 12 and 13 year old students and 300% among high school students.

For the first time, more than half of all middle-school students report that illegal drugs are used, kept and sold at their schools.

During the Reagan/Bush years drug use dropped, from 24 million individuals using drugs in 1979 to 11 million in 1992. These hard fought gains were wasted by President Clinton.

The number one reason young people drop out of school is because of their involvement with illegal drugs. In a study conducted among a sample of 9th to 11th graders, more than half of the heavy drug users dropped out—twice the rate of those who are drug free.

Studies also show that students involved with drugs are four times more likely to receive poor grades than are drug free students. The rise in illegal drug use also correlates closely with rising school violence.

Today in America, one third of high school students smoke pot. The message we need to send America's parents and grandparents in the education debate is that President Clinton has earned a failing grade in keeping illegal drugs out of the hands of their school aged children and grandchildren.

You cannot claim to be an education President while ignoring rising illegal drug use in America's schools.

LATIN AMERICA: CHALLENGES TO STABILITY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 20, 1998

Mr. GALLEGLY. Mr. Speaker, as 1998 draws to a close, four countries in the Western Hemisphere bear close observation. Events taking shape in those nations could have a substantial impact on the region's stability, the pace of democratization and the success of economic reform. These nations worth watching include: Brazil, Colombia, Venezuela and Paraguay.

BRAZIL

As the contagion of the ''Asian/Russian'' financial crisis spreads into Latin America, the next three months could be critical to the economic and political stability of the hemisphere. All eyes are currently focused on Brazil and its attempts to stave off the effects of the Asian flu. A major financial downturn in Brazil, the region's third largest economy and the world's ninth largest could spell economic trouble throughout the entire region, including within the United States.

Brazil is by far the most important economy in South America. With a population of 157 million, Brazil's Gross Domestic Product (GDP) stood at approximately $806 billion in 1997. Brazil accounts for some 45 percent of all Latin America's GDP. U.S. banks have some $34 billion in outstanding loans to Brazil and over $100 billion in Latin America. U.S. private investment in Brazil stands at $25 billion and trade between the U.S. and Brazil ranges around $16 billion. Since August, however, Brazil's stock market has plunged 40 percent and its cash reserves have plummeted $30 billion.This, in turn, has forced interest rates up to 50 percent and has resulted in a budget deficit of 7 percent of GNP, twice what it was when Cardoso first took office. Deficit spending has led international and domestic short term investors to pull out of Brazil