

# LOBBY WATCH



★ TEXANS FOR PUBLIC JUSTICE 609 W. 18TH ST., SUITE E, AUSTIN, TX 78701 PH: (512)472-9770 FAX: (512)472-9830

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Go Ask Alice, TX...

...About Gabi Canales

## Lawmakers Hooked On Stimulants Make Fast Money Delaying Justice

### Ephedrine-Related Abuses Trigger Reform Bills

Your elected representative could be under the influence of dangerous stimulants if he or she shows signs of:

- Jitteriness or psychosis;
- Stroke or heart failure;
- Illegally lobbying state regulators to maintain sales of dangerous stimulants; or
- Using legislative perks to delay bringing stimulant peddlers to justice.

In recent years, manufacturers of weight-loss stimulants linked to thousands of serious injuries and deaths have retained at least four Texas legislators. Lawmakers hired by vendors of dangerous ephedrine and fen-phen diet remedies appear to have abused their offices to delay both court cases and regulatory restrictions that target peddlers of these dangerous products.

One of these products repeatedly made national headlines last month, when:

- Baltimore Orioles ephedrine user Steve Bechler fatally collapsed;
- A new RAND study concluded that ephedrine users run elevated risks of psychosis, strokes, heart attacks and deaths; and
- The U.S. government belatedly announced that it will seek limited restrictions on ephedrine sales.

### Defending fen-phen

The other dangerous diet product was taken off the market at the FDA's request in 1997 after research suggested that drug giant American Home Products (AHP) exposed millions of fen-phen consumers to elevated risks of failing pulmonary arteries and heart valves. The company covered up the drug's risks after learning of them, according to an AHP safety manager and the scientist who reviewed this drug's FDA application. Ephedrine and fen-phen are similar to amphetamines or "speed." After fen-phen's recall, some ephedrine peddlers capitalized on this similarity by marketing their product as "herbal fen-phen."

### Lawmakers Delaying Justice For Bad-Drug Victims

Legislator	Drug Boss	Cases Delayed
Rep. Gabi Canales (D-Alice)	Wyeth	3
Rep. Ruben Hope (R-Conroe)	Wyeth	2
Rep. Aaron Pena (D-Edinburg)	Pfizer	1

Last year a federal court approved a \$4 billion settlement between AHP and thousands of injured fen-phen consumers. Thousands of other victims who deemed that settlement inadequate have filed separate lawsuits against AHP, now known as Wyeth. Wyeth recently recruited two state representatives to help defend it from five of these lawsuits in Texas state

courts. While Reps. Gabi Canales and Ruben Hope are attorneys, neither one has much experience with this specialized litigation, which the company says in legal filings involves “highly complex, sophisticated medical and scientific issues.”

Yet the lawmakers do offer Wyeth a valuable legislative perk. Texas law allows legislators who are attorneys of record in a state court case to postpone that litigation while the legislature is in session. Using this perk, Reps. Canales and Hope have postponed all five of their fen-phen cases.

Wyeth reserved its most egregious continuance delay for fen-phen victim Linda Smart’s case in Alice, Texas. A month before this case was to go to trial last December, state District Judge Terry Canales sought to prevent continuance delays by getting lawyers for both sides to agree not to hire any new attorneys. Soon after this promise, Wyeth hired Judge Canales’ daughter, Rep.-Elect Gabi Canales, prompting the judge’s recusal from the case. When a new judge took over, Gabi Canales completed her end-run around her father’s orders by getting a continuance to postpone the Smart trial throughout this legislative session. (Rep. Aaron Pena sought yet another continuance from Judge Canales in February to delay a case alleging that Pfizer’s withdrawn diabetes drug, Rezulin, gave a woman terminal liver disease.)

### Ephedrine’s friends

A huge market for all manner of diet products, Texas received its first reports of ephedrine-linked injuries and deaths in the early 1990s. The Texas Department of Health (TDH) first proposed a ban on non-prescription ephedrine in 1995, shortly before an FDA medical panel did the same. This threat unleashed hardball state and federal lobbying campaigns that have bought the industry eight more years of unfettered ephedrine marketing.

California-based Metabolife is the leader of the \$3 billion- a-year ephedrine industry. Founder Michael Ellis concocted his first herbal ephedrine product soon after his 1988 arrest for housing an illegal methamphetamine “speed” lab in his home. While methamphetamine and ephedrine are chemical cousins, Congress—under industry pressure—has made it difficult to regulate herbal supplements such as ephedrine.

Ephedrine best reveals the folly of this policy. While it accounts for less than 1 percent of all sales of herbal supplements, herbal ephedrine generates 64 percent of all supplement health complaints. These data only now are coming to light. Ellis wrote the FDA in 1998 that Metabolife ephedrine products never generated complaints about “any serious adverse health event.” After the Justice Department announced a 2002 probe

### Texas Under the Influence of Dangerous Stimulants\*

Lobbyist	Stimulating Client	Max. Value of Contract	Min. Value of Contract
John Gregory Hoke	Wyeth	\$150,000	\$100,000
W. James Jonas III	Metabolife	\$150,000	\$100,000
Robert Jones	Pfizer	\$150,000	\$100,000
Kenneth Ardoin	Pfizer	\$50,000	\$25,000
Melody Chatelle	Pfizer	\$50,000	\$25,000
Marc B. Samuels	Wyeth	\$25,000	\$10,000
Allen P. Beinke Jr.	Metabolife	\$10,000	\$0
Jerry B. Donaldson	Pfizer	\$10,000	\$0
Donaldson Family Partnership	Pfizer	\$10,000	\$0
Robert H. Finney	Metabolife	\$10,000	\$0
Lisa Mayes	Metabolife	\$10,000	\$0
Noe Rangel	Metabolife	\$10,000	\$0
Jean Ryall	Pfizer	\$10,000	\$0
Jonathan Snare	Metabolife	\$10,000	\$0
Murray Van Eman	Metabolife	\$10,000	\$0
<b>TOTAL:</b>		<b>\$665,000</b>	<b>\$360,000</b>

\* Data Show Current TX Lobby Contracts.

of an alleged Metabolife's cover-up, his company suddenly released 13,000 complaints, with 80 citing serious injury or death.

Lobbyists now at Loeffler Jonas & Tuggey have headed Metabolife's hardball offensive in Texas. Last year, a Travis County Attorney probe revealed a secret weapon deployed by this lobby team, which retained two state lawmakers who illegally lobbied state officials on Metabolife's behalf. Sen. Jeff Wentworth and then-Rep. Rick Green (whom voters threw out in November) secretly lobbied TDH officials to delay and weaken proposed ephedrine rules (including an over-the-counter ephedrine ban and a requirement that ephedrine products carry an FDA phone number to report health complaints).

Reportedly, Metabolife's illicit lawmaker lobbyists were prepared to accept a deferred prosecution deal that prosecutor Ken Oden suddenly rescinded last month when he accepted a job from another law firm tied to Sen. Wentworth. New prosecutor Ronnie Earle

could revive that deal, in which the Metabolife Two were to admit wrongdoing and forfeit \$150,000 in Metabolife-related fees that they received.

### **Stimulating reforms**

Revelations of legislative abuses on behalf of ephedrine and fen-phen have stimulated long-overdue reform proposals. A seemingly repentant Sen. Wentworth has introduced SB 254, which prohibits legislators from being paid to represent clients before state agencies. Yet this bill's gaping "grandfather clause" would exempt any lobby contracts that lawmakers book before September 2003. Meanwhile Sen. Juan Hinojosa and Rep. Craig Eiland introduced bills (SB 452 & HB 475) to curtail continuance abuses by granting courts greater discretion to deny these postponement requests. Rep. Steve Wolens has introduced a much stronger reform proposal (HB 1606) that would single handedly abolish legislative continuances and prohibit lawmakers from lobbying any state political subdivisions and state agencies.