

## FDA-Investigation, GOP Seeks Probe of FDA Officer

WASHINGTON (AP) A House subcommittee chairman has asked the Justice Department to investigate whether a Food and Drug Administration official lied to Congress when he denied knowing some court documents sent to him were supposed to be kept secret.

The controversy revolves around whether certain types of screws used in spinal surgery are dangerous and the role FDA Deputy Associate Commissioner Mitch Zeller played in looking into the matter.

Congressional Republicans maintain Zeller improperly based his actions on two documents under court seal and that he lied when he testified under oath at a congressional hearing that he did not notice they were secret.

Rep. Joe Barton, R-Texas, asked the Justice Department last week to investigate Zeller for perjury.

Steel spinal screws are supposed to help heal fractures or severe spinal degeneration, but doctors often implant them for less serious back problems. Some 7,000 Americans have filed lawsuits saying the screws broke inside their spines and crippled them with pain.

Last June, lawyers for some of the patients seeking damages mailed Zeller an inch-thick packet of documents alleging possible taint in a study that found the screws safe for certain treatments.

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Two of the documents bore a stamped line indicating they were under court seal. Zeller told Congress last winter he did not notice that until after his investigation had begun. "I don't understand how that constitutes perjury," he said.

In any case, the FDA maintains it has a right to investigate sealed documents if public health is at stake.

Rep. Henry Waxman, D-Calif., conceded Zeller "maybe made a mistake on a technical issue," but insisted the FDA perjury inquiry is just harassment designed to "divert attention from the tobacco industry," which is being investigated on accusations that industry leaders lied to the same House Commerce Committee when they said they do not believe nicotine is addictive.

Responded committee spokesman Mike Collins: "Henry Waxman is blowing smoke. These are serious allegations, and if perjury occurred, the proper action is for the Justice Department to conduct a vigorous investigation."

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