this drug should not be used as advertised. Well, that is history. That is some years ago.

Mr. GORDON. How do you account for that, Doctor?

Dr. CHERKASKY. Well, again you are going to get me into the areas of speculation. Is that permissible in this kind of hearing? It has been said that the advertising parts of the AMA Journal and the professional part don't—they sort of operate independently.

Senator NELSON. Last year the Congress became so concerned about the safety of citizens on the highway that they passed legislation requiring the automobile companies when a defect is discovered in a car, to make public notice of it and to require the dealers to contact all the people who have that automobile in order that the defect may be corrected. Tens of thousands of automobiles were recalled for that purpose. Yet at the same time there is no law apparently that requires the AMA to be sure that the claims made for a very important drug are accurate, and that as a consequence, claims have been made that aren't accurate, and ads which fail to enumerate serious side effects have appeared in the AMA Journal. Doesn't that strike you as a rather ironic circumstance?

Dr. CHERKASKY. Well, it does, and more than that, it is a matter of concern that one of the things that we are constantly faced with is post hoc, after the fact.

It would seem to me that the circumstances that cause the FDA to require the manufacturer to send out a letter to physicians with a whole series of warnings could as easily have been done before the ad appeared.

Ads are in one day and patients are getting it the next day. This is one of the ways that some doctors maintain status, by getting the newest drug the most quickly. In the meantime I will guarantee you people were damaged because this ad ran for a couple of months before the warning letter came out to the physician.

What is the haste? I could see the reason for haste, for example, if we are talking about a drug that is going to cure cancer or some great new discovery that you don't want to withhold and you want to take the chances. I understand that. But in ordinary circumstances before a drug can be widely advertised, the advertisement and the evidence having to do with the drug and its efficacies and its dangers should be reviewed by the FDA, not after the fact.

Senator NELSON. Go ahead, doctor.

Dr. CHERKASKY. We have covered some of the things in my prepared statement so I will just skip. On page 7 I note that Montefiore's formulary covers one-third of the beds in the Bronx and also that we find it necessary only to go outside of our formulary of 400 ethical drugs about 1 percent of the time. I think that is of considerable significance. In other words, with 400 or 500 drugs, you can really cover just about everything.

Mr. GORDON. When a drug is excluded from your formulary would it be fair to conclude that your pharmacy committee has decided that there are better drugs available to treat a particular illness, namely the ones that you put on the formulary?

Dr. CHERKASKY. Or that they are combinations, for example, which are noncontributory. Let me point out something that I think is a little amusing. There is a drug called Fiornal, which is used for headache. The drug was developed at Montefiore Hospital. In fact the name