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***The NRLN advocates the rights of more than 2 million American retirees from...***

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February 15, 2017

The Honorable Tom Price, Secretary  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Price:

On behalf of the more than 2 million retirees and future retirees in all 50 states represented by the National Retirees Legislative Network (NRLN), I want to congratulate you on becoming Secretary of the Department Health and Human Services. We recognize the tremendous responsibility you now have for Americans.

Since the formation of the NRLN in Washington, DC in 2002, the NRLN has been an advocate for the preservation of pensions, Social Security, Medicare and reducing the cost of health care, particularly the ever-increasing cost of prescription drugs. It is the protection of Medicare and the need to reduce the cost of prescription drugs, two of President Trumps commitments to Americans, that I want to address with you in this letter.

First, I want to focus on what is within your authority to accomplish. In 2003, a year before you were elected to the U.S. House of Representatives, the 108th Congress passed and the President signed Public Law 108-173 in December 2003. This law gave the Secretary of Health and Human Services the authority to set regulations for the importation prescription drugs from Canada.

As a former orthopedic surgeon, you certainly understand the hardships being caused to millions of Americans by unaffordable prescription drugs. I implore you to exercise your statutory power to reduce the price of prescription drugs by sanctioning the importation of safe lower cost drugs from Canada.

Under TITLE XI – Subtitle C – Importation of Prescription Drugs, Sec. 1121, there are the following provisions:

“(3) DRUGS IMPORTED FROM CANADA

—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

“(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

There is a further statute that states:

“(b) REGULATIONS

—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

The law even includes:

“(m) AUTHORIZATION OF APPROPRIATIONS

—There are authorized to be appropriated such sums as are necessary to carry out this section.’

You possess the necessary authority to implement the importation of prescription drugs from Canada - in fact, HHS action is long past due.

### **Broad Support for Drugs from Canada**

The polling of Americans has shown that a majority of the public supports the importation of safe and less expensive drugs from Canada. In an article published in July 2015 in the journal Mayo Clinic Proceedings, more than 100 prominent oncologists called for support of a grassroots movement to stem the rapid increases of prices of cancer drugs, including by letting patients import less expensive medicines from Canada and Medicare negotiate prices with pharmaceutical companies.

### **Examples of Canada’s Lower Prices**

The Wall Street Journal, in a December 1, 2015 article, reported that drug prices in the U.S. are shrouded in mystery, obscured by confidential rebates, multiple middlemen and the strict guarding of trade secrets. But for certain drugs—those paid for by Medicare Part B—prices are public. Here are a dozen examples from the study to show how much less the drug price is in Canada compared to the USA. (The package size/dose are the same.)

<b>Drug</b>	<b>Use</b>	<b>USA</b>	<b>Canada</b>	<b>Difference</b>
Jevtana	Prostate Cancer	\$8,659	\$4,618	\$4,041
Tysabri	Multiple Sclerosis	\$4,842	\$2,573	\$2,269
Rituxan/Mab Thera	Rheumatoid Arthritis	\$3,678	\$1,820	\$1,858
Cimzia	Crohn’s Disease	\$2,357	\$1,058	\$1,299
Eylea	Macular Degeneration	\$1,930	\$1,129	\$ 801
Lucentis	Macular Degeneration	\$1,936	\$1,254	\$ 682
Halaven	Breast Cancer	\$1,003	\$ 389	\$ 614
Abraxane	Cancer	\$ 968	\$ 426	\$ 542
Orencia	Rheumatoid Arthritis	\$ 881	\$ 390	\$ 491
Herceptin	Breast Cancer	\$ 858	\$ 493	\$ 365
Xolair	Asthma	\$ 852	\$ 487	\$ 365
Erbix	Colorectal Cancer	\$ 527	\$ 278	\$ 249

### **American Are Subsidizing Foreign Countries**

The need for importation arises in large part because U.S. drug companies sell into Canadian, European and other foreign markets where arbitrarily low pricing is set (price setting) by socialized health care systems. American drug makers should either eat all their losses or not sell at a loss in these markets. They should not, however, cross-subsidize by overpricing in America. If they can’t compete, then they should exit these markets or seek trade assistance. Overcharged Americans are subsidizing prescription drugs in socialized medicine countries. This is supporting socialized medicine in foreign countries and is feigning free market beliefs while effectively shipping purchasing power and federal tax revenue to socialized countries.

## **NRLN Survey on Canadian Drug Importation**

In September 2015, the NRLN did an online survey of its members in 16 northern border-states aimed at just Canadian drug importation. Of the 1,701 members who responded, some fearing to respond despite a guarantee of anonymity, 169 admitted to buying drugs from Canada. Those who did claimed significant savings: 64% who purchased brand label drugs saved 41% or more, 44% saved over 50%, and 66% who bought generic drugs saved 41% or more with 54% claiming over 50% savings.

## **U.S. Spending on Rx Reached \$424.8 Billion**

Total spending on prescription drugs in the U.S. reached \$424.8 billion in 2015 (2016 results not yet available), an increase of 12.2 percent from 2014, according to a report from the IMS Institute for Healthcare Informatics. The rate of inflation in the U.S. in 2015 was 0.7 percent, yet the increase in spending on prescription drugs was up 12.2 percent in 2015.

According to CMS.gov, Medicare Part D spent \$137.4 billion on prescription drugs in 2015, up from \$121.5 billion in 2014. Medicare Part B spent \$24.6 billion on prescription drugs in 2015, up from \$21.5 billion in 2014. The average annual growth rate in total Medicare spending on prescription drugs was 4.4% between 2010 and 2015. Unless Medicare takes corrective action, such as competitive bidding on drug prices, it is projected the annual growth rate in spending will be 7.1% between 2015 and 2025.

## **Brand-Name Drug Prices Increase 92 Percent Since 2011**

According to Express Scripts Holding Co., the largest U.S. prescription benefit manager, there was a 16.2 percent increase in the average price of brand-name drugs already on the market in 2015, with an increase of 98.2 percent since 2011. Price-increases exceeding 20 percent were reported for one-third of brand-name prescription drugs in 2015.

Major drug firms raked in an **additional \$25.6 billion** (gross) in 2015 simply by raising prices on their brand-name drugs, according to a recent report by the IMS. The firm estimates that figure to grow to **\$155 billion** over the next five years, unless the Administration and Congress take action to prevent the increase.

The drug industry doesn't play by the same rules as any other market, where exorbitant prices dissuade customers, says Kevin Riggs, M.D., a researcher at the Johns Hopkins University, where he focuses on health care costs. "A drug company can increase the price of a product many times over, and people will still buy it because they need it," he says. "At the end of the day, they largely charge whatever the market will bear—and with lifesaving medication, that's a lot."

## **HHS Should Exercise "March-in-Rights"**

On Jan. 11, 2016, 51 U. S. Representatives signed a letter to the previous HHS Secretary urging her to utilize the National Institutes of Health (NIH) to exercise existing statutory authority to respond to the soaring cost of pharmaceuticals. Secretary Burwell responded to the Representatives' letter on March 2, 2016, declining the request that NIH use its statutory "march-in rights" to break a drug patent when the drug is not "available to the public on reasonable terms," a definition the Representatives argued could be used to fight high drug prices. The NRLN urges you to instruct NIH to apply its statutory power to help bring down the cost of drugs that its research had a role in developing. The NRLN is watching to see whether this statutory authority is utilized or whether the interests of pharmaceutical companies will continue to be protected and not consumers.

## **Summary on Prescription Drugs**

Drug Prices: It is redundant and wasteful to argue that drug prices are not out of control or that it is just life-saving high-price drugs that are rising much faster than the cost of living. The ever-increasing prices for generic drugs is a large part of the problem. Truly, drug companies are taunting and bullying Congress, HHS and all Americans. It is time for action - not more price study or slow rolling party politics.

All Americans: Are entitled, by the law cited above, to your taking immediate action to allow them to purchase prescription drugs from Canada under the terms of this law. They have a right to purchase FDA approved drugs made under the control of FDA quality standards and inspections.

THE FDA: We have met with the FDA and the evidence indicates that they have been able to manage the border and international mail centers for drug quality, labeling and compliance with prescription authorizations and purchase quantities imported from Canada.

HHS/CMS: CMS is responsible for maintaining records of qualified Canadian pharmacies and distributors and can easily certify others with FDA help and register online providers and their Canadian registered sources. While there will always be those who try to work around or violate the law, this should not prevent you from using your authority to help the millions of purchasers of prescription drugs and the American economy.

Insurers: Legislation may be needed to force insurers to authorize Canadian or other importation, but that in no way should preclude the right of individuals under the law cited above to purchase them as long as they comply with existing laws. After all, insurers have no obligation to sell below market price while millions of Americans, retirees included, are in the Medicare D “doughnut hole”. Canadian drug purchases should count as “doughnut-hole” purchases.

HHS and Your Office: There is no valid reason to prevent HHS from implementing importation from Canada. If HHS sees any, we would like to hear very cogent plans to break down all barriers to achieve the goal, not reasons why it can't be done today. I assure you we will help in any way we can.

### **HHS Secretary Can Make a Difference**

Prescription Drug pricing is irrational and as Secretary of HHS you have the power to make a difference by permitting individuals, pharmacists and wholesalers to import prescription drugs from Canada into the United States. The price gouging of Americans for prescription drugs must be curtailed before drug costs become the most critical burden on our U.S. economy and its ability to grow. There is a difference between drug price and cost at all levels and costs are not driving pricing, greed is.

We do not believe that certain high priced patented drugs that solve life threatening and chronic diseases lend themselves to a competitive bidding scheme but that special action is necessary to rid the market of predatory attitudes and price gouging through other methods. On the other hand, when two or more brand or generic prescription drugs will cure or arrest the same diseases, Medicare must be able to place the purchasing of these drugs through a competitive bidding process. This does not mean a winner take all process, two or more suppliers can be awarded business based on price, quality, service or other factors as happens in industry using this time proven model. Medicare should also be able to create and publish its own formulary.

The NRLN encourages you to become an advocate for President Trump's desire for legislation to allow Medicare to negotiate prescription drug prices. Passage of S. 41 and H.R. 242 Medicare Prescription Drug Price Negotiation Act, would be greatly beneficial to current and future Medicare beneficiaries.

### **HHH Secretary Must Be Medicare's Guardian**

I would be remiss to the NRLN's membership if I did not acknowledge that when you were a Congressman, you were an advocate for the “premium support” plan which would lead to the privatization of Medicare. The NRLN believes, as the CBO's reported, when the “voucher” plan was introduced in the House in 2011, turning Medicare over to private insurance plans would result in seniors paying twice as much for their care, would raise administrative costs and would not keep medical inflation as low as traditional Medicare has done.

I urge you to be a guardian of President Trump's pledge to protect Medicare by opposing any efforts in the House and/or Senate to change Medicare to a "voucher" plan that would destroy Medicare as it has served seniors for more than 50 years.

I and members of the NRLN have an understanding of the prescription drug issues. Many of us know how to manage business processes to reduce costs and deliver high quality for FDA approved prescription drugs. We hope you will listen to our suggestions and if we can be of further service please contact me.

Sincerely,

Handwritten signature of Bill Kadereit in black ink.

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