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**Congress of the United States**  
**U.S. House of Representatives**  
**COMMITTEE ON WAYS AND MEANS**  
WASHINGTON, DC 20515

SUBCOMMITTEE ON HEALTH

**Interference with History**  
January 29, 2004

Dear Colleague:

The Medicare Prescription Drug, Improvement and Modernization Act includes a provision that prohibits the Secretary of Health and Human Services (HHS) from negotiating drug prices. Some Democrats have loudly criticized this provision and even claimed it was "slipped in at the last minute" and will increase drug costs for seniors.

These allegations are baffling! "Non-interference" language has been in Democratic and bipartisan legislation since 2000.

Last June, when the Senate passed their prescription drug bill (S. 1), more than three quarters of the U.S. Senate, including 70 percent of the Democratic caucus voted in favor of it, and it included non-interference language, prohibiting the HHS Secretary from negotiating drug prices for Medicare seniors. An identical non-interference provision was contained in legislation introduced by the Senate Democratic Leader in 2000 (S. 2541, 106<sup>th</sup> Congress). In addition, the 2000 Stark motion to recommit that was supported by 203 House Democrats and one Independent also included the non-interference provision.

Non-interference language has been in Democratic and bipartisan language for good reason. In a letter written January 23 to Majority Leader Bill Frist, CBO states:

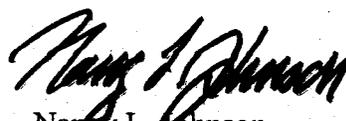
"We estimate striking that provision (preventing interference in price negotiations) would have a negligible effect on federal spending because CBO estimates that substantial savings will be obtained by the private plans and that the Secretary would not be able to negotiate prices that further reduce federal spending to a significant degree. Because they will be at substantial financial risk, private plans will have strong incentives to negotiate price discounts, both to control their own costs...and to attract enrollees with low premiums..."

Indeed, according to CBO estimates, private plans will save seniors more on drug prices (20 to 25%) than a government run "fall back" (12.5%) because private plans have both the tools and incentives to negotiate lower prices. In addition, the new law is supported by the Generic Pharmaceutical Association because it speeds market entry of less-expensive generic drugs.

Another reason the non-interference language has been included in most major Medicare reform efforts is that it prohibits the government from excluding a particular drug from a plan's preferred drug list. Past experience has shown that when government gets involved in making these decisions, people lose access to necessary drugs. This is happening in states across the country where Medicaid programs are restricting access to popular drugs and limiting the number of prescriptions in an effort to save money. The non-interference provision ensures that the federal government stays out of seniors' medicine cabinets.

The bottom line is that this new law will, for the first time, provide prescription drug coverage to seniors at remarkably lower prices. The public deserves a forthright and honest discussion of this legislation that significantly modernizes Medicare. It is my hope that those who oppose the bill will make arguments consistent with their voting record and that reflect a greater commitment to a bipartisan consensus that has developed over a number of years around the delivery mechanism to reduce drug prices for seniors.

Sincerely,



Nancy L. Johnson  
Chairman, Health Subcommittee  
Committee on Ways and Means