

Congress of the United States
Washington, DC 20515

January 28, 2010

The Honorable Barack Obama
President
United States of America
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Obama:

You have been a long time supporter of allowing Americans to purchase drugs from other countries. In fact, when you represented the State of Illinois in the United States Senate you co-sponsored S. 242, legislation providing for the importation of prescription drugs from countries like Canada. As a Presidential candidate, your health reform plan would have allowed importation of prescription drugs. As a candidate for President you stated, "We'll tell the pharmaceutical companies 'thanks, but no, thanks' for the overpriced drugs – drugs that cost twice as much here as they do in Europe and Canada."¹

Given your lengthy and unequivocal support for the importation of prescription drugs in the past, we are confused by your Administration's recent actions on this issue. In the first major test of prescription drug importation policy in your Administration, when a repeated campaign promise could have been upheld, your Food and Drug Administration (FDA) expressed, in a letter, concerns about Senator Byron Dorgan's amendment to the Senate Democrats' health care legislation. This amendment was identical to the bill you cosponsored as a Senator, which would have allowed for the importation of prescription drugs from Canada and other approved countries. It was also same bill you touted repeatedly while on the campaign trail.

It appears a backroom deal with the pharmaceutical industry lobbyists may have led to this dramatic policy shift, as the FDA letter was released one day after a reported meeting at the White House with the Pharmaceutical Research and Manufacturers Association (PhRMA) and AARP. In the secret meeting, we are told, PhRMA was asked to sign off on at least \$20 billion in additional cuts on top of the already \$80 billion in cuts slated for the companies they represent. Previously, PhRMA's head lobbyist, Billy Tauzin, said they were told by your Administration, "We need somebody to come in first. If you come in first, you will have a rock-solid deal." As a result of your dramatic 180-degree turn-about on importation, PhRMA may well have a "rock-solid" deal in this health care bill, but the American people do not.

As further evidence that positions on Senator Dorgan's amendment may be shaped by the backroom deal between your Administration and PhRMA's special interests, 23 Democratic Senators reversed their previous voting record on importation and voted to oppose Senator Dorgan's

¹ Senator Barack Obama, Speech at Newport News, VA (October 4, 2008) (transcript available online at http://www.barackobama.com/2008/10/04/remarks_of_senator_barack_obam_129.php).

amendment. To date, PhRMA remains supportive of the Senate-passed health care legislation, which, to their advantage and reportedly consistent with the backroom deal made between your Administration and PhRMA lobbyists, does not include rebates for Medicare Part D nor does it allow for the importation of prescription drugs.

As your Administration and Senate and House Democrats continue to meet in secret behind closed doors to negotiate the final health care bill, it is critical that lawmakers and the American people they represent know the deals that were struck to secure passage of the Senate bill and the backroom deals that are currently being made in the attempt to merge the House and Senate bills and how those deals will impact citizens' health care. As you stated at a town hall meeting back in August of 2008,

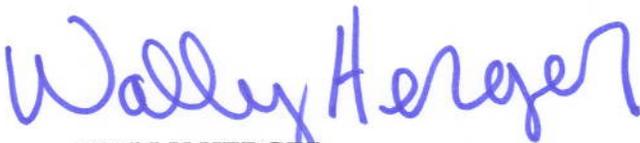
"I'm going to have all the negotiations around a big table. We'll have doctors and nurses and hospital administrators. Insurance companies, drug companies -- they'll get a seat at the table, they just won't be able to buy every chair. But what we will do is, we'll have the negotiations televised on C-SPAN, so that people can see who is making arguments on behalf of their constituents, and who are making arguments on behalf of the drug companies or the insurance companies. And so, that approach, I think is what is going to allow people to stay involved in this process."

Mr. President, it's not too late to get everyone around a big table, to get C-SPAN to televise these secret negotiations, so that, as you said, "people can see who is making arguments on behalf of their constituents, and who are making arguments on behalf of the drug companies."

While each of us holds different views on the importation of drugs, we are in strong agreement that the American public deserve transparency in policy debates, especially on issues as important as health care. The public has a right to know whether or not policy decisions are being dictated by closed door deal making with Washington lobbyists or whether some new evidence or policy rationale is behind the change in your Administration's importation policy.

As such, we respectfully request that you explain whether or not you agree with FDA's position on importation, as outlined in their December 8, 2009, letter to Senator Brownback. If you do agree with the FDA, please explain how this sudden change in your position is the change you promised to millions of Americans last fall. Additionally, did you, or any Administration employee, have a conversation with any Senate Democrat or member of their staff, asking that the Senator reverse his/her stance on importation and vote against the Conrad amendment? Please respond, in writing, to these questions by February 5, 2010.

Sincerely,



WALLY HERGER
Ranking Member
Ways and Means Subcommittee on Health



KEVIN BRADY
Ranking Member
Ways and Means Subcommittee on Trade