

**STATEMENT OF CONGRESSMAN GIL GUTKNECHT
HOUSE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON HUMAN RIGHTS AND WELLNESS**

HEARING OF July 17, 2003

PANEL ONE

Mr. Chairman, members of the Committee, thank you for offering your colleague the opportunity to testify. Although I have been working on the issue of opening American pharmaceutical markets for over four years, this is the first time I have been invited to testify on the issue.

The United States of America has a captive pharmaceutical market. American consumers, American retailers-pharmacists- and American wholesalers have not been permitted to access pharmaceutical markets abroad. No other product distributed in the United States is subject to such a blanket import ban. As we know, closed markets keep prices artificially high and cause great price disparities with other markets. The captive American pharmaceutical market has logically resulted in outrageously high pharmaceutical prices as compared to the rest of the world.

To rectify these intolerable and unjust circumstances, I have offered H.R. 2427, The Pharmaceutical Market Access Act. Allow me to provide a brief summary of the bill:

Under the Pharmaceutical Market Access Act, the FDA must design and implement a system to grant individuals, pharmacists and wholesalers in America access to FDA-approved drugs from FDA-approved facilities in industrialized nations abroad.

Those countries are limited to: the European Union, Australia, Canada, Iceland, Israel, Japan, Lichtenstein, New Zealand, Norway, Switzerland, and South Africa. Note: Mexico is NOT included.

The Pharmaceutical Market Access Act strengthens America's commitment to maintaining the safest pharmaceutical drug market in the world. This bill requires all prescription drugs produced at home and abroad to use counterfeit-resistant packaging, similar to the technology used by the U.S. Department of the Treasury. If the technology is good enough to secure U.S. currency, it's good enough to secure our pharmaceutical chain-of-custody.

The Pharmaceutical Market Access Act contains language written by the legal team at FDA that requires wholesalers to test each pharmaceutical shipment, unless the packaging uses counterfeit-resistant technology. The FDA's strict language was written

to provide for the safety of imported pharmaceuticals from anywhere in the world.

The Pharmaceutical Market Access Act strictly prohibits anyone from importing pharmaceutical narcotics, such as OxyContin.

The Pharmaceutical Market Access Act requires the FDA to implement this program within 180 days of enactment. This frees Americans from an environment where patients forgo pharmaceutical treatments, at risk to their own health, because their prescriptions are too expensive.

The Pharmaceutical Market Access Act recognizes that unaffordable prescription drugs do nothing to improve the health of American consumers. That is an unsafe situation. The bill amends Section 804 of the Federal Food Drug and Cosmetic Act (21 U.S.C. 381) by striking language which requires the Secretary of Health and Human Services to certify that imported drugs pose “no additional risk” to Americans under a market access regime. By contrast, the Secretaries of HHS and USDA are not required to certify “no additional risk” for fruits and meats—food borne pathogens claim thousands of lives each year in the United States. HHS and the USDA have never suggested banning the importation of food. The Pharmaceutical Market Access Act removes this weak language from pharmaceutical legislation and relies on technology and more aggressive safety testing to provide real protections for Americans.

The American people, Mr. Chairman, understand the injustice of our captive pharmaceutical markets. Small businesses have difficulty hiring new employees because they can't afford to provide health insurance. Seniors are forced to cut pills in half or skip meals. Moms and dads struggle to meet the basic health care needs of their children. Prescription drug prices increase 4-5 times the rate of inflation.

The Administration and Congressional leadership, in an attempt to address some of these concerns, is proposing a prescription drug benefit under Medicare. Later this week, the House will bring the Prescription Drug and Medicare Modernization Act of 2003 to the floor. Unfortunately, this legislation does little to address the driver of rising health care costs: outrageous prescription drug prices.

I hope I'm wrong, but I am afraid the proposed benefit may only make a bad situation worse. With 40 million Baby Boomers set to retire in the next 20 years, a benefit that fails to address the price side will result in staggering deficits or dramatic tax increases – or both. If tax cuts are supposed to stimulate the economy today, what will be the effect of massive tax increases in coming years?

We must at least pass an amendment similar to my Pharmaceutical Market Access Act. Colleagues from across the political spectrum have co-sponsored this common sense measure allowing American consumers to import FDA-approved prescription drugs from FDA-approved facilities in 25 industrialized countries.

No one disputes that Americans pay 30 to 300-percent more for the same prescription drugs as our counterparts around the world. I have no problem helping our friends in sub-

Saharan Africa, but I do have a problem with American consumers subsidizing the starving Swiss.

On a recent trip to Germany, I purchased 10 of the most commonly prescribed drugs from the airport pharmacy in Munich. The total cost of these ten prescription drugs in Munich was \$373.30. Those same drugs cost a whopping \$1,039.65 in the United States.

These price disparities are not isolated to a few drugs. My 86-year old father takes Coumadin, a commonly prescribed blood thinner. A 30-day supply of Coumadin costs \$89.95 in the United States, but only \$21.00 in Germany. Tamoxifen, a miracle breast cancer drug that was developed almost entirely with American taxpayer dollars, costs \$360.00 in the United States, but only \$60.00 in Germany. This, unfortunately, is the rule, not the exception.

According to the Congressional Budget Office, seniors alone will spend \$1.8 trillion on prescription drugs over the next ten years. Proponents of the prescription drug benefit claim the cost will not exceed the \$400 billion set aside. Does anyone believe we will solve a \$1.8 trillion problem with a \$400 billion solution?

The history of federal entitlements teaches that costs will escalate. For that matter, considering it is an entitlement and has no fixed budget, does anyone believe it will cost less than \$1.8 trillion? In fact, according to Texas A&M's Social Security and Medicare Trustees/Private Enterprise Research Center, the new drug benefit will cost a whopping \$7.5 trillion.

What's worse, included in the entitlement are the wealthy. In a time when we are facing record deficits, is it wise to provide a prescription drug benefit for Ross Perot? Providing a generous universal subsidy to retirees regardless of how wealthy, is bad public policy.

We simply cannot afford to pass a prescription drug benefit without considering costs. Without competitive pressure, the giant pharmaceutical companies may well shift savings from any discounts given to Medicare onto the backs of businesses, the underinsured and the uninsured. One way to keep costs in check is to open markets.

Unless House leadership addresses the outrageously high prices of prescription drugs, I may have to vote 'no'. This is a matter of generational fairness for our kids and grandkids. And it's a matter of giving seniors *real* reform that provides *affordable* prescription drugs for all Americans.

Large pharmaceutical manufacturers like GlaxoSmithKline (Glaxo) have long been charging American consumers substantially more, in some cases up to 5 times as much, for their prescription drugs sold in the United States than in Canada and other industrialized countries. American consumers are fed up. They are finding importation to be a viable alternative to paying the outrageous mark-up costs.

To close, allow me to submit the statement of a fellow Minnesotan. Kate Stahl is 84 years-old and wears a name tag which reads, “Kate Stahl, Old Woman”.

“Eight years ago, in October of 1995, my husband Jim and I took the first Minnesota Senior Federation bus trip to Winnipeg, Canada. Jim was taking medications for his heart condition and CLPD at the time, and the prices were quickly becoming unaffordable. Although the prospect of a seven-hour trip to Winnipeg was daunting, we found that we could save enough money on his medications to pay for the trip for both of us, and still have enough money left over to make it worthwhile. It turns out that we did so well with Jim’s drug prices on that trip that in the spring of 1996 we took the second Minnesota Senior Federation bus trip to Canada.

In the years that followed, a number of Minnesota Senior Federation members and I realized that for many seniors, taking a bus trip to Canada would be both physically and geographically prohibitive. So we developed a program through which seniors could import prescription drugs by traveling to their doctor’s office rather than to Canada. In January of this year the Minnesota Senior Federation introduced its Prescription Drug Importation Program, in which participants have been saving an average of 40 to 60% on their drug costs.

Unfortunately, current federal laws regarding drug market access are ambiguous. It is therefore conceivable that an American senior who imports her medications from Canada, because that is the only way she can afford them, could be prosecuted by the federal government. Imagine that!

I’ll be making a drug-buying bus trip to Canada in a few weeks. It would be wonderful to have this old lady arrested and put in jail for breaking the law. Just imagine, this frail old lady forced to buy her prescription drugs in Canada because her American government found it more profitable to legislate on behalf of the pharmaceutical industry.

This is why Representative Gutknecht’s Pharmaceutical Market Access Act is so crucial to seniors in this country, and to anyone else who struggles with the prices of prescription drugs. I would urge all members of Congress to support this legislation.”

Mr. Chairman, Kate Stahl is a patriot like those who dumped tea in Boston harbor, exercising their rights as the “people”. When Americans risk arrest by leaving their country to save 30%-1000% on their pharmaceuticals, they are speaking to their representatives. Kate Stahl said, “I would like nothing more than to be put in jail.” It is time, Mr. Chairman, we listened.