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**International Prescription Drug Parity**

**Testimony before the House Committee on Government Reform**

**Subcommittee on Human Rights and Wellness**

**Robert M. Hayes, President**

**Medicare Rights Center**

**Washington, D.C. Office:**

1875 Eye Street, NW, 12<sup>th</sup> Floor  
Washington, DC 20006  
Tel: 410-375-6171  
Fax: 410-752-3292

**Baltimore Office:**

301 Warren Avenue, # 400  
Baltimore, MD 21230  
Tel/Fax: (410) 752-3292

**April 3, 2003**

Good afternoon, Mr. Chairman, Committee members. My name is Robert M. Hayes, and I am the President of the Medicare Rights Center.

The Medicare Rights Center (“MRC”) is the largest independent source of Medicare information and assistance in the United States. Founded in 1989, MRC helps older adults and people with disabilities get good affordable health care. Day in and day out we work to assist people with Medicare access needed health care. Tens of thousands of callers use our help-lines annually, and the greatest and gravest unmet need of older and disabled Americans is the unavailability of affordable prescription medicine. From the trenches in which we work, Mr. Chairman, the unaffordability of prescription medicine is a national emergency.

Today, the importation of comparatively affordable medicine from Canada is literally saving the lives of Americans who otherwise would go without the medicines their doctors prescribe. Of course, we all know that easing access to lower-priced prescription drugs imported from Canada is not the comprehensive and intelligent response that this national emergency requires. But, keeping this lifeline open is vital to the health security of hundreds of thousands of American people.

### **The Medicare Rights Center**

The Medicare Rights Center is a not-for-profit consumer service organization, with offices in New York, Washington, Baltimore, Iowa and New Hampshire. Its mission is to ensure that older and disabled Americans get good, affordable health care. Through national and state telephone hotlines, casework and both professional and public education programs, MRC provides direct assistance to people with Medicare from coast to coast. MRC also gathers data on the health care needs of the elderly and disabled Americans that we serve. We share that data with researchers, policy makers and the media. Just one of MRC’s services, its New York State Health Insurance Assistance Program, offers counseling support to one out of every 14 Medicare recipients in the nation. Each year, the Medicare Rights Center

receives some 70,000 calls for assistance from people with Medicare. By far, the greatest number of callers are seeking help in finding ways to pay for medicines that their doctors have prescribed.

The Medicare Rights Center is supported by foundation grants, individual donations and contracts with both the public and private sectors. We are consumer driven and independent. We are not supported by the pharmaceutical industry, drug companies, insurance companies or any other special interest group.

Mr. Chairman, there is a national emergency facing millions of elderly and disabled Americans who cannot afford to pay for the medicine they need. I realize this is not news to you, not news to this Committee, not news to the Congress. I know that I do not have to tell this Committee that countless Americans will die prematurely this year for lack of needed medicine. I thank the tri-partisan membership of this Committee for its work to mitigate this national emergency. And I thank you, Mr. Chairman, for inviting the Medicare Rights Center to testify this afternoon on behalf of those people with Medicare who call our hotline desperate for help.

### **The Unmet Need For Prescription Drugs**

As we know, all Americans – consumers, employers, leaders of state and local governments -- are struggling to keep up with the rising costs of prescription drugs. For older Americans, the situation is dire. The data is clear: Seniors are spending more than ever on prescription drugs.<sup>i</sup> This is not just because prescription drugs are playing a greater role than ever before in health care. The prices charged for prescription drugs have risen astronomically -- *at least in the United States*. Again, the data is clear: Prescription prices, *in the United States*, rose at more than six times the rate of inflation in 2001.<sup>ii</sup> While the pharmaceutical industry has struggled, along with the rest of the global economy over the past two years, its return on investment has exceeded all other industries. According to a *Fortune Magazine* survey of Fortune 500 companies, in 2001, pharmaceutical companies had a return on revenue (indicator of profitability) that was eight times more than the median for all top performing industries. Pharmaceutical manufacturers' return on revenue in 2001 was 18.5 percent versus 2.2 percent for all Fortune 500 companies.<sup>iii</sup>

It is fair to say that executives of the great multi-national drug companies have met their fiduciary duty to maximize shareholder return from their work. Generally, they have been richly rewarded for their efforts. But those same efforts have created increased hardship for the consumer. In 2003, the typical person with Medicare will spend nearly \$1,000 out of her own pocket on prescription drugs and another \$2,200 on health care costs that Medicare does not cover. That's 22 percent of her annual income.<sup>iv</sup> Needless to say, millions of people will end up forgoing necessary

medications. Obviously, the hardship on the sickest 20 percent of seniors—more than eight million Americans—who are battling significant illness and disease can be insurmountable.

*“Prescription Drug Benefit”*

I have little doubt that everyone in this room, and just about everyone in the Congress, is in favor of adding a “prescription drug benefit” to Medicare. But we have to admit that few words in the English language carry less meaning on Capitol

Hill than the term “prescription drug benefit.” To some members of Congress, a prescription drug benefit means a comprehensive program that will make needed prescription drugs affordable to all elderly and disabled Americans. To some members of Congress, a prescription drug benefit means a modest extension of Medicaid. To the White House, a prescription drug benefit is a lure to privatize Medicare. To some experts, that White House prescription drug benefit is “the kind of proposal the pharmaceutical companies would write if they were writing their own bill.”<sup>v</sup> To some leaders of the pharmaceutical industry, including representatives of that industry who are here today, a prescription drug benefit is any program that will preserve the pricing structure that has left American consumers paying the highest prices on the planet for prescription drugs.<sup>vi</sup>

We at the Medicare Rights Center are often in the heart-breaking position of being unable to assist callers in need find affordable prescription drugs. We do everything we can to advise consumers – we research state prescription programs, veterans’ benefits, supplemental insurance programs, discount cards, free samples, private company programs, family foundations, mail order houses, internet pharmacies, the kindness of strangers, and just about anything else our creativity and diligence can uncover.

In the 1930’s George Orwell wrote of the British tradition of tramping.<sup>vii</sup> To secure a bed for a night, homeless men of that era were forced to move, to tramp from town to town, to demonstrate genuine need. That tradition seems to reflect public policy in the United States in 2003, not so much now for the nation’s homeless poor, but for the elderly who live on a modest, fixed income. Need medicine? We say try welfare, collect discount cards, call your children, borrow from neighbors, beg your doctors for samples, cut pills in half, shake a tin cup to the multi-national corporations that have selected discount programs. We say, “We can’t be sure, but maybe someone, something, somewhere, will help you.” This forced march for older Americans, of course, often leads nowhere. It would be a tough march under any

circumstances. It is an especially cruel march for men and women at their most vulnerable: they are old; they are needy; and they are sick.

### **Legislative Harm Reduction**

I think it's fair to say that this Committee today finds itself, legislatively, in the same situation that our volunteer counselors work in. We do what we can with what we have, however inadequate. You are addressing, soberly and responsibly, how to bring affordable medicine across our northern border. I realize that no Republican and no Democrat and no Independent thinks this is any solution to the national emergency facing older Americans. But the policies being considered by the Committee, like the patchwork efforts of our volunteer counselors, are worthy because they will reduce unnecessary human suffering, cut needless premature death. Scare tactics should not be allowed to undermine so decent a goal.

This is all prelude to stating the support of the Medicare Rights Center for Congressional action to allow the safe importation of drugs from Canada. Importation is a prudent, and in some cases, a life-preserving public policy. This support in no way lessens our regret that our federal government has failed, year after year, to enact a comprehensive drug benefit and to enforce market conditions that would drive the prices of prescription drugs paid by Americans down the levels paid by the rest of the developed world.

#### *People Matter*

That being said, allowing the re-importation of prescription drugs from Canada would suddenly, without adding a penny to President Bush's deficit, make many needed medicines affordable to United States citizens who would otherwise go without. Allowing personal importation from reputable, licensed Canadian pharmacies helps too. And stopping multi-national drug companies from bullying Canadian pharmacies away from U.S. customers helps too. Bit by bit, real people are helped. These are just two of the people who do benefit, who will benefit, from these policies. I use their names with their permission. I hope you, and others, will hear from them directly.

Frances Cardille is a 74-year-old woman who lives with her husband in Suffolk County, New York. She has been relying on a Canadian pharmacy for Evista, a brand-name estrogen replacement therapy, medication that she has been taking under doctors' orders for eight years due to severe bone loss. She was spending more than \$200 for a 90-day supply of the medication at her local pharmacy; now she pays \$77 for the same prescription. I do not know how much

lost profit that costs Eli Lilly, the manufacturer of Evista. I do know what this found money means to the quality of life for the Cardille's who earn \$25,000 annually -- with 75 year-old Mr. Cardille's income earned working as a janitor in a local supermarket. The golden years.

Then there is Vi Quiron, a 76-year-old retired shirt factory worker from Waterville, ME. She suffers from ovarian cancer and a gastrointestinal condition. She lives on a fixed income of \$12,000 per year. Because she has no prescription drug coverage, once every few months, Ms. Quiron joins a bus trip to Canada organized by the Maine Council of Senior Citizens. There, she purchases her supply of Prilosec, medicine for severe acid reflux. The trip is a healthy social outing, but more important, by going to Canada, Ms. Quiron saves \$2,000 per year on the cost of Prilosec.

#### *Importation Laws*

As you know, the Food and Drug Administration has traditionally allowed individuals in the United States to import a 90-day supply of pharmaceuticals for their personal use. Technically, the 1987 Prescription Drug Marketing Act ("PDMA") makes it illegal for anyone, other than a pharmaceuticals company, to import drugs into the U.S. Congress should amend the PDMA, authorizing individuals to import from Canada – whether by mail, internet or visit – prescription drugs for personal use.

More significantly, Congress should take the lead in authorizing the re-importation of prescription drugs from Canada. As you know, the 106<sup>th</sup> Congress enacted the Medicine Equity and Drug Safety ("MEDS") Act, which established a program to allow pharmacies and wholesalers to import prescription drugs from abroad. Importation was only permitted once the Secretary of Health and Human Services ("HHS") certified that implementation of the act posed no additional risk to public health. There has been bi-partisan inaction by the executive branch on this certification process. Many claim that politics, not public health, stand in the way today of certification from Secretary Tommy Thompson.

Last July, the Senate passed a bill aimed at easing the re-importation of medicines from Canada.<sup>viii</sup> It is similar to the MEDS Act, but as initially conceived covered only drugs from Canada and did not require the Secretary of HHS to certify expressly the safety of re-imported drugs. That bill, even as amended, stalled.

Whenever members of Congress can cross aisles and work together in the public interest, especially in the area of national health care policy, angels in the heavens applaud. There must be applause for the introduction of the *tri-partisan* Preserving Access to Safe, Affordable Canadian Medicines Act of 2003 (H.R. 847), which takes direct aim at the recent GlaxoSmithKline offensive against Canadian pharmacies that ship needed medicines to customers in the United States. From our daily work assisting people with Medicare to find affordable drugs, we know that many Americans will go without needed medicines if their Canadian pharmacy is cut off, and they cannot find alternatives. Our experience, contrary to what GlaxoSmithKline says, is that older Americans will not find an affordable alternative. Also, our experience, again contrary to what GlaxoSmithKline says, is that consumers have not faced danger in purchasing medicine in Canada. The danger they face, without doubt, is going without the medicines their doctors have prescribed.

We hope that this Committee, and the Congress, will independently consider the large body of evidence concerning the safety of re-importing medicines from Canada. We do not discount legitimate safety concerns; we also do not discount the substantial political influence the pharmaceutical industry holds with the legislative and executive branches of the United States government. We urge that science, not the political power of special interests, be the decisive factor in allowing the re-importation of medicine from Canada.

We are not scientists, but we recognize the good work of groups such as the United Health Alliance and the Canadian International Pharmacy Association, which have developed reasonable safeguards to minimize any legitimate safety concern around the re-importation of medicines. We at the Medicare Rights Center do have a broad expertise in the needs of older and disabled Americans, and we understand the dire straits our clients face. Our work with clients is in the real world, and the consideration by the Congress of the re-importation of drugs by U.S. citizens must be made in that same real world. Is drug safety absolute? Probably not, be it medicines re-imported from Canada or medicines mailed from Chicago. Can reasonable precautions be put in place? You bet.<sup>ix</sup>

What we know for sure is that there is direct evidence that citizens of this nation, someone's parents, grandparents and spouses, are going without needed medication because they cannot afford it. And what we know for sure is that more Americans will be able to afford more medicines that their doctors have prescribed if they are allowed to purchase drugs re-imported from Canada. We know of no evidence of any person suffering negative effects or complications from medicine reimported from Canada. But

ask any physician in America who treats an elderly population: the damage to our citizens who go without needed medicines is palpable, painful and frequently deadly.

We thank you for your efforts to reduce that damage.

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<sup>i</sup> National Institute for Health Care Management, "Prescription Drug Expenditures in 2001: Another Year of Escalating Costs," April 2002)(indicating that drug expenditures at retail outlets rose from \$78.9 billion in 1997 to \$154.5 billion in 2001).

<sup>ii</sup> Id.

<sup>iii</sup> "The 2002 Fortune 500, Top Performing Companies and Industries," Fortune, April 2002. From 1994 to 2001, pharmaceutical industry profitability ranged between 14 percent and 19 percent, while the median for all Fortune 500 firms ranged between 3 percent and 5 percent. Michael E. Gluck, Ph.D., "Federal Policies Affecting the Cost and Availability of New Pharmaceuticals," The Henry J. Kaiser Family Foundation, July 2002, p. 35. Available at [www.kff.org](http://www.kff.org)

<sup>iv</sup> In 2001, 40 percent of people with Medicare had an income at or below twice the Federal Poverty Level (\$16,988 single, 12,430 couple in 2001. Henry J Kaiser Family Foundation, "Medicare Fact Sheet: Medicare at a Glance, February 2003. In 2003, the average elderly person with Medicare will \$3,757 or 22.3 percent of their income on health care expenses. Maxwell, S., Moons, M. and Storeygard, M, "Modernizing Medicare Cost-sharing: Policy Options and Impacts on Beneficiaries and Program Expenditures", Urban Institute for the Commonwealth Fund, November 2002. Available at [www.cmwf.org](http://www.cmwf.org)

<sup>v</sup> Mike Allen, Bush Plan a Boon to Drug Companies, Washington Post, A4, March 4, 2003 (quoting Bruce C. Vladeck).

<sup>vi</sup> Americans pay \$2 for a pill that costs the Italians, French and Canadians roughly \$1" Id. at p. 22. The General Accounting Office has continually found that Americans pay more than their European and Canadian counterparts. See Prescription Drugs: Spending Controls in Four European Countries (GAO/HEHS-94-30, May 17, 1994); Prescription Drugs: Companies Typically Charge More in the United States than in the United Kingdom (GAO/HEHS-9429, Jan. 12, 1994); Prescription Drugs: Companies Typically Charge More in the United States than in Canada (GAO/HRD-92-110, Sept. 30, 1992)

<sup>vii</sup> George Orwell, *Down and Out in Paris and London* (1936).

<sup>viii</sup> Greater Access to Affordable Pharmaceuticals Act of 2001.

<sup>ix</sup> Testimony of Elizabeth Wennar, Ph. D., President, United Health Alliance, Examining Prescription Drug Reimportation: a Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs, Hearing Before the United States House Committee on Energy and Commerce, Subcommittee on Health, July 25, 2002, available at <http://energycommerce.house.gov/107/hearings/07252002hearing677/hearing.htm>