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September 13, 2021

United States House of Representatives  
Ways and Means Committee  
1102 Longworth House Office Building  
Washington, D.C. 20515

United States House of Representatives  
Energy and Commerce Committee  
2322 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representative:

On behalf of the Center for Individual Freedom (hereinafter “CFIF”) and hundreds of thousands of conservative and libertarian supporters and activists across the nation, I write to urge your opposition to any incorporation of H.R. 3 in the budget reconciliation legislation under consideration, including any effort to repeal the Non-Interference Clause of Medicare Part D, and allow the Department of Health and Human Services (HHS) Secretary to directly negotiate drug prices within the Medicare program.

As you’re aware, the non-partisan Congressional Budget Office [just determined](#), H.R. 3 would have a potentially catastrophic effect on the development and introduction of lifesaving new drugs on which tens of millions of Americans depend:

*CBO describes an updated version of the model used to inform estimates of the effects of H.R. 3 on the number and timing of new drugs entering the U.S. market. CBO also now expects more drugs to be introduced over the next decade under current law. To illustrate how the model works, CBO examines a policy that reduces expected returns of drugs in the top quintile of expected returns by 15 percent to 25 percent. That policy is estimated to lead to 2 fewer drugs in the first decade (a reduction of 0.5 percent), 23 over the next decade (a reduction of 5 percent), and 34 fewer drugs in the third decade (a reduction of 8 percent).*

As we, alongside over 70 fellow conservative and libertarian organizations, emphasized in our recent [coalition letter](#), H.R. 3 would jeopardize American lives and wellbeing:

*This legislation imposes new taxes and government price controls on American medical innovation. It creates a 95 percent excise tax on manufacturers and imposes an international reference pricing scheme that directly imports foreign price controls into the U.S. This proposal will harm American patients and degrade America’s world-leading role in medical innovation. Americans have access to several highly effective COVID-19 vaccines because of our cutting-edge medical innovation. Our success in*

*COVID treatments and vaccines should serve as a reminder of why we must protect medical innovation here.*

As CFIF has further highlighted, America enjoys – by far – the most innovative pharmaceutical industry in the world, accounting for [two-thirds](#) of all new lifesaving and life-improving drugs globally. But price control mechanisms, including importation of price controls from foreign nations that ignore drug patents to extort compliance – would result in American consumers suffering the same drawbacks that consumers in those nations do. Namely, limited or no access to critical life-saving and life-improving drugs. As even the United Nations World Health Organization (WHO) acknowledges, price controls suffocate innovation and delay the arrival of new drugs, or deny them entirely.

It's therefore no accident that nations imposing price controls enjoy [only a fraction](#) of the new pharmaceuticals that Americans access, and that the United States outpaces those countries in terms of cancer survival rates and other benefits. This bill also jeopardizes [tens of billions of dollars](#) spent annually on research and development by the pharmaceutical industry.

With regard to non-interference clauses, they continue to play an important role in facilitating competition among Part D plans, which provide a critical part of Part D's success in mitigating costs since its inception. Pharmaceutical manufacturers, pharmacy benefit managers (PBMs) and healthcare plans negotiate without fear of interference by the HHS Secretary due to the Non-Interference Clause. As a result, Medicare Part D spending has fallen [45% below](#) prior projections, and taxpayers have been spared billions of dollars while allowing patients access to medicines at lower costs.

In 2019, the CBO examined this proposal and [determined](#) that without even more draconian federal bureaucratic interference and government dictation of drug eligibility, it would have a negligible effect:

*The key factor in determining whether negotiations would lead to price reductions is the leverage that the Secretary would have to secure larger price concessions from drug manufacturers than competing PDPs currently obtain. Negotiation is likely to be effective only if it is accompanied by some source of pressure on drug manufacturers to secure price concessions. For example, authority to establish a formulary could be a source of pressure. In the absence of such pressure, the Secretary's ability to issue credible threats or take other actions in an effort to obtain significant discounts would be limited. Thus, CBO concluded that providing broad negotiating authority by itself would likely have a negligible effect on federal spending.*

Market solutions, not government mandates, offer the optimal solution to ensuring fuller consumer access to lifesaving drugs while keeping costs down.

We therefore respectfully request that you reject any proposal to any include H.R. 3 in the upcoming budget reconciliation bill, as well as any effort to repeal the Non-Interference Clause of Medicare Part D. Thank you very much for your attention to this important matter, and please feel free to contact me with any questions or comments.

Sincerely,

Timothy Lee  
Senior Vice President of Legal and Public Affairs