February 3, 2020

Dear Members of the Oregon Legislature:

On behalf of the National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write to express our serious concerns with the efforts to implement a system for the importation of prescription drugs from abroad. As many of you know, NTU has for many years in the past worked with lawmakers in your chamber to protect the taxpayers of Oregon. It is from this position of great respect that we offer the following views and concerns on important programs based on NTU's decades of institutional experience at the federal and state levels. As a nonpartisan taxpayer organization, we intend to focus on the fiscal aspects of importation.

From a fiscal standpoint, importation presents significant risks. Since 21 U.S.C. 384 was modified in 2003 to permit importation under certain conditions, no U.S. Secretary of Health and Human Services has certified that federal importation could occur without endangering public health and with cost savings to consumers. Furthermore, federal law did not envision individual state pathways to developing importation. The very process of a state attempting to implement importation on its own through an "application" to the federal government therefore carries immediate administrative and legal costs.

Ensuring consumer safety likewise carries a considerable financial burden to government agencies, and therefore to taxpayers. In 2004, a Department of Health and Human Services report estimated that approximately 10 million packages entered the United States with imported prescription drug products; developing a federal regime to screen all these packages for safety would add up to nearly \$3 billion—or approximately the total potential savings from an importation regime, according to the Congressional Budget Office (CBO). It would be a mistake to assume that some 16 years later, improvements in tracking, testing, and monitoring shipments have erased these costs. In order to preserve the integrity of the pharmaceutical supply chain, the Federal Drug Administration estimated that the cost to comply with packaging and label requirements for a national importation program of prescription drugs could reach \$2 billion in the first year – easily overwhelming whatever price breaks drug importation could produce nationwide or in Oregon.

We would also note that the net impact of importation on consumers – and in the case of Oregon's Medicaid and state employee insurance programs, taxpayers – remains uncertain, despite being informed by other states' generally negative experiences. In December of 2018, importation advocates hailed a report from Vermont's Agency of Human Services which claimed that a wholesale Canadian-oriented importation regime there could allow commercial insurers to "see savings of between \$1-5 million dollars." Yet that same report also noted that administration of such a program "would likely come at substantial cost to the state, requiring an upfront investment and appropriations." Trying to raise these funds through taxes on the pharmaceutical industry would likely result in these companies passing along the cost to other customers, reducing research or employee benefits, or cutting returns to institutional entities such as state pension funds.

On the other hand, innovator drugs produced for the U.S. market have yielded proven savings for taxpayers. In general, even high-priced pharmaceuticals tend to be a better long-run value because they replace hospital stays, surgeries, recovery therapies, and other costly activities that would have to occur in their place. A National Bureau of Economic Research study put a fine point on this equation, concluding that every dollar spent on prescription drugs leads to a \$2.06 reduction in overall Medicare expenditures. The state's Medicaid system is likely benefitting in a somewhat similar fashion.

Even without these practical considerations, importation as a policy is problematic for taxpayers. Voluntarily negotiated rebates could shrink, or other countries' price controls – which already take a heavy toll on private-sector drug research and development – would seep into Oregon's health care system. As a recent NTU Policy Paper warned, "importing self-destructive policies from abroad causes collateral damage here at home. That damage extends to, but is not limited to, our own exports, our workers, our shareholders, our efforts to liberalize and strengthen standards of international commerce, and the long-term savings that innovative drug therapies deliver for taxpayer-funded health care programs."

We would recommend that Oregon policymakers evaluate alternatives to importation and other strategies relying on artificial price constraints, many of which have been outlined in a recent NTU Issue Brief dated December 6, 2018. Although its recommendations are federally- focused, some could be an answer to some of Oregon's most pressing health care challenges.

Sincerely,

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