



Leadership Council  
of Aging Organizations

*Richard J. Fiesta, Chair*

July 19, 2018

Dear Senator:

The Leadership Council of Aging Organizations (LCAO) is a coalition of 69 national nonprofit organizations concerned with the well-being of America's older population and committed to representing their interests in the policy-making arena. We are writing to you today with concerns over changes to pharmaceutical patents and pricing policies in the revised NAFTA agreement that could undermine access to affordable medicines, increasing costs for older Americans.

The rising costs of prescription drugs is already a serious issue for many Americans, where one in five people fail to fill a prescription because of its cost. Congress has important work to do to bring down the high cost of prescription drug prices, but a revised NAFTA could block Congressional action to reduce drug prices.

If a revised NAFTA is to include an intellectual property (IP) chapter, it should not include Trade-Related Aspects of Intellectual Property Rights (TRIPS) plus standards affecting pharmaceuticals or medical technologies. It is absolutely wrong to grant new monopoly protections sought by pharmaceutical CEOs for biologic medicines, like insulin. We would also oppose revising NAFTA to force countries to allow “evergreen” patents (e.g., small changes in a formula, dosage or administration that do not necessarily improve the therapeutic value of the medicine) or to issue new patent terms for new uses of old drugs. All such schemes are used to block the entry of generic drugs into the market and raise prices for working families.

As large buyers, federal and state health programs offers several ways to manage high prescription drug costs through rebates, discounts and preferred drug lists. Modest use of these tools helps make prescription drugs more affordable for taxpayers and beneficiaries. We have heard troubling reports of discussions to privilege the rights of drug and medical device manufacturers over the rights of taxpayers and health care beneficiaries through so called “transparency” provisions that would give CEOs more opportunities and leverage to contest reimbursement amounts. Transparency and pricing provisions could leave current Medicaid, Medicare, Affordable Care Act and the 340b program policies subject to challenge by global pharmaceutical companies.

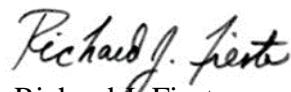
Similarly, if Investor-State Dispute Settlement (ISDS) provisions remain in NAFTA at all, they must not apply to any provision concerning medicine or medical devices, as they

threaten Congress's role in creating health care policies and undermine state efforts to manage budgets while providing quality, affordable medicines to patients in any investment chapter of the renegotiated NAFTA.

A revised NAFTA that includes these provisions could damage our nation's ability to protect public health from pandemics that respect no country's borders. Increasing prices for medicines in Mexico, Canada or elsewhere in the world will put public health interests at risk.

In conclusion, a revised NAFTA agreement must not include changes to pharmaceutical patents and pricing policies that could undermine access to affordable medicines. Trade agreements must not set our nation's health care policy. Health care policy must be a product of the democratic process that balances the interests of all stakeholders. Congress and state legislatures must be able to manage health care costs and not be constrained by trade agreements.

Sincerely,

A handwritten signature in black ink that reads "Richard J. Fiesta". The signature is written in a cursive, flowing style.

Richard J. Fiesta  
Executive Director