

United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

(202) 224-5364

August 11, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Price:

On April 4 and June 30, I sent you letters requesting information regarding the Administration's ongoing efforts to undermine and sabotage the Affordable Care Act (ACA) through executive action. I am writing because I do not consider your July 12 letter to be responsive to my request.

In your letter, you stated that you did not believe it was appropriate to share the details of conversations you had had with other Members of Congress. My letters of April 4 and June 30 did not request details of conversations you may have had with other Members of Congress. Rather, the letters requested documents that were presented to Congressional Republicans that outlined ACA regulations that the Administration could repeal on its own as well as actions you could take administratively to rollback health insurance protections and undermine insurance coverage.

As these documents were already provided to certain Members of Congress, and reported on in the press, there is no reasonable or legal basis to withhold these records. HHS's nominees to serve as General Counsel and Assistant Secretary for Legislation agree. During a recent hearing in the Finance Committee, I described a document HHS is withholding even though this record was shared with certain Congressional Republicans in March. During the hearing, I asked the nominees, "[D]o you also believe the Administration should provide documents to Congress when requested, absent a legal basis for withholding them, especially when those documents have been shared with other Members of Congress and reported on in the press?" They both answered "Yes" without qualification.¹

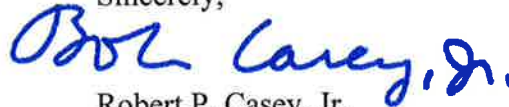
Moreover, in a letter to Senator Charles Grassley, Marc Short, the White House's Director of Legislative Affairs, stated it was "[t]he Administration's policy to respect the right of all

¹ United States Senate Committee on Finance, *Hearing to Consider the Nominations of Gilbert B. Kaplan to be Under Secretary of Commerce for International Trade, U.S. Department of Commerce, Matthew Bassett to be an Assistant Secretary of Health and Human Services, U.S. Department of Health and Human Services, and Robert Charrow to be General Counsel of the Department of Health and Human Services, U.S. Department of Health and Human Services* (August 3, 2017).

individual Members, regardless of party affiliation, to request information” and that “the Executive Branch should voluntarily release information to individual Members where possible.”²

As there is no legal basis to continue withholding these documents, and the Administration has clearly expressed its commitment to producing such documents, I am reiterating my request for you to produce these documents as requested.

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey, Jr." The signature is written in a cursive, flowing style.

Robert P. Casey, Jr.
Ranking Member

Enclosures

² Letter to Senator Charles E. Grassley from Marc Short, Director of Legislative Affairs, The White House (July 20, 2017).

United States Senate

WASHINGTON, DC 20510

April 4, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
Washington, DC 20201

Dear Secretary Price:

Over the last week, President Trump said that he wants to work with Democrats to improve access to high-quality, affordable health care.¹ House Speaker Ryan acknowledged that the Affordable Care Act (ACA) is “the law of the land.”² We remain concerned, however, that you will not take the necessary actions to strengthen the individual health insurance market in order to provide families with affordable, comprehensive coverage. In fact, we have reason to believe that you may take actions to undermine our health care system, harming the vital health care services needed for children to grow and learn, limiting the ability of people with disabilities to receive care in their homes and communities, and making health care unaffordable for older and hard-working Americans. We intend to use every tool at our disposal to hold you and the Administration accountable for actions that would have serious repercussions on the health and welfare of all Americans.

According to reports, the Administration presented a letter to a privileged group of Congressional Republicans on March 23 outlining a plan to dismantle and repeal the Affordable Care Act (ACA) through regulatory action. As such actions could negatively affect tens of millions of Americans, we ask that you share this letter with all Members of Congress no later than April 6, 2017.

The House of Representative’s destructive *American Health Care Act* never received a vote in the House of Representatives because it was wildly unpopular. One survey found that only 17 percent of Americans supported the bill.³ In fact, more Americans want the ACA to be improved than fully repealed.⁴ Despite this, the Trump Administration continues to take actions that would undermine coverage for millions of Americans, including:

¹ *Trump Hosts Senators in First Bipartisan Outreach Since Health Bill Failure*, The Wall Street Journal (March 28, 2017) (online at <https://www.wsj.com/articles/trump-hosts-senators-in-first-bipartisan-outreach-since-health-bill-failure-1490756308?tesla=y>).

² *In Major Defeat for Trump, Push to Repeal Health Law Fails*, The New York Times (March 24, 2017) (online at https://www.nytimes.com/2017/03/24/us/politics/health-care-affordable-care-act.html?_r=1).

³ *U.S. Voters Oppose GOP Health Plan 3-1*, Quinnipiac University Poll (March 23, 2017) (available at <https://poll.qu.edu/national/release-detail?ReleaseID=2443>).

⁴ *Support for 2010 Health Care Law Reaches New High*, Pew Research Center (February 23, 2017) (online at <http://www.pewresearch.org/fact-tank/2017/02/23/support-for-2010-health-care-law-reaches-new-high/>).

- Executive Order 13765, issued on January 20, directing the Secretary of Health and Human Services and other Federal departments and agencies to repeal and undermine the ACA “to the maximum extent permitted by law”;
- The Department of Health and Human Services halting advertisements and suspending e-mail and social enrollment outreach during the crucial final days of the ACA’s Open Enrollment for 2017 in January, an action which is now under review by the Department of Health and Human Services’ Inspector General;
- The Internal Revenue Service issuing a decision in February to not enforce provisions of the ACA, and the Centers for Medicare & Medicaid Services issuing a proposed regulation to undermine insurance coverage for Americans by weakening requirements on health insurance companies; and
- Even after the public outcry supporting access to affordable health insurance, which resulted in House Speaker Ryan’s declaration that the ACA is “the law of the land,” Administration officials continuing calls to repeal the ACA. For example, on March 27, in West Virginia, Vice President Pence stated the Administration “will not rest, will not relent” until the ACA is repealed and replaced.

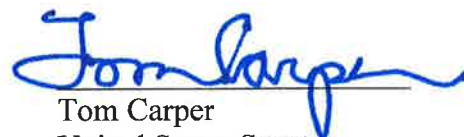
Rather than continuing down this path, we request that you heed Democrats’ calls to stop working to repeal the ACA and stop taking actions that would undermine our health care system. In order to provide much needed oversight and transparency regarding the Administration’s path forward on the ACA, please provide the document that was presented to Congressional Republicans on March 23, 2017, which outlined ACA regulations the Administration could repeal on its own. We hope you will set aside your plans to unravel these regulations so that we can move forward to improve our health care system, but until you make the commitment, we will continue our efforts to hold you accountable. Given the limited scope of the request, and since there is no reasonable basis to withhold this record, please provide a copy of this letter no later than April 6, 2017.

Thank you for your assistance in this matter.

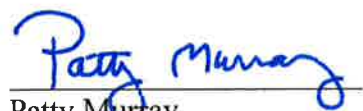
Sincerely,



Robert P. Casey, Jr.
United States Senator



Tom Carper
United States Senator



Patty Murray
United States Senator



Ron Wyden
United States Senator



Richard J. Durbin
United States Senator



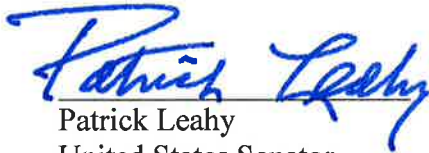
Edward J. Markey
United States Senator



Sheldon Whitehouse
United States Senator



Jack Reed
United States Senator



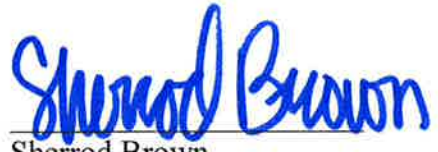
Patrick Leahy
United States Senator



Christopher Murphy
United States Senator



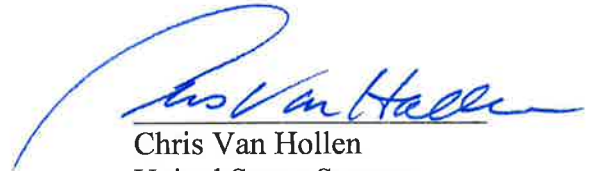
Jeffrey A. Merkley
United States Senator



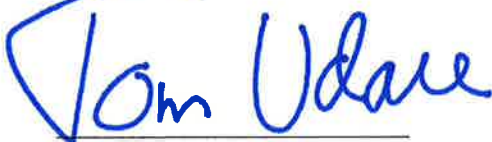
Sherrod Brown
United States Senator



Tammy Baldwin
United States Senator



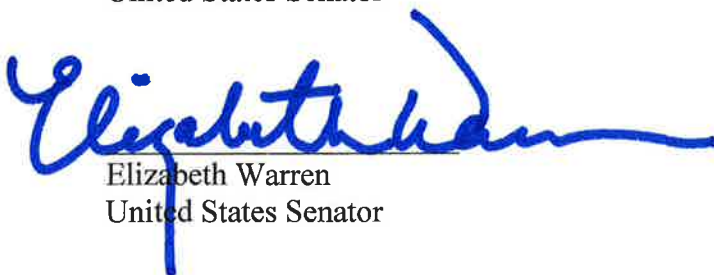
Chris Van Hollen
United States Senator



Tom Udall
United States Senator




Kirsten Gillibrand
United States Senator





Elizabeth Warren
United States Senator



Margaret Wood Hassan
United States Senator


Dianne Feinstein
United States Senator


Cory A. Booker
United States Senator


Benjamin L. Cardin
United States Senator

United States Senate

WASHINGTON, DC 20510

June 30, 2017

The Honorable Thomas E. Price, M.D.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Price:

After weeks of secret negotiations and backroom deals, Republicans in the Senate unveiled a health care bill for the public to review. Upon the release of the legislation, the American people sent a clear message that it would not stand for a bill that would rip affordable health care away from 22 million hard-working people in exchange for tax cuts for the extremely wealthy and special interests.

And yet, instead of heeding the calls of families to abandon efforts to jam the Republican scheme through Congress, you and Senate Republicans continue to negotiate the future of our health care system behind closed doors. Absent an open and transparent process, we can only assume that you are making backroom promises to administratively undermine the health care millions of people receive in order to secure support for passage of legislation that increases health care costs and reduces coverage.

Our assumption is based on the Administration's past interactions. On April 4, we wrote to you regarding promises the Administration made to House Republicans to undermine the Affordable Care Act (ACA) through executive action in exchange for their support on the Republican bill. In that letter, we requested the Department of Health and Human Services (HHS) provide a letter that President Trump presented to a privileged group of House Republicans in March outlining the insurance regulations the Administration would repeal on its own if House Republicans voted for the health care bill.¹ Despite our request, and absent a reasonable basis to withhold this document, you have refused to share this letter with all Members of Congress.

It has now come to our attention that, on June 20, you joined a closed-door meeting with Senate Republicans regarding our nation's health care.² The public deserves to know if you made promises during that meeting to rollback protections, undermine coverage, and breed uncertainty in exchange for political expediency.

¹ See *How a Secret Freedom Caucus Pact Brought Down Obamacare Repeal*, Politico (March 26, 2017) (available at <http://www.politico.com/story/2017/03/trump-freedom-caucus-obamacare-repeal-replace-secret-pact-236507>).

² See *Senate Republicans Promise to Unveil Obamacare Overhaul Thursday, with Votes Expected Next Week* (June 20, 2017) (available at <http://www.latimes.com/politics/washington/la-na-essential-washington-updates-senate-gop-promises-to-unveil-its-1497986382-htmlstory.html>).

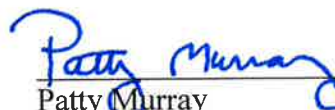
In order to shed light on what secret deals have been made in an effort to secure support for the Republicans' shameful legislation, we again request that you provide the document that was presented to Congressional Republicans on March 23, 2017, which outlined insurance regulations the Administration could repeal on its own. Further, we also request that you provide all documents and communications related to the meeting you had with Senate Republicans on June 20, 2017. This request includes, but is not limited to, communications, meeting notices, meeting agendas, meeting notes, informational materials, talking points, or any materials exchanged or provided at that meeting.

Given the limited scope of this request, and since there is no reasonable basis to withhold many of these records, please provide all responsive records by July 6, 2017. Thank you for your cooperation.

Sincerely,



Robert P. Casey, Jr.
Ranking Member
Senate Aging Committee



Patty Murray
Ranking Member
Senate HELP Committee



Ron Wyden
Ranking Member
Senate Finance Committee



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

JUL 12 2017

The Honorable Robert P. Casey, Jr.
United States Senate
Washington, DC 20510

Dear Senator Casey:

Thank you for your April 4, 2017, and June 30, 2017, letters regarding my discussions with Members of the United States House of Representatives and the United States Senate. I appreciate your interest in our efforts to address the rising premiums and limited choices Americans are facing under the Patient Protection and Affordable Care Act.

As a former Member of the House and a Committee Chairman, I know how invaluable the robust exchange of ideas can be to crafting legislation that provides the public with a sound public policy. I also believe that all Members of Congress would appreciate my willingness to engage with them in a candid and thoughtful manner. To that end, just as I would hold our conversations private, I do not believe it is appropriate for me to share details of the conversations I have had with your colleagues.

However, I welcome the engagement of all Members of the House and Senate. I am committed to always maintaining an open line of communication. If you wish to discuss our efforts to improve the quality and cost of health care available to Americans, please contact Jessica Harrison ([REDACTED]) with my office to schedule a meeting at your earliest convenience. The Office of the Assistant Secretary for Legislation is also available to discuss any matters with your staff at 202-690-7627.

A copy of this response will also be provided to the co-signers of your letter.

Yours truly,

A handwritten signature in blue ink, which appears to read "Tom Price", is written over a horizontal line.

Thomas E. Price, M.D.