

United States Senate

WASHINGTON, DC 20510

July 21, 2022

The Honorable Xavier Becerra, J.D.
Secretary of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
245 Murray Lane, SW
Washington, DC 20528

Dear Mr. Becerra and Mr. Mayorkas:

I write today to urge you to proactively protect reproductive health care rights for U.S. residents. Millions of Americans are losing access to essential, lifesaving health care and the right to make health care decisions with their doctors. Even in Michigan, a 90-year-old state law threatens to make abortion a felony, even in cases of rape or incest. Such laws will force millions of Americans to seek abortion care elsewhere, including across the U.S. border.

In Michigan, we have the most active crossing on the U.S.-Canadian border; 68,000 travelers cross the Ambassador Bridge every day. Michigan also has the largest metropolitan population in close proximity to Canada—almost 4.4 million Michiganders live within the Metro Detroit Area alone. As highlighted by Michigan’s Governor Gretchen Whitmer earlier this month, seeking health care, treatment and medication in Canada is a real possibility for millions of Michiganders, but only if there are clear rules and regulations around doing so.¹

U.S. law generally does not permit individuals to import or reimport prescription drugs for their own use. However, the Secretary of Health and Human Services has wide discretion to permit importation by an individual for drugs that are clearly for personal use. Abortion medication, which can be used in the first 10 weeks of pregnancy, accounts for more than half of all abortions in the United States.² Considering the urgency of the current moment, it is vital that the Secretary use his existing authority to protect and expand access to this critical health care. The Secretary must issue clarifying guidance on the personal importation of abortion medication, including that it is not widely available domestically and it does not present an unreasonable risk to the individual. The Secretary must also explore issuing a blanket waiver on the personal importation of abortion medications.

¹ Letter from Michigan Governor Gretchen Whitmer to Department of Health and Human Services Secretary Xavier Becerra and Homeland Security Secretary Alejandro Mayorkas (July 7, 2022).

² Guttmacher Institute, *Medication Abortion Now Accounts for More than Half of All US Abortions* (2022) (www.guttmacher.org/article/2022/02/medication-abortion-now-accounts-more-half-all-us-abortions).

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The Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) is at the frontline when it comes to enforcing the Federal Drug Administration's rulings regarding the importation of prescription drugs for personal use. It is vital that DHS make the requirements around traveling with abortion medications abundantly clear, including which medications are permitted and how much, and what travelers must bring with them to show they have admissible personal use medication. CBP officers must also receive specific training and guidance regarding cases of the importation of abortion medication for personal use, including clear instruction on when there is no need to refer such cases to the FDA.

I am calling on HHS and DHS to ensure there are no legal obstacles preventing Americans from seeking reproductive health care in Canada or elsewhere, or from bringing safe medications prescribed by foreign health care professionals back into the country. For nearly 50 years, Americans had the fundamental right to access abortions and make this extremely personal decision with their doctors. Following the Supreme Court ruling last month, it is critical that the federal government take necessary steps to ensure access to vital health care.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary C. Peters", written over a horizontal line.

Gary C. Peters
United States Senator