



September 10, 2021

The Honorable Nancy Pelosi,
Speaker of the House
Washington, D.C. 20515

The Honorable Chuck Schumer
Senate Majority Leader
Washington, D.C. 20510

The Honorable Kevin McCarthy,
House Minority Leader
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
Washington, D.C. 20510

Dear Speaker Pelosi, Majority Leader Schumer, and Minority Leaders McConnell and McCarthy:

With Americans spending around \$1,567 each year on prescription medications, well above those in the European Union, Canada, and the United Kingdom, public concern about the cost of prescription medication is warranted.¹ Additionally, 79% of Americans say the cost of prescription drugs is “unreasonable.”² Following the growing public acknowledgment around the cost of medication, there has been growing support for price controls policies, most notably in the form of Rep. Frank Pallone’s H.R.3, the Elijah E. Cummings Lower Drug Costs Now Act (LDCNA).

While there may be a significant public appetite for price controls on prescription medication, the American Consumer Institute (ACI) is deeply concerned that such proposals may have wider ramifications for patient access to essential medications, both now and long term. Rather than imposing price controls that will only deny patients access to vital prescription medication, we recommend alternative solutions such as lowering regulatory barriers for biosimilars and generics and regulating Pharmacy Benefit Managers who have inflated the cost of prescription medications and failed to pass through savings from manufacturers’ rebates.³

¹ Department of Health and Human Services, “Comprehensive Plan for Addressing High Drug Prices,” September 9, 2021. Available Online: https://aspe.hhs.gov/sites/default/files/2021-09/Drug_Pricing_Plan_9-9-2021.pdf

² Liz Hamel, Lunna Lopes, Ashley Kirzinger, Grace Sparks, Audrey Kearney, Mellish Stokes, and Mollyann Brodie, “Public Opinion on Prescription Drugs and Their Prices,” *Kaiser Family Foundation*, June 15, 2021, <https://www.kff.org/health-costs/poll-finding/public-opinion-on-prescription-drugs-and-their-prices/>.

³ See Wayne Winegarden, “Tear Down This Wall: Documenting the Patient Costs Created by Anti-Competitive Rebate Walls,” *PRI Center for Medical Economics and Innovation*, December 2020, https://www.pacificresearch.org/wp-content/uploads/2020/12/RebateWall_F_web.pdf; and *Food and Drug*

Economic theory, as well as historical experience, teach us that price regulation is inefficient, causes shortages, and ultimately endangers patients' access to treatments. Price controls not only do not work, but past experience shows they produce severe side effects that would be unacceptable to the vast majority of Americans:

- It creates shortages, primarily in the form of waiting lists;
- It leads to reductions in the quality of the goods or services subject to control;
- It would mostly benefit richer and more mobile consumers at the expense of others; and
- It discourages spending by drug manufacturers on research and development of innovative new drugs, thus inhibiting innovation.

H.R.3 and price controls in general would deny pharmaceutical companies access to revenues used to support research and development of new medicines. While pharmaceutical companies earn billions in U.S. revenue each year, these revenues are then reinvested into the research and development of new drugs. In 2019 alone, the industry invested \$83 billion in research and development expenditures.⁴ Much of this investment was driven by sales of prescription drugs.⁵ Mandating price controls and limiting the amount of capital pharmaceutical companies can raise will undoubtedly prevent them from bringing new products to market and making them widely available to patients.

These concerns have been voiced before by the Congressional Budget Office (CBO). For example, in an October 2019 letter to Rep. Pallone, the CBO warned that price controls on prescription drugs would see “a reduction in revenues of \$0.5 trillion to \$1 trillion,” which would, in turn, “lead to a reduction of approximately 8 to 15 new drugs coming to market over the next 10 years.”⁶

Further research suggests that the effect could be even more severe, leading to 64 fewer medications being developed over the next decade as a result of price controls cutting revenues by over 58%.⁷ Smaller biotech companies would be affected most, facing a 90% reduction in overall revenues and 56 fewer approvals.⁸

Administration, “Generic Competition and Drug Prices.” December 12, 2019, <https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/generic-competition-and-drug-prices>.

⁴ *Congressional Budget Office*, “Research and Development in the Pharmaceutical Industry,” April 2021. Available Online: <https://www.cbo.gov/publication/57126>.

⁵ *Ibid.*

⁶ Phillip L. Swagel to Rep. Frank Pallone, “*Re: Effects of Drug Price Negotiation Stemming from Title 1 of H.R. 3, the Lower Drug Costs Now Act of 2019, on Spending and Revenues Related to Part D of Medicare*,” October 11, 2019. Available Online: <https://www.cbo.gov/system/files/2019-10/hr3ltr.pdf>.

⁷ *Vital Transformations*, “International Reference Pricing Under H.R.3 Would Devastate the Emerging Biotechnology Sector, Leading to 56 Fewer New Medicines Coming to Market Over 10 Years,” November 21, 2019. Available Online: <http://vitaltransformation.com/wp-content/uploads/2020/01/Vital-Trans-HR3-Exec-Summ-11-22-2019-30JAN20.pdf>.

⁸ *Ibid.*

With fewer future medications available, patients would be denied access to essential treatment options, leading to unnecessary adverse health outcomes and a poorer quality of life for those affected.

While ACI commends your efforts to lower drug prices for Americans, the potential pitfalls of price controls outlined in LDCNA must be recognized. Therefore, we urge you, for the sake of consumers, to consider alternative policy solutions to ensure pharmaceutical companies can continue to provide groundbreaking and innovative medications to patients who rely on them.

Respectfully,

Steve Pociask
President and CEO
The American Consumer Institute
Center for Citizen Research
steve@theamericanconsumer.org

Krisztina Pusok, Ph. D.
Director
The American Consumer Institute
Center for Citizen Research
Krisztina@theamericanconsumer.org

Edward Longe
Policy Manager
The American Consumer Institute
Center for Citizen Research
edward@theamericanconsumer.org