

Opening Statement: The Complex Web of Prescription Drug Prices, Part II: Untangling the Web and Paths Forward

Senator Susan M. Collins

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Good morning. Yesterday, this Committee heard the painful, personal stories of five people who struggle to obtain the medications they need at the prices they can afford. Their stories are familiar to far too many Americans who walk into the pharmacy to pick up a routine refill, only to walk out empty-handed, unable to pay the rising cost.

Some are tapping into their retirement funds, or refinancing their homes, working multiple jobs, or living in endless uncertainty and anxiety about what the next month might bring. This should not be the experience of buying prescribed medications in our nation. The problems consumers have in affording prescription drugs add to the stress they already feel as they cope with their illnesses.

We have a chart, which I'm displaying, that I will defy anyone to figure out. It illustrates just how opaque and complex the drug pricing system is. In this Committee's continuing effort to untangle this complicated web of prescription drug prices and to identify realistic, workable solutions, today we will consult with a panel of experts to look behind the scenes. Each of the stakeholders in the health care supply chain plays a role, and we all must work together to bring down costs.

Combatting high prescription drug prices has long been a priority for our Committee. Four years ago, we led a year-long investigation into the causes, impacts, and solutions to the egregious price spikes for certain drugs that had gone off-patent. We released an extensive report, and I'm pleased that several of our recommendations are now law. Today, these laws are helping to increase generic competition and improve transparency, but we still have so much more to do to produce lower drug prices.

In addition, last fall I developed bipartisan legislation with then-Senator Claire McCaskill, that prohibits gag clauses, an egregious practice that concealed lower prescription drug prices from patients at the pharmacy counter. This legislation banning gag clauses is now law, so that pharmacists can help ensure that consumers aren't paying more than they have to for the drug they require. Whoever would have guessed that in some cases it's cheaper to use your debt card than your insurance card to purchase a prescription drug – that is so counterintuitive that consumers would never think to ask that question of their pharmacists. Now the pharmacists can volunteer that important information.

Last Congress, this Committee also held a hearing to uncover the causes of soaring insulin prices, despite the fact that insulin has been available for nearly 100 years. Through that

hearing and a series of inquiries to drug manufacturers, pharmacy benefit managers, and insurance companies, I found that while manufacturers set the list prices, there are also other supply chain factors, such as the rebates paid by drug companies to PBMs and insurers, which play a significant role in driving up costs to the consumer.

The system appears to be characterized by perverse incentives and conflicts of interest that encourage higher prices. The Administration recently released a proposed regulation on rebates, and I am working with colleagues on both sides of the aisle to see what action Congress can take to ensure that any discounts actually translate to reduced costs for consumers at the pharmacy counter—that is not now the case.

Our Committee has also held a hearing to examine the opaque patent system that protects many of these high-priced drugs. We uncovered the use of patent thickets and so-called “evergreening” strategies that extend monopolies on blockbuster drugs for far longer than Congress ever intended when it gave the patent protection in order to encourage investment in groundbreaking drugs. For example, Humira – the world’s best-selling drug – is protected by more than 130 patents, some of which have terms that extend to 2034. These patents block generic competition that could bring down the price for biologics.

This week, I introduced the bipartisan *Biologic Patent Transparency Act*, a bill that would help make patents work as Congress intended. The bill would shine a light on disturbing patent strategies and deter companies from introducing patents late in the game in an attempt to prevent lower-priced alternatives from coming to market. By addressing patent strategies that hinder true innovation, this legislation, I hope, will pave the path for new lower-cost alternatives.

High drug prices and cost increases that dominate our headlines and devastate our bottom lines are unsustainable for America’s consumers. In 2017, brand name prescription drug prices increased four times faster than the rate of inflation. The time to act is now.

Today, we will examine ways to empower consumers, improve transparency, and fundamentally change the incentives in our broken system. Navigating the prescription drug landscape is difficult even for an individual with a graduate degree in the field. It should not take a PhD and an infinite amount of time and patience to figure out how much a prescribed medication will even cost the consumer.

I want to thank all of our witnesses for being here and for sharing their expertise on this problem with the Committee. I look forward to our discussion, and I turn now to Ranking Member Senator Casey for his opening statement.

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