

Sen. Susan M. Collins
Drug Pricing Floor Statement
November 13, 2019

First, I would like to thank and recognize Senator Grassley for his farsighted and courageous leadership on this issue of vital importance to the American people—the escalating costs of prescription drugs. Under his chairmanship, the Finance Committee has held numerous hearings on drug pricing. His diligence and persistence on this issue have produced the *Prescription Drug Price Reduction Act*—a bold set, a productive set, of proposals that I strongly endorse and look forward to seeing signed into law.

This past century could well be called the Age of Miracle Drugs. From insulin and penicillin to pharmaceuticals that treat cancer, HIV, heart disease, and so many other serious conditions, modern drugs improve, extend, and even save lives. In our time, however, we might define a “miracle drug” as one that has not doubled in price since the last refill.

With prescription drugs among the key factors driving up the cost of health care, it is essential that we approve policies that both encourage innovation and protect consumers, particularly our seniors. Demonstrating the importance of this challenge, three Senate committees — the Finance Committee, ably chaired by Senator Grassley which I mentioned earlier, the Senate HELP Committee, which is led by our friend and colleague Lamar Alexander, and the Senate Judiciary Committee, which is led by Senator Graham — have advanced legislation aimed at reforming our broken drug pricing system.

In addition, the Senate Aging Committee, which I chair, has held eight hearings on drug pricing since 2015 and issued a major report in 2016 on “Sudden Price Spikes in Off-Patent Prescription Drugs.” Our report highlighted the manipulative schemes employed by Martin Shkreli who increased the price of a drug that was more than 63 years old, a life-saving medication, by 5,000 percent in just one day. To paraphrase his words, he could drive up the price of drugs like this one, on which he did not spend a dime in the research and development, because he could. His price gauging caused real hardships for patients.

Some of the most alarming testimony that we have heard on the Aging Committee has come from patients. They described the financial impact of their prescription drug prices, the depths they have gone to access medications they need, and how this struggle has affected their health and overall quality of life. They are truly choosing between paying their electric bill, buying the food that they need, and buying their prescription drugs. An example is a young father from New Gloucester, Maine, who discovered that the cost of a 90-day supply of insulin for his 13-year-old son, who has Type I diabetes, had tripled to more than \$900. A woman from Falmouth, Maine, saw her out-of-pocket cost for the arthritis medication Enbrel that she needs soar from \$10 to \$3,800 per month when she transitioned from her employer-sponsored insurance to Medicare when she retired. She had no choice but to switch medications, which did not work nearly as well for her. She simply could not afford that out-of-pocket cost.

I will never forget standing in line at the pharmacy counter in Bangor, Maine, where I live. The couple ahead of me received their prescription drug and the unwelcome news that their prescription copay was going to be \$111. The husband turned to his wife and said, “Honey, we simply cannot afford this” and they walked away, leaving that needed prescription on the pharmacy counter. I asked the pharmacist, “How often does this happen?” His answer: every single day.

The results of exorbitant increases in the price of drugs? Needed prescriptions aren’t filled; doses are skipped; pills are cut in half—all harmful to the patient’s health. And why? Because the patients simply cannot afford the exorbitant cost, the skyrocketing cost, of prescription drugs.

This should not happen. We must join together to combat the exorbitant prescription costs that confront more and more Americans every day. More than half of all Americans, and 90 percent of seniors, take at least one prescription drug each month. For many, access to these medicines is not only critical to their well-being, but it can literally be a matter of life and death. For children and adults with Type 1 diabetes, insulin is not a luxury or something that is nice to have. Insulin is essential to their ability to survive. Insulin was first isolated nearly a century ago in Canada, and yet its cost has soared in recent years.

Another Chairman in the Senate who has worked very hard on this issue along with Senator Grassley is Senator Lamar Alexander. He has made it a strong priority of the HELP Committee, on which I serve, to increase transparency and competition in the prescription drug market. I don’t think there is any product that we buy in this country where there is less transparency in the price than the price of prescription drugs. Nor where the supply chain is more rife with conflicts of interests. Last year, in response to my experience listening to this couple in Bangor, Maine, I authored a law last year to block pharmacy gag clauses. Now, under these contractual gag clauses, pharmacists were actually prohibited from volunteering to a consumer that it might well be less expensive to pay out-of-pocket rather than using their insurance. A recent study published by the Journal of the American Medicine Association found that this new law could help Americans save money in nearly one out of four prescription transactions in a pharmacy.

Another bill I authored in 2017 to promote more competition from lower-priced but equally effective generic drugs is also showing results. To date, the FDA has granted nearly 200 application requests under this new expedited pathway, established by this law, with ten approvals. That’s a much faster pace than in the past.

In June, the HELP Committee reported out the *Lower Health Care Costs Act*, which incorporates more than 14 measures to increase drug price competition. I’m pleased to say that it includes major portions of the *Biologic Patent Transparency Act* that I authored with Senator Kaine and is cosponsored by Senators Braun, Hawley, Portman, Shaheen, Stabenow, Paul, and Murkowski. It is intended to prevent drug manufacturers from gaming the patent system. It requires earlier and greater disclosure of the web of patents held by biologic manufacturers, thus making it easier for biosimilar competitors to develop more affordable alternatives without being stymied by the filing of last-minute patents. According to former FDA Commissioner Scott

Gottlieb, if all of the biosimilars that have been approved by the FDA were successfully marketed in the U.S. in a timely fashion, Americans would have saved more than \$4.5 billion in 2017. The fact that a biosimilar version of Humira—the bestselling drug in the world—has been on the market in Europe for more than a year, while American patients must wait until 2023, is a clear example that the biosimilar market is not working as it should.

The *Lower Health Care Costs Act* also includes the *CREATES Act*, a bill that I know Senator Grassley has been very involved in. It addresses the anti-competitive practices of companies that delay or even block access to a sufficient quantity of the brand name drug needed to conduct the bio-equivalency test required by the FDA as part of the generic drug approval process. This addresses one of the major problems identified by the Aging Committee when we looked at this issue in 2016, examining the explosion in prices of off-patent prescription drugs for which there is no generic equivalent. I am pleased that we are on the verge of taking action to combat and stop this unfair practice. The HELP Committee bill also requires significantly more disclosure on the costs, fees, and rebate information associated with their PBM contracts.

As I mentioned previously, the Senate Finance Committee passed the *Prescription Drug Pricing Reduction Act*, landmark legislation that would save taxpayers more than \$100 billion and save seniors more than \$30 billion in out-of-pocket costs for their prescriptions. I strongly support this bill because it strikes the right balance between reducing out-of-pocket costs for consumers without hindering innovation and investment in the next lifesaving medications. The Finance Committee bill also makes crucial improvements to Medicare Part D such as protecting seniors with an out-of-pocket spending cap, another long overdue change that would ensure that patients with high-cost conditions, such as cancer, multiple sclerosis, and rheumatoid arthritis, can get the medications they need. Furthermore, the bill would protect taxpayers from higher-than-inflation increases in drug prices, while reducing government spending, premiums, and overall out-of-pocket costs.

The Judiciary Committee has also advanced proposals that would empower the Federal Trade Commission to take more aggressive action on anti-competitive behaviors. These are three worthwhile pieces of legislation that should be brought to the Senate floor.

The work of the HELP Committee, the Finance Committee, and the Judiciary Committee is a tremendous breakthrough, which would make such a difference to the American people. As we continue to try to find further consensus and a path forward on each of these bipartisan bills, I hope that we can also look for additional improvements. For example, as co-chairs of the Senate Diabetes Caucus, Senator Shaheen and I, along with Senators Cramer and Carper, have introduced legislation to address flaws in the system that allow PBMs and manufacturers to implement what are truly unscrupulous price increases on lifesaving insulin. I also support a measure introduced by Senators Klobuchar and Grassley to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a less costly but equally effective generic into the market. That's referred to as "pay for delay." I'm amazed that it's not already illegal under our anti-trust laws, but this bill would make it clear that this tactic is no longer permitted.

Congress has a tremendous opportunity to deliver a decisive victory in both lowering health care costs and improving health care for the people of my State of Maine and throughout America. If we want new medicines to reach consumers who need them, the companies that invest in the research and take the risks necessary must see a fair return on their investment. At the same time, we can no longer allow the price manipulation and the market distortions to continue at the expense of the most vulnerable Americans and their families, and ultimately at the expense of every American taxpayer. We can act to make a real difference in the lives of Americans whose health depends on affordable prescription drugs. The required policy solutions won't come in the form of a miracle, but through hard work and continued bipartisan cooperation. Let us come together. I urge all of my colleagues to join us in supporting these measures that we have worked so hard on—that the HELP Committee, the Finance Committee, and the Judiciary Committee have all reported on a bipartisan basis, recognizing the hardships imposed on the American people. Let us bring these bills to the Senate floor expeditiously.

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