

House Ways and Means Committee

Markup of H.R. 3, the "Lower Drug Costs Now Act of 2019", H.R. 4665, the "Medicare Vision Act of 2019", H.R. 4671, the "Help Seniors Afford Health Care Act", H.R. 4618, the "Medicare Hearing Act of 2019", H.R. 4650, the "Medicare Dental Act of 2019".

October 17, 2019

10:00AM, 2123 Rayburn House Office Building

Purpose:

The purpose of the proceedings was to markup five bills: H.R. 3, the "Lower Drug Costs Now Act of 2019", H.R. 4665, the "Medicare Vision Act of 2019" H.R. 4618, the "Medicare Hearing Act of 2019", H.R. 4650, the "Medicare Dental Act of 2019", H.R. 3398 the "Pathways to Health Careers Act of 2019"

Opening Statements:

During his opening statement, **Chairman Neal** said that the bill being considered today will help Congress live up to its duty to provide health care access to every American at an affordable cost. Furthermore, there are not enough health care workers in the United States to meet the demand. It is crucial for Congress to incentivize individuals to enter the health provider workforce. It remains unfair that Americans continue to pay higher prices for prescription drugs than individuals in comparable international countries. Meanwhile, pharmaceutical companies continue to make incredible profits at the expense of the American tax payer. These bills being considered will not only save Americans money, but it will also save the Medicare program money and contribute to its sustainability going forward. Today, Congress can move forward with making the most important changes to the Medicare program since its inception. The changes being suggested today are not radical but are in fact necessary.

During his opening statement, **Ranking Member Brady** said that H.R. 3 is a highly partisan and secretly written bill. It will reduce innovation and lead to Americans losing access to drugs. It is unfortunate that this process has become so partisan after this committee had done so much bi-partisan work together. Furthermore, this bill will increase the deficit beyond control and may lead to Medicare becoming insolvent. H.R. 3398 is well intentioned but should not be signed into law. Congress lacks the evidence to know whether or not this policy will be successful, but it is known that this bill will increase the deficit. Instead of increasing taxes on Americans, Congress should be focused on increasing Americans paychecks and allowing them to control their own health care. The social safety net is not only harming doctors, but also seniors who have paid their dues but are not getting the services they need. This Congress should emphasize the success of Medicare Advantage plans and encourage the expansion of this program. Republicans are ready to work with Democrats on a bi-partisan drug pricing bill, but price setting is a non-starter. H.R. 3 is a dangerous bill with long term consequences.

Rep. Davis also made an opening statement. He said that health care costs are increasing exponentially and taking up a larger section of the economy every day. Unfortunately, many individuals want to join this work force but there are significant structural barriers in their way. It is crucial to eliminate these barriers to employment in order to uplift low-income communities and provide much needed services. Congress must enact H.R. 3398 to protect vulnerable workers and improve the health of marginalized communities,

Rep. Walorski also made an opening statement. She said that she is deeply disappointed in the partisan process surrounding these bills. While many of these bills are well intentioned they are not evidenced based. This committee should only move forward on legislation that is backed by evidence. While she says she wants to support these bills, she cannot do so without evidence and she thus encourages her colleagues to vote against these measures.

Bill Consideration:

H.R. 3398 the “Pathways to Health Careers Act of 2019”

Chairman offered an amendment in the nature of a substitute (AINS). **Counsel** said that the amendment would make changes by awarding Health Profession and Opportunity Grants (HPOG) on a 5 year cycle rather than a 3 year cycle. Consistent with a 5 year grant cycle, the AINS replaces the gradually rising funding level to 425 million dollars a year for FY2021-2029. Additionally the AINS requires HPOG grantees to notify veteran training officials of their grantee status to ensure that veterans are included in the outreach. **Rep. Doggett** urges support of H.R. 3398 because it will help to uplift communities and provide access to necessary jobs. **Rep. Larsson** said he supports the bill. **Rep. Pascrell** supports the bill because it will move more families into the middle class. **Rep. Davis** said that he supports the bill because it will reduce recidivism and boost the economy. **Rep. Higgins** spoke in support of the bill. **Rep. Moore** spoke in support of the bill. **Rep. Kildee** spoke in support of the bill. **Rep. Boyle** spoke in support of the bill because the nation has a health care worker shortage. **Rep. Beyer** spoke in support of the bill. **Rep. Evans** spoke in support of the bill. **Rep. Schneider** spoke in support of the bill. **Rep. Murphy** spoke in support of the bill. **Rep. Gomez** spoke in support of the bill. **Rep. Horsford** spoke in support of the bill

Rep. Smith offered an amendment to the AINS. The amendment would replace the underlying text related to HPOG’s with the ‘Jobs for Success Act’. He said that focusing on HPOG’s is irresponsible when this committee should be focused on reauthorizing TANF. There is no evidence that HPOG’s work, however there is sufficient evidence that TANF is successful. This amendment would allow the committee to address TANF in the long term. **Rep. Thompson** made a point of order and said that the amendment is not germane because it deals with TANF while the bill being considered is limited to HPOG.

Rep. Smith’s amendment to the AINS was defeated by a vote of 24-13

Rep. Walorski offered an amendment to the AINS. The amendment would require tax funded programs to prove effectiveness through standardized outcome measurements. These measurements have garnered wide bi-partisan support and can result in significant savings. By implementing a pay for-outcomes approach this committee can improve health outcomes while being fiscally responsible. **Rep. Davis** said that delaying services often means denying them. For that reason he opposes the amendment. **Rep. Wenstrup** said that this issue is about efficient and effective use. Without knowing the long term results of these grants it is fiscally irresponsible to extend the grants and fund them at a higher level. He supports the amendment.

Rep. Walorski’s amendment to the AINS was defeated by a vote of 24-16

Rep. LaHood offered an amendment to the AINS. The amendment would promote apprenticeships and direct employer relationships. Congress should focus on providing on the job training and closing the jobs gap. **Rep. Davis** said that while this amendment is interesting, most of its provisions are already covered in the underlying text of H.R. 3398, and he opposes the bill.

Rep. LaHood's amendment to the AINS was defeated by a vote of 24-16.

The amendment in the nature of a substitute to H.R. 3398, as amended, was agreed to by a voice vote.

H.R. 3398, The Pathways to Health Careers Act of 2019, as amended, was reported favorably to the full House by a vote of 24-16.

H.R. 4650, the "Medicare Dental Act of 2019":

Rep. Horsford said that many seniors cannot afford to go to the dentist. The relationship between chronic diseases and oral health is apparent. Comorbid health outcomes often act as a barrier to care and restrict senior's access to necessary services. Older Americans lose access to dental services at the time that they need it most. It is time to expand the dental benefits in Medicare part B. **Ranking Member Brady** spoke in opposition to the bill. He said that these expanded benefits are not paid for. If Congress keeps making false promises to the American people Medicare will go insolvent. Before the program is expanded it is vital to ensure that Medicare is properly funded for years to come. Medicare advantage is part of the solution because these private plans have to compete for business and offer cheaper premiums to seniors. Congress should build on this model.

Rep. Neal offered an amendment to the AINS. **Counsel** said that the amendment inserts the word 'coverage' after the word 'dental' in H.R. 4650. **Rep. Doggett** asked if the counsel has requested a CBO score on the bill. **Counsel** said yes. **Rep. Doggett** asked how much a beneficiary and Medicare would have to pay for dental procedures. **Counsel** said that under the bill, Medicare would pay for 80 percent of basic treatment while the Medicare beneficiary would pay 20 percent. For major tooth restorations, Medicare will cover 50 percent of the cost while the Medicare beneficiary will also cover 50 percent of the cost. **Rep. Doggett** asked if there were any other part B benefits that only covered 50 percent of the cost of a service. **Counsel** said that there used to be, but not anymore. **Rep. Smith** asked if a provider would need to agree to accept Medicare. **Counsel** said yes. **Rep. Smith** asked how many providers accept Medicaid. **Counsel** said that she was not sure. But states that have expanded Medicaid reimbursement rates have a higher percentage of providers that accept Medicaid. **Rep. Buchanan** asked if the government will be able to negotiate prices under this bill. **Counsel** said no, but there will be other avenues for seniors to compare costs. **Rep. Blumenauer** spoke in support of the bill. **Rep. Reed** asked what the Medicare insolvency date is. **Counsel** said 2026. **Rep. Reed** asked if this provision would accelerate insolvency. **Counsel** said that there is no current CBO score to suggest this. **Rep. Reed** asked if seniors can access dental services in Medicare Advantage. **Counsel** said that not all Medicare Advantage plans offer these services. **Ranking Member Brady** asked if there are any estimates regarding the costs of this bill. **Counsel** said no. **Rep. Doggett** and other Democrats spoke in support of the bill and amendment.

The amendment in the nature of a substitute to H.R. 4650, as amended, was agreed to by a voice vote.

H.R. 4650, the Medicare Dental Act of 2019 was reported favorably to the full House by a voice vote.

H.R. 4665, the "Medicare Vision Act of 2019":

Rep. Delbene said that the need for vision care has grown significantly. An estimated 20.5 million Medicare beneficiaries have vision problems. Unfortunately, only 50 percent of these beneficiaries have received treatment for their condition. The barrier to care is the high cost associated with vision care and the lack of affordable coverage. Loss of vision is associated with other health conditions. She expressed her support for the bill. **Ranking Member Brady** said that his comments made regarding H.R. 4650 apply for H.R. 4665 as well.

Rep. Neal offered an amendment to the AINS. **Counsel** said that the amendment makes clarifications to address the interaction of this new benefit with services provided under current law for individuals who have had cataract surgery or insertion of an intraocular lens. **Rep. Thompson** submitted letters of support to the record. **Rep. Doggett** and other democrats spoke in favor of the bill and amendment.

The amendment in the nature of a substitute to H.R. 4665, as amended, was agreed to by a voice vote.

H.R. 4665, the Medicare Vision Act of 2019 was reported favorably to the full House by a voice vote.

H.R. 4618, the "Medicare Hearing Act of 2019":

Rep. Higgins said that Medicare is one of the most successful government programs in history. However, it is clear that there are ways to improve the Medicare program. Nearly half of all adults, age 60 or older have clinically significant hearing loss. Unfortunately, hearing aids are not covered by Medicare and they remain unaffordable for older Americans. This bill will cover hearing aids and provide access to audiologists for Medicare beneficiaries. **Ranking Member Brady** said that he will let his remarks regarding H.R. 4650 stand.

Rep. Neal offered an amendment to the AINS. **Counsel** said that the amendment adds a study and report on the provision of audiology services without the referral of a physician. It further directs the Secretary of Health and Human Services to make regulations to allow audiologists to furnish audiology services without the referral of a physician consistent with findings. **Rep. Doggett and Rep. Pascrell** spoke in support of the bill and amendment. **Rep. Rice** spoke in opposition to the bill and amendment, citing the lack of fiscal responsibility.

The amendment in the nature of a substitute to H.R. 4618, as amended, was agreed to by a voice vote.

H.R. 4618, the Medicare Hearing Act of 2019 was reported favorably to the full House by a voice vote.

H.R. 3, the “Lower Drug Costs Now Act of 2019”:

Rep. Neal said that prescription drug prices are far too high in the United States. These prices affect American consumers and prevent patients from receiving necessary care. Meanwhile pharmaceutical companies continue to enjoy record high profits. H.R. 3 will level the international playing field for U.S. patients and tax payers. CBO estimates that H.R. 3 will increase adherence to pharmaceutical treatments because patients will finally be able to afford these lifesaving medications. Furthermore there is very little evidence to suggest a link between pharmaceutical profits and job growth. In fact, evidence shows that pharmaceutical companies tend to use their profits for stock buy backs. Allowing the secretary of HHS to negotiate drug prices will not reduce innovation, the United States market is far too lucrative. **Ranking Member Brady** said this bill is the wrong way to move forward. Both Democrats and Republicans want to lower drug prices. However, Speaker Pelosi has trashed the bi-partisan process to create a bill that is partisan and dead on arrival in the Senate. This bill is dangerous. CBO concedes that this bill will reduce cures in the future. The only question that remains is exactly how many cures will not be found. While it is true that foreign countries often pay lower prices for drugs, they also have access to much fewer drugs than patients in the United States. If the United States adopted price fixing policies of other countries, the entire world would have less cures and innovative drugs.

Rep. Neal offered an amendment to the AINS. **Counsel** said that the amendment would increase the number of drugs up for negotiation from 25 to 35. Furthermore the amendment would direct the secretary to add newly launched drugs to the negotiation list where the initial costs exceed the median family income in a year. The amendment also instructs the secretary to keep a drug on the negotiation list until there are at least two generic versions available. Furthermore, the amendment requires manufacturers to notify HHS in advance to price increases. Additionally the amendment includes a provision which would allow beneficiaries who utilize high cost drugs that push them into the catastrophic phase of coverage in just one fill, to pay their cost sharing in installments. Finally, the amendment mandates pharmacy quality metrics and includes additional protections for low income beneficiaries to lower out-of-pocket costs and disincentive using retirement savings. **Rep. Doggett** asked if it is correct that H.R. 3 focuses on high cost, high volume drugs. **Counsel** said yes. **Rep. Doggett** asked if individuals who have high drug costs that are not connected to high cost high volume drugs can expect to have the price of their drugs negotiated. **Counsel** said that in title 2, rebate provisions apply on a broad scale. **Rep. Rice** asked what the tax rate is if there is no agreement between manufacturer and HHS. **Counsel** said that the initial tax rate is 65 percent of sales and rises to a maximum of 95 percent of sales. **Rep. Rice** asked if manufacturers will get to recoup their cost from this tax. **Counsel** said no. **Rep. Thompson** asked if Americans not enrolled in Medicare would see savings in drug costs. **Counsel** said yes, Title 1 and title 2 work together. **Rep. Walorski** asked what the comparable effective tax rate is to the 95 % excise tax imposed on manufacturers for not complying with negotiations. **Counsel** said that if a manufacturer receives \$100 dollars in sales, they will be charged a tax of \$95 and will be left with \$5. **Rep. Blumenauer** asked if it is true that large drug manufactures spend more money on marketing than research and development. **Counsel** said yes. **Rep. Smith** asked if there is another scenario where a company has been taxed at 95 percent. **Counsel** said that yes. **Rep. Horsford** asked if it is true that the excise tax only applies if the drug company fails to enter negotiations with HHS. **Counsel** said yes. **Rep. Horsford** asked if most companies would enter into negotiations. **Counsel** said yes, CBO

estimates that most companies would enter into negotiations. **Rep. Rice** asked who administers intellectual property laws. **Counsel** said it is the FDA and another department. **Rep. Rice** asked if these departments will be the ones handling price negotiation. **Counsel** said no. **Rep. Beyer** asked if the costs to bring a drug to market are public information. **Counsel** said they are self-reported numbers. **Rep. Arrington** asked how much on average does it cost to bring a drug to market. **Counsel** said she did not know. **Rep. Arrington** asked what percentage of drugs actually make it to market. **Counsel** said she did not know the exact percentage. But most do not make it. **Rep. Evans** asked how impact H.R. 3 would have on insulin prices. **Counsel** said that the price would drop dramatically. **Rep. Reed** asked if the excise tax in H.R. 3 is tax deductible. **Counsel** said it is not deductible. **Rep. Reed** asked if the bill prevents judicial review of the excise tax. **Counsel** said no.

Rep. Pascrell offered an amendment to the AINS. The amendment would rename H.R. 3 to the “Elijah E. Cummings Lower Drug Costs Now Act”. **Chairman Neal** and **Ranking Member Brady** spoke in support of the amendment.

Rep. Pascrell’s amendment to the AINS was approved by a voice vote.

Ranking Member Brady offered an amendment to the AINS. The amendment would replace all of the provisions in H.R. 3 with bipartisan provisions previously supported in this committee. **Rep. Thompson** proposed that the amendment is not germane. **Chairman Neal** ruled that the amendment is not in order. **Ranking Member Brady** appeals the ruling. **Rep. Thompson** moved to table.

Ranking Member Brady’s amendment to the AINS was tabled by a vote of 25-16.

Ranking Member Brady offered an amendment to the AINS. The amendment would raise the cap on out of pocket costs for Medicare part D beneficiaries from \$2,000 to \$3,100 and eliminates inflationary rebates.

Ranking Member Brady’s amendment to the AINS was defeated by a vote of 24-16.

Rep. Smith offered an amendment to the AINS. The amendment would create a higher add on percentage for cheaper drugs and a smaller add on percentage for more expensive drugs.

Rep. Smith’s amendment to the AINS was defeated by a vote of 24-17.

Rep. Wenstrup offered an amendment to the AINS. The amendment would add price estimates to physician offices. The amendment also makes sure that Medicare payment rates are the same in all outpatient physician offices.

Rep. Wenstrup’s amendment to the AINS was defeated by a vote of 23-19.

Rep. Arrington offered an amendment to the AINS. The amendment would direct the value of drug rebates to flow to Medicare beneficiaries at the point of sale.

Rep. Arrington’s amendment to the AINS was defeated by a voice vote.

Rep. Reed offered an amendment to the AINS. The amendment would encourage the creation of point of sale rebates to consumers.

Rep. Reed's amendment to the AINS was defeated by a vote of 23-17.

Rep. Reed offered an amendment to the AINS. The amendment would direct that savings received by government price negotiation go to patients needing insulin.

Rep. Reed's amendment to the AINS was defeated by a vote of 24-17

Rep. Wenstrup offered an amendment to the AINS. This amendment would require patients to only pay 20 percent of the 340B discounted amount in cost sharing. Wenstrup said that this amendment would not change the discount to cover entity but change the cost sharing amount for patients.

Rep. Wenstrup's amendment to the AINS was ultimately withdrawn.

Rep. Ferguson offered an amendment to the AINS. This amendment would incorporate the HR 495 CREATES Act and HR 1499 the Protecting Consumer Access to Generic Drugs Act of 2019.

Rep. Ferguson's amendment to the AINS was ultimately withdrawn.

Rep. Walorski offered an amendment to the AINS. The amendment would strike the 95 percent tax on manufacturers if they fail to negotiate prices with the government under HR 3, and repeals the medical device tax, and it permanently expands the medical tax deduction.

Rep. Walorski's amendment to the AINS was ultimately withdrawn.

Rep. Nunes offered an amendment to the AINS. This amendment would strike Title I of HR 3, which allows for government price negotiation.

Rep. Nunes' amendment to the AINS was defeated in a vote of 24-17.

Rep. Holding offered an amendment to the AINS. This amendment would strike the international pricing reference included in HR 3.

Rep. Holding's amendment to the AINS was defeated in a vote of 25-17.

Rep. LaHood offered an amendment to the AINS. This amendment would exclude any drug or biologic that is a treatment or cure for Alzheimer's disease from HR 3 government price negotiation provisions.

Rep. LaHood's amendment to the AINS was defeated in a vote of 23-14.

Rep. Walorski offered an amendment to the AINS. The amendment would exempt any drug or biologic that is a treatment or cure for cancer from HR 3 government price negotiation provisions.

Rep. Walorski's amendment to the AINS was defeated in a vote of 24-16.

Rep. Smith offered an amendment to the AINS. This amendment would exempt any drug or biologic that is a treatment or cure for a rare disease from HR 3 government price negotiation provisions.

Rep Smith's amendment to the AINS was defeated by voice vote.

Rep. Kelly offered an amendment to the AINS. This amendment would prevent any HR 3 provisions from going into effect unless the Secretary can confirm that the bill would not prevent any unmet medical need.

Rep Kelly's amendment to the AINS was defeated by voice vote.

Rep. LaHood offered an amendment to the AINS. This amendment would require that Secretary of HHS confirm that there would be no shift in research and development investment from the United States to foreign countries.

Rep. LaHood's amendment to the AINS was tabled in a vote of 24-16.

Rep. Smith offered an amendment to the AINS. This amendment would require the Secretary of HHS to certify that there would be no reduction in lifesaving measures for individuals in living rural areas as a result of this bill. The Secretary would need to certify this before the bill goes into effect.

Rep. Smith's amendment to the AINS was defeated in a vote of 25-17.

Rep. Ferguson offered an amendment to the AINS. This amendment would require that no provision of HR 3 be implement until Secretary of HHS confirms that HR 3 does not limit access to providers, including oncologists in rural areas.

Rep. Ferguson's amendment to the AINS was tabled in a vote of 25-17.

Rep. Arrington offered an amendment to the AINS. This amendment would establish a pharmaceutical trade negotiator in the Office of the Federal Trade Representative that would establish trade negotiations, policies, and practices for foreign countries that fail to reward the United States for its innovation in respect to pharmaceuticals.

Rep. Arrington's amendment to the AINS was withdrawn.

Rep. Schweikert offered an amendment to the AINS. This amendment would that put together a study committee to examine the protocol on the technology to distribute prescription drugs and notifies patients and family members if the prescription was taken properly. The study committee would also look into the packaging and discarding of high value pharmaceuticals.

Rep. Schweikert amendment to the AINS was withdrawn.

Rep. Schweikert offered an amendment to the AINS. This amendment would create a “health care bond” which would be a financing mechanism for rare diseases.

Rep. Schweikert amendment to the AINS was withdrawn.

Rep. Kelly offered an amendment to the AINS. This amendment was include HR 4244, The Market Access for Generic Insulin Competition Act, or MAGIC Act, which would help pave the way for a generic form of insulin, in HR 3.

Rep Kelly’s amendment to the AINS was tabled in a vote of 25-17.

Rep. Estes offered an amendment to the AINS. This amendment would require any savings from HR 3 would go directly into the Medicare Hospital Insurance (HI) Trust Fund.

Rep. Estes’ amendment to the AINS was tabled in a vote of 25-16.

Rep. Rice offered an amendment to the AINS. This amendment was in relation to preventing government price negotiation and an international pricing index.

Rep. Rice’s amendment to the AINS was likely defeated. However, the live feed of the mark-up of the markup was cut at this time.

Rep. Doggett introduced an amendment however the feed to the markup was cut, so the specifics to the amendment are not yet available. *The vote of the amendment was available, which was 4 yes, 20 nays, and 17 present.*

Rep. Doggett offered an amendment to the AINS. This amendment would raise the number of drugs subject to price negotiation from 25 to 50 in 5 years. And then increases that number again to 100 drugs after 10 years.

Rep. Doggett’s amendment to the AINS was defeated in a vote of 39-3.

Rep. Doggett offered an amendment to the AINS. The amendments would direct the committee attention to the other amendments. One of the amendments would subject drugs that funded by taxpayer dollars to be subject price negotiation. He also discussed issues relating to launch prices, and also raised issues within the bill as it relates to price hikes.

Rep. Doggett’s amendment was withdrawn.

The amendment in the nature of a substitute to H.R. 3, as amended, was agreed to by a voice vote.

H.R. 3, as amended, was reported favorably to the full House by a vote of 24 yes, 17 nays, and 1 present.