



**House Education and Labor Committee**  
**Subcommittee on Health, Employment, Labor, and Pensions**  
*Lower Drug Costs Now: Expanding Access to Affordable Health care*  
Wednesday May 5, 2021  
12:00 pm, Cisco WebEx

## PURPOSE

*The purpose of this hearing is to discuss reasons as to why drug costs have been rising and the impact of both the Elijah E. Cummings Lower Drug Costs Now Act (H.R.3) and the Lower Costs, More Cures Act of 2019 (H.R.19) on the market place.*

## KEY TAKE AWAYS

- Republicans and Democrats remain divided over how to approach prescription drug pricing reforms. Republicans argue for the adoption of H.R. 19, while Democrats argue for the adoption of H.R. 3.
- Opponents (Republicans) of H.R. 3 argue that its adoption would decrease research and development of new drugs, and limit overall access to prescription drugs.
- Proponents (Democrats) of H.R. 3 argue that Americans cannot afford prescription drugs, and that Medicare price negotiation will not stifle innovation or limit access.

## MEMBERS PRESENT

Chairman DeSaulnier, Ranking Member Allen, Ranking Member Foxx, Representatives Courtney, Wilson, Norcross, Walberg, McBath, Harshbarger, Levin, Miller, Wild, Stevens, Mrvan, Scott, Spartz.

## WITNESSES

**Dr. Mariana Socal**, MD, PhD, MS, MPP; Associate Scientist; Johns Hopkins Bloomberg School of Public Health

**Mr. David Mitchell**; Founder and President; Patients For Affordable Drugs Now

**Dr. Douglas Holtz-Eakin**; President; American Action Forum

**Mr. Frederick Isasi**, J.D., MPH; Executive Director; Families USA

## OPENING STATEMENTS

**Chairman DeSaulnier (D-CA)** it has been more than a year since the house passed H.R. 3 but on top of weathering the worst global health crisis in recent history, Americans are still paying too much for pharmaceuticals. Americans out of pocket costs total more than \$80 billion a year

and 3 in 10 adults decided to forgo their prescribed medication due to prohibitive costs. Americans routinely pay 3-4 times more for drugs than patients in other countries. A popular and effective cancer drug that is used in America is \$500, while in Australia the same drug is less than \$30. Some argue high costs are needed to cover research and development but more costs go towards overhead. No one is saying to stop research for life saving drugs but more can be done to make these prices more appropriate. The Government Accountability Office (GAO) said the profits for pharmaceutical companies are very high, where their average profit margin is 15-20% compared to other sectors with profits at 3-4%. Many drugs are created through tax funded medical research. For example, every drug approved by the Food and Drug Administration (FDA) from 2010 to 2016 was developed at least in some part by these tax funded partnerships. H.R. 3 would lower costs and increase transparency by first allowing the Department of Health and Human Services (HHS) Secretary to negotiate prices, would cap negotiations for drug prices to be similar to other similar countries, would set a new limit on out of pocket drug costs for Medicare beneficiaries, and utilizes savings by reinvesting in medical breakthroughs.

**Ranking Member Allen (R-GA)** when the Trump Administration started working on Operation Warp Speed, no one thought this feat would occur as fast as it has. This showcases how innovative the US pharmaceutical industry can be. Unfortunately, Americans are paying too much for their prescriptions. H.R.19 is the direct opposite of H.R. 3 but would increase transparency, lower costs, and ease the minds of Americans. Until 2019, lowering drug costs was a nonpartisan issue but with the introduction of H.R. 3 in 2019 and doubling down in this Congress, has resulted in far left politics being pushed instead of policy. Analysis showcase that H.R. 3 would lower private investments in the pharmaceutical industry, thus if this bill was enacted last year, the country wouldn't have the COVID-19 vaccines it has today. H.R. 3 would increase reliance on China and worsen the experience for patients.

## TESTIMONY

**Dr. Mariana Socal** said organizations like Purchasing Group on Health and Arnold Ventures have grown more interested in the impact of high drug costs on employers sponsored health plans cover a third of employees. These plans utilize pharmacy benefit managers (PBMs) which has further complicated pricing transparency and frequently results in employers spending more on drugs. Additionally, there has been an increase of drugs that do not have strong competitors, which causes the country to spend more on drugs. Drug prices in other countries normally decrease their prices once on the market for an extended amount of time but in America, prices for drugs on the market typically continue to rise. The process of drugs pricing is complicated, so patients and providers do not know the true cost of a drug. Further, many employees are in plans with a very high deductible, so they are forced to pay high out of pockets. H.R. 3 would stop this issue.

**Mr. David Mitchell** said the drugs required for a specific cancer treatment plan is a four combo drug therapy that costs over \$900,000 per year, where, for a good health care plan, out of pocket costs \$18,000 per year. While these drugs are lifesaving, drugs do not work if they aren't affordable. Ninety percent of voters across parties believe that drug price reform needs to be done. There are four reasons why PhRMA's arguments against that prescription drug pricing

reform would hurt research and development are invalid: 1) PhRMA enjoys profits that are astronomical; 2) most research for drugs is funded by taxpayers; 3) the Congressional Budget Office (CBO) says if the country were to cut pharmaceutical profits by over \$1 trillion over ten years, it would only lose 8 out of 300 new drugs, but very few of these new drugs are actually productive for patients; and 4) stating patients would lose access to innovative drugs is simply just inaccurate. H.R. 3 is a comprehensive reform the country it needs and could save the government over \$400 billion. PhRMA has treated patients as piggy banks for years and this needs to stop.

**Dr. Douglas Holtz-Eakin** said there is no evidence of prescription drug pricing abuse that would warrant a wide sweeping one-size fits all reform. There are in fact select individuals and drugs that have a pricing problem, so reforms should focus on those. The main way to lower prices is by increasing supply. Provisions in H.R. 3 are hardly a negotiation and are a threat to the ecosystem of the pharmaceutical industry. CBO has stated that negotiations would hardly produce savings since the HHS Secretary wouldn't have a formulary to reference. The tax provisions are draconian and would threaten reference drugs, which would result in less access to drugs for beneficiaries. If something is to be done on drug pricing, Congress should look at the Medicare Part D language in H.R.19 which makes manufacturers liable for more of the cost in the catastrophic region.

**Mr. Frederick Isasi** said stopping prescription cost abuses is the number one uniting issue in the nation, and across party isles. Millions of Americans live in fear of not being able to afford their prescriptions, two thirds of them are participating in a horrible gamble of skipping their treatments because of high costs. The problem of out of control drug prices is simple: Congress created a monopoly that pharmaceutical companies have been continuously relying on. H.R. 3 represents a critical step in addressing drug costs that would allow the government to defend American families from pharmaceutical companies while also supporting much needed improvements for the Medicare program. On the other side of this fight is one of the most profitable sectors in the world, the pharmaceutical sector, which employs over 800 lobbyist in Washington, D.C., which applies tremendous pressure on Congress. Time for action is long past due.

## QUESTIONS AND ANSWERS

**Chairman DeSaulnier** asked how H.R. 3 would impact patients who are reliant on life saving drugs while not inhibiting research and development and how it would impact small businesses.

**Mr. Mitchell** said a system should incentivizes investments in drugs that have a high value.

What small businesses have to deal with is either spending more money for the drug plan or shift costs to employees. **Chairman DeSaulnier** asked how much more money pharmaceutical

manufacturers spend on advertisement than research and development. **Dr. Social** said pharmaceutical companies spend far more on advertising than research and development.

**Chairman DeSaulnier** asked if a formulary exists that furthers high value drugs. **Dr. Social** said innovation and high value drugs can be prioritized.

**Ranking Member Allen** asked if the Affordable Care Act (ACA) is driving cost increases. **Dr. Holtz-Eakin** said insurance is meant to spread the cost around so insurance is not at fault. What has grown in cost is the highly specialized drug costs. The bulk of the bill is in doctors, hospitals, and other providers, which have experienced consolidation under the ACA. **Ranking Member Allen** asked if the same could be seen with H.R. 3 **Dr. Holtz-Eakin** said yes. **Ranking Member Allen** asked for more information in RNA. **Dr. Holtz-Eakin** said RNA research has been occurring for the past three decades but the development of these vaccines are largely supported by private investments.

**Ranking Member Foxx (R-NC)** asked if H.R. 3 provides fair choices to employers. **Dr. Holtz-Eakin** said no, H.R. 3 would negatively affect every third party payer in the United States. **Ranking Member Foxx** asked if negotiations would benefit employees. **Dr. Holtz-Eakin** said negotiation found in H.R. 19 would give employers more power to negotiate. The route to get prices down is to provide strong negotiation and competition. **Ranking Member Foxx** asked what would be the consequence if H.R. 3 passed for employers. **Dr. Holtz-Eakin** said if employers can't guarantee their own price for drugs, they would have to accept the government set rate. If the country adopts bad policies, it could lose the innovative drugs.

**Rep. Courtney (D-CT)** asked if prescription drugs are driving the increase in premiums of employer sponsored plans. **Dr. Socal** said yes, a lot of what is driving the costs is the expensive drugs that do not offer additional value to other drugs that are on the market. **Rep. Courtney** asked if H.R. 3 increases transparency. **Dr. Socal** said yes H.R. 3 would greatly increase transparency overall.

**Rep. Wilson (R-SC)** asked how H.R. 3 would affect pension plans and Social Security in the long run. **Dr. Holtz-Eakin** said it would greatly hurt pensions by dissolving some of the benefits used in the current system. **Rep. Wilson** asked how H.R. 3 would affect the job market. **Dr. Holtz-Eakin** said it is known that H.R. 3 would negatively impact the market but the magnitude of the impact is unknown. **Rep. Wilson** asked how H.R. 3 would impact the nation's international abilities. **Dr. Holtz-Eakin** said it would be a handicap for the nation.

**Rep. Norcross (D-NJ)** asked if Germany does not receive innovative drugs like the United States because of their reform policies. **Dr. Holtz-Eakin** said they still receive innovative drugs but just not at the same speed. **Rep. Norcross** asked what works well and what does not with PBMs. **Dr. Socal** said they not only negotiate but they also make a profit off the negotiations, so they are incentivized to have higher cost drugs in a formulary. **Rep. Norcross** asked if transparency would help with the PBM problem. **Dr. Socal** said it would help some of the problem but for some situations, the PBM negotiations are not useful.

**Rep. Walberg (R-MI)** asked how allowing the HHS Secretary to control drug prices would impact innovative drugs getting to the market. **Dr. Holtz-Eakin** said it would greatly impact the market and would increase risk. **Rep. Walberg** asked what repercussions would occur if the US had greater reliance on China. **Dr. Holtz-Eakin** said the supply chain has not yet been stress tested and it is unknown where patients would go for therapies that are not produced in China. **Rep. Walberg** asked how employer sponsored health plans would be impacted if H.R. 3 became law. **Dr. Holtz-Eakin** said they would end up in the same pricing regime.

**Rep. McBath (D-GA)** asked what are some of the challenges businesses face with accessing affording drugs and how would having a price negotiated by the federal government affect employers. **Dr. Social** said employers would prefer to have the costs spent on pharmaceutical plans be used to invest further in retirement plans or other benefits. Additionally, many employers frequently shift the high costs to employees to penalize them when they need expensive drugs. Having the Secretary negotiate drug prices would help this issue greatly.

**Rep. Harshbarger (R-TN)** asked if CMS has regulatory authority to implement PBM reform. **Dr. Holtz-Eakin** said there has been efforts in recent years, like the PBM Rebate rule which did not get finalized. **Rep. Harshbarger** asked what legislative recommendations should the committee to follow to reform ERISA. **Mr. Mitchell** said it is disturbing that beneficiaries cannot know the exact cost of the drug they need. There is work to do first on list prices and then second on transparency efforts.

**Rep. Levin (D-MI)** asked what impact costs have on patient health. **Mr. Isasi** said roughly a third of Americans can't afford their drugs, which is a uniquely American problem in comparison to other developed countries. **Rep. Levin** asked why all consumers should be protected, not just Medicare consumers. **Mr. Isasi** said the pharmaceutical industry is the one industry in the country that has prices that do not need to be approved by the government. This problem needs to be solved fundamentally for all Americans.

**Rep. Miller (R-IL)** asked whether countries with policies like those in H.R. 3 have access to innovative medicines. **Dr. Holtz-Eakin** said far less, they have at most 60% of brand name drugs than Americans have. **Rep. Miller** asked how negotiations under H.R. 3 would work. **Dr. Holtz-Eakin** said the Secretary would not have any tools to negotiate savings.

**Rep. Wild (D-PA)** asked why insulin prices are increasing and how H.R. 3 would address this issue. **Mr. Isasi** said roughly 30 million Americans suffer from diabetes and require insulin to live. Despite insulin being created over 100 years ago, the price continues to increase due to patent protections.

**Rep. Stevens (D-MI)** asked how provisions in H.R. 3 would benefit older Americans. **Dr. Social** said older Americans under Medicare do not have an out of pocket cap right now. If Medicare Part D were to use the average price of its second most expensive covered drug used in other countries, the savings would amount to \$73 billion. **Rep. Stevens** asked what are the challenges businesses face in affording pharmaceutical plans. **Dr. Social** said increasing transparency would lower the price of out of pocket costs for patients and often times, employers do not know how much money they are spending on drugs.

**Rep. Mrvan (D-IN)** asked what impact does high cost drugs have on businesses. **Mr. Mitchell** said roughly 60% of Americans get health care coverage through their employers. Seventy-seven percent of small business owners support federal price negotiations. **Dr. Social** said employees who cannot afford drugs because they have a high deductible employer sponsored plan are not able to attend to work and produce future health bills that would be covered by the employer. **Rep. Mrvan** asked what choices older Americans make when it comes to pricing on

medications. **Dr. Social** said 3 in 10 Americans struggle to pay for their drugs and 60% of older Americans said they would trade off the option to choose their drug plan in Medicare Part D if they were to get lower costs.

**Rep. Scott (D-VA)** asked how Congress could increase supply for drugs that are protected by patents. **Dr. Holtz-Eakin** said Congress should streamline the approval process as much as possible, support processes to encourage generics to market, and to make sure those processes are understood. **Rep. Scott** asked what more would have to be done to get meaningful prices. **Mr. Mitchell** said there has to be incentives for pharmaceutical companies to participate in the negotiations. International reference pricing is another tool that could be used. **Rep. Scott** asked if a portion of the savings created by H.R. 3 could be given to National Institute for Health (NIH), would that offset the type of research loss others mention. **Dr. Social** said yes, NIH research pushes for really innovative drugs. **Rep. Scott** asked if H.R. 3 would increase consolidation. **Mr. Isasi** said H.R. 3 would not increase consolidation activities since that has already happened.

**Rep. Spartz (R-IN)** asked what would be three alternatives to a government monopoly on the market like what would be created by H.R. 3. **Dr. Holtz-Eakin** said sole-sourced generics need to be addressed, levers that are available to redesign the Medicare Part D benefit should be used, and the disparity of net prices versus what has been negotiated should be addressed.

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