

The Honorable Nancy Pelosi
Speaker of the House
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Jim McGovern
House Rules Committee Chairman
408 Cannon House Office Building
Washington, DC 20515

December 6, 2019

Dear Speaker Pelosi and Chairman McGovern,

We are pleased to see that the House has taken up H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, to begin to address the urgent problem of high prescription drug prices in the United States. This legislation represents a valuable first step in bringing sorely needed relief to the nearly three-in-ten Americans who say they lack the funds to pay for their prescriptions¹.

The undersigned groups write to urge you to improve on the framework of H.R. 3 by:

- **Extending the maximum fair price for negotiated drugs under H.R. 3 to people without insurance coverage,**
- **Increasing the minimum number of drugs that are negotiated each year,**
- **Eliminating the Medicare Part D non-interference clause, and**
- **Preserving the price spike protections added in the Education & Labor Committee.**

Drug corporations use their government-granted monopolies to reap tens, or even hundreds, of billions of dollars in profits from the medicines that people rely on for their health and well-being. Yet these companies continue to raise the prices of drugs in the United States each and every year with few exceptions, often doing so without any basis in new clinical evidence².

By allowing the government to finally leverage its purchasing power to negotiate lower prices for prescription drugs, H.R. 3 would help turn the tide back in favor of patients. According to a preliminary estimate by the Office of the Actuary, Titles I and II of H.R. 3 would save families \$158 billion by 2029 in the form of lower premiums and reduced out-of-pocket spending³.

However, the current negotiation framework of H.R. 3 should be improved to meet the needs of even more patients who are harmed by prohibitive drug prices. In order to fulfill the promises contained in *A Better Deal*, the House should strengthen this framework to ensure that more people benefit from lower negotiated drug prices and to further increase savings. Four key improvements should be included as H.R. 3 advances to the floor:

¹ A. Kirzinger, L. Lopes, B. Wu, and M. Brodie. (March 1, 2019). KFF Health Tracking Poll—February 2019: Prescription Drugs. The Henry J. Kaiser Family Foundation.

<https://www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/>.

² Institute for Clinical and Economic Review. Unsupported Price Increase Report: 2019 Assessment.

https://icer-review.org/wp-content/uploads/2019/01/ICER_UPI_Final_Report_and_Assessment_110619.pdf

³ Centers for Medicare & Medicaid Services Office of the Actuary. Financial Impact of Titles I and II of H.R. 3. "Lower Drug Costs Now Act of 2019." <https://www.scribd.com/document/429847530/HR3-Title-I-Memo>

- **Ensure that uninsured people also benefit from the negotiated price.** H.R. 3 requires the government negotiated price to be the maximum paid by Medicare, and to be available to private plans. However, for people without insurance, or for a drug that is not covered by a given person's insurance, the new, lower drug price will not be available. This means that Americans with the greatest need for relief, those without insurance, will remain the most vulnerable to prescription drug corporation profiteering. As the uninsured rate continues to creep higher, Congress must ensure that these people will also benefit from government drug price negotiations.
- **Increase the minimum number of drugs negotiated each year.** Under H.R. 3, the federal government is only required to negotiate the price of 25 drugs every year (rising to 30 drugs in 2028, and 35 drugs in 2033). There are more than one thousand prescription drugs with government-granted patents and exclusivities that allow corporations to charge monopoly prices, with dozens more introduced every year. We need the government to act quickly to bring down the price of drugs across the board.
- **Eliminate the Medicare non-interference clause.** H.R. 3 would prevent the government from negotiating the price of many drugs. For a drug that is not negotiation eligible under the bill's definition, like EpiPen, it would still be illegal for the government to negotiate a lower price.
- **Protect people from price spikes.** H.R. 3 includes provisions that would prevent pharmaceutical corporations from increasing prices by more than the rate of inflation for Medicare, but as introduced, it did not include similar protections for people on employer-sponsored plans. The bill was amended in the Education & Labor Committee to require the government to conduct a study on expanding this protection to tens of millions of people insured under group health plans, and — crucially — to promulgate regulations to make it so. This important provision must be preserved in the final text.

Making these changes to the bill and preserving expanded price spike protections would help ensure that many more people are able to benefit from H.R. 3's price negotiations, which will be critical to alleviating our crisis of treatment rationing due to cost.

Even with all of these improvements included, H.R. 3 would only represent a starting point for ensuring all people have affordable access to medicine. In the coming years, Congress should take up legislation that would confront pharmaceutical corporations' abuse of their government-granted monopolies (i.e. patents and marketing exclusivities) through policies such as competitive licensing. While Medicare negotiation is an important step, pharmaceutical corporations will persist in abusing their monopoly pricing power until the government addresses the problem at its root by directly challenging the monopoly through competition.

Sincerely,

American Medical Student Association

American Muslim Health Professionals

Coalition to Protect Patient Choice

Communications Workers of America (CWA)

Consumer Action

CPD Action

Demand Progress

Doctors for America

Indivisible

Just Care

National Nurses United

Other98

People Demanding Action

People's Action

Progressive Democrats of America

Public Citizen

Social Security Works

T1International

The PrEP4All Collaboration

Treatment Action Group (TAG)