

RX DRUGS: A PERSONAL OPTION



“If you put the federal government in charge of the Sahara Desert, in five years there’d be a shortage of sand.”

- Milton Friedman, Nobel Prize winning economist

One of the biggest complaints Americans have about health care is that prescription drug prices are too high. While the goal of lowering prescription drug prices is laudable, government price controls are the wrong way to achieve it.

Price controls are deeply flawed and cause far more harm than good. Invariably, they cause scarcity, lead to bureaucratic rationing, and, perversely, drive up real prices by spawning inefficient black markets. Rent control is an obvious example. It creates housing shortages that actually make it harder for low-income people—rent control’s intended beneficiaries—to live in a city.

Putting price controls on life-saving medicines would similarly cause shortages and even rationing, except in this case the outcome will be far more ominous—needless suffering and death.

Some lawmakers have introduced bills to put the government in charge of setting prescription-drug prices through one-sided “negotiations” with drug developers. Others would cap drug prices at the rate of inflation. Such policies would be carried out by either a new or existing government bureaucracy empowered to define “reasonable” prices. Here is what Americans could expect:

- more politics where it does not belong,
- new drugs never making it to market,
- shortages of existing drugs, and
- large pharmaceutical companies shielded from competition by start-ups that could not meet the new government mandates.

A rationing scheme that puts the government in charge of our medicine cabinets is the wrong prescription for America. It would only hurt those we need to help.

There’s a better way. As we’ve learned from the remarkable success of COVID-19 vaccines, the key to unleashing private-sector innovation and abundance—and saving lives—is not to impose needless government barriers but to remove them.

Instead of price controls, lawmakers should give Americans a personal option that controls drug costs naturally, without shortages or stagnation.

A personal-option approach will give you, the patient, more choice and control, increase the supply of available medicines by accelerating the development of new and lower-cost alternatives, encourage market competition, and provide price transparency.

BACKGROUND

Prescription drug spending represents just 10 percent of total U.S. health care spending.¹ And 90 percent of U.S. drug spending is for generic medicines, which are significantly more affordable than patented brand-name drugs.²

There are several reasons why some prescription drugs are expensive:

1. Government health care programs drive up drug costs through inefficient rules that reduce price transparency, distort supply chains, and dampen competition.
2. Drug companies drive up drug costs for patients by exploiting loopholes in the intellectual property laws to prolong their patent monopolies.
3. Government regulations keep safe drugs off the market as treatment options while driving up drug development costs.

Of these problems, government regulation is the most harmful. The federal Food and Drug Administration has monopoly power over new drugs, and it typically keeps them off the market not just for months but for years. During that time, people suffer and die needlessly.

As a result of FDA's excessive red tape, bringing just one new drug to market in the U.S. takes an estimated ten years and \$3 billion. And this cost has been growing at 7.5 percent per year, more than doubling every ten years.³

Happily, with sensible reforms like those suggested below, we can shave up to a decade and \$2 billion off the cost of the average new drug—and promote competition—without reducing safety.⁴

MISGUIDED “SOLUTION”

In a December 2019 report, the White House Council of Economic Advisers estimated that the government price controls contained in a bill known as H.R.3, which includes government “negotiated” (really, dictated) prices and drug-price inflation caps, would reduce the pharmaceutical spending on research and development by \$75 billion to \$200 billion over a decade. As a result, the CEA concluded, the pharmaceutical industry would introduce as many as 100 fewer products over a decade. Instead of 300 new drugs, Americans would see 200.⁵

Additionally, Americans would be less healthy and productive. The \$34.5 billion in annual savings that the federal government would realize from price controls would reduce annual economic output by \$375 billion to \$1 trillion, imposing a cost to society 10 to 30 times the federal savings.⁶

Price controls reduce access. While Americans enjoy access to nearly 90 percent of new drugs, Canadians only have access to about 50 percent, because their government deems most new drugs “too expensive.”⁷ Ditto for patients in France.⁸ Just 14 percent of new drugs are available to patients in Spain and Greece.⁹ In the European Union, price controls have led to drug shortages.¹⁰

TRUE SOLUTION

Making prescription drugs more affordable doesn't have to be a zero-sum game that forces patients to choose between lower prices and access to the treatments they need. We can have both. The key is to enact a personal option for prescription drugs that will:

- streamline the drug approval process, so new drugs are approved on a rapid timetable like the COVID-19 vaccines,
- remove barriers to lower-cost generic versions of drugs,
- allow for more legal drug importation from other countries, and
- give consumers more choice, control, and price transparency.

A PLAN

Americans for Prosperity supports the following positive, market-oriented reforms as an alternative to government price controls and rationing. This plan will reduce drug prices, boost access, and promote innovation. More importantly, it will save lives.

1. Faster Drug Approvals

We should reform the FDA's drug approval process to reduce drug development times and prescription drug costs, by streamlining that process and by granting automatic approval to any therapy approved as safe by advanced countries we trust. These reforms would accelerate patients' access and promote competition without harming safety. *AFP supports Sen. Ted Cruz's and Rep. Chip Roy's RESULTS Act (S.154 / H.R.724).*

2. More Generic Competition

Another important way to reduce costs: promote generic competition. A number of sensible reforms have been proposed that speed generics to market while respecting the just rights of inventors. Many of these reforms have bipartisan support. For example, a bill to end "pay-for-delay" agreements, by which brand-name drug companies persuade would-be generic competitors to delay bringing their products to market, thus effectively extending their own effective monopoly. *This and many similar pro-consumer reforms are found in the Lower Costs, More Cures Act (H.R.19) and the Wyden-Grassley Prescription Drug Pricing Reduction Act (S.S2543, 2019).*^{11,12}

3. Tax-Free Savings for All

Empowering consumers is critical. Current tax law discriminates against out-of-pocket medical purchases. But we can fix that problem by letting every American save and spend for prescription drugs, tax-free. Tax-free Health Savings Accounts are a tool that effectively give you a generous 10 to 37 percent discount on every medical expense. To help lower-income individuals enjoy the benefits of an HSA, we can allow them to receive some of the subsidies we currently provide via government programs in the form of a means-tested government contribution to their HSA. We should also codify the current federal rule on Health Reimbursement Arrangements (HRAs), so employees can use pre-tax contributions from their employer to purchase personally owned, portable health insurance that includes good-quality prescription drug coverage tailored to their personal needs. *AFP supports Rep. Chip Roy's Personalized Care Act (H.R.725), Sen. Marco Rubio's Health Savings Act (S.380), Rep. Matt Rosendale's Health Freedom and Flexibility Act (H.R.2808), Rep. Dan Bishop's Increasing Health Coverage through HRAs Act (H.R.5224, 2019), and similar legislation.*

4. Better Medicare Drug Coverage

Medicare's current drug coverage options should be improved to protect enrollees from excessive drug costs. Original Medicare has never covered prescription drugs. Instead, enrollees must either purchase separate drug coverage (Part D) or opt into a privately administered Medicare Advantage (MA) plan. While most MA plans include a modern, comprehensive drug benefit with an overall cap on out-of-pocket costs, Part D plans do not. Part D also features an infamous "donut hole" coverage gap, in which the enrollee must pay a deductible and then 25 percent of all drug expenses after reaching about \$4,000 in out-of-pocket costs and possibly sooner, up to about \$6,500, after which the enrollee pays 5 percent. No other modern health plan contains such a gap. Remarkably, Part D does not protect seniors from going broke due to high costs, which is the purpose of insurance. To fix this problem, Congress should do two things. First, cap total Part D out-of-pocket cost exposure at a reasonable figure (say, \$3,000) and eliminate the coverage gap. Second, auto-enroll all new Medicare enrollees into a high-quality, low-premium Medicare Advantage plan that includes good drug coverage with a reasonable out-of-pocket cap, while allowing individuals to opt into original Medicare if they wish. These changes would benefit not only seniors and the disabled but tens of millions of Americans with private insurance, because many private insurers emulate Medicare's payment policies. The changes should be coupled with other entitlement reforms to be deficit-neutral. *AFP supports the Part D redesign provisions of the Lower Costs, More Cures Act (H.R.19) and the Wyden-Grassley Prescription Drug Pricing Reduction Act (S.2543, 2019).*

5. Legal Drug Importation

It's time to allow individuals and importers to bring legal prescription drugs into this country without hindrance. Protectionism simply drives up costs for domestic consumers. While some opponents of global free trade in pharmaceuticals call it “importing foreign government price controls,” they forget that free trade in domestic goods is always ultimately a net plus for consumers, ultimately strengthening competition and weakening government price controls. *AFP supports legislation similar to Sen. Bernie Sanders's Affordable and Safe Prescription Drug Importation Act (S.920), a bill that, while not perfect, has the right goal and moves in the right direction.*

CONCLUSION

Government price controls are always the wrong way to go. They inevitably lead to shortages, rationing, and stagnation. In foreign countries, pharmaceutical price controls cause needless suffering and death. We should not repeat that mistake in America.

Happily, we can bring down prescription drug costs naturally—and promote health and longer life—by removing barriers to competition, price transparency, and consumer empowerment.

Instead of government price controls, let's give Americans a personal option.

ENDNOTES

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