May 4, 2021

Rx Drugs: A Personal Option

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.

BACKGROUND

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

There are several reasons why some prescription drugs are expensive. 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.

H.R. 3 A 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.

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.

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." Ditto for patients in France. Just 14 percent of new drugs are available to patients in Spain and Greece. In the European Union, price controls have led to drug shortages.

The Right Approach

Americans for Prosperity supports the following positive, market-oriented reforms as an alternative to government price controls and rationing.

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.2543, 116th Cong., introduced in 2019).

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, 116th Cong., introduced in 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,o00) 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, 116th Cong., introduced in 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.*

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.

AFP Strongly Opposes H.R. 3.

ENDNOTES

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