STATEMENT FOR THE RECORD BY
THE ERISA INDUSTRY COMMITTEE (ERIC)
TO THE U.S. HOUSE OF REPRESENTATIVES
U.S. HOUSE JUDICIARY COMMITTTEE
SUBCOMMITTEE ON COURTS, INTELLECTUAL PROPERTY, ARTICFICIAL INTELLIGENCE, AND THE INTERNET

"MEDICINES AND IP: BALANCING INNOVATION AND ACCESS"

June 4, 2026

Chairman Issa, Ranking Member Johnson, and members of the Subcommittee, thank you for the opportunity to submit a statement for the record on behalf of The ERISA Industry Committee (ERIC) for the hearing on medicines and intellectual property. We appreciate the Subcommittee's attention to this matter and look forward to working with you to improve the access of medications while promoting innovation, leading to improved health care affordability for workers, retirees, and their families.

ERIC is a national advocacy organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans. ERIC member companies offer benefits to tens of millions of employees and their families, located in every state, city, and congressional district.

ERIC member companies offer comprehensive health coverage for employees, their families, and retirees through self-insured plans governed by the Employee Retirement Income Security Act of 1974 (ERISA). They do so to attract and retain employees, improve health and productivity, and provide peace of mind. Large employers, like ERIC member companies, roll up their sleeves to improve how health care is delivered in communities across the country.

ERIC member companies provide health benefits not only to attract and retain employees, but also to support employee well-being and provide financial security. Across the country, our members invest in their employees and communities by improving access to care and driving innovation in health benefits. These efforts include a broad array of approaches, including expanding the use of digital health tools, establishing onsite clinics, and implementing direct primary care arrangements. Employers also develop value-based and coordinated care programs, offer employee wellness initiatives, and deploy transparency tools and other innovations designed to improve quality and value while helping to mitigate rising health care costs.

Employers are facing significant premium pressures in 2026 -- average total health benefit costs per employee were projected to rise around 6.5 percent, the largest increase in over a decade.[1]

[1] "Employers are bracing for the highest health benefit cost increase in 15 years, a projected 6.5% increase in 2026, according to Mercer." Mercer. September 4, 2025.

Some industry surveys have suggested an even higher increase -- 11 percent -- underscoring the continued strain on employer-sponsored health benefits.[2] One factor in premium increases can be attributed to growth in drug spending, a large part of which is reflected by growth in specialty drug spending. We know from hearing from our members that, for some, sixty percent of drug spending is associated with specialty drugs and that spending only corresponds to five percent utilization. We also know that, for some, their drug spending is expected to exceed their spending for medical benefits. This level of spending is not sustainable.

This is why large employer plan sponsors are encouraging Congress to take a holistic approach to bringing down drug spending for employers and patients. This includes looking across a host of commonsense policy solutions supported by both parties in both chambers that are designed to encourage the discovery, development, and delivery of cheaper drug alternatives to patients.
Many of the current problems in the prescription drug market are a result of the failure by various parties to abide by the standards established by the 1984 *Drug Price Competition and Patent Term Restoration Act* (Public Law 98-417), referred to as "*Hatch Waxman."* The law strikes a balance wherein innovator companies are rewarded with market monopolies, for a limited duration of time, and then must face competition from generic products. Various strategies are now used to delay or escape entirely from that competition and have resulted in unconscionable prices and costs to plan sponsors and patients.

ERIC supports efforts to address patent abuse and gaming of the Food and Drug Administration (FDA) rules that lead to reduced access to cheaper drug alternatives. These patent games tip the balance in favor of branded companies at the expense of employers and patients and threaten the viability of the market for generic and biosimilar medicines. ERIC supports the *Eliminating Thickets to Increase Competition (ETHIC) Act* (H.R.3269) and urges the subcommittee to take action on this measure this year.

This bill will enhance patient access by preventing brand-name pharmaceutical companies from asserting multiple duplicative patents in patent litigation. These duplicative patents require generic and biosimilar manufacturers to engage in years of slow-moving and costly patent litigation to bring their lower-cost medicines to market. On average, patent litigation takes about three years to complete and costs roughly $3 million per patent with the appeal of the decision tacking on an additional one to two years and requiring additional substantial investment.[3] The net result is delayed patient access to lower-cost generics and biosimilar medicines. The ETHIC Act helps address this patent litigation bottleneck—while also respecting innovation—by requiring brand name pharmaceuticals to assert only non-duplicative patents in patent litigation.

ERIC also supports the following bills and encourages the subcommittee to likewise advance them this year:

- *Skinny Labels, Big Savings Act* (H.R. 6485) – This legislation allows the generic manufacturer to "carve out" a brand drug sponsor's patented methods of use from the generic's FDA-approved labeling. That carve-out process has served the public interest for over 40 years by increasing access to generic medicines, saving the healthcare system billions of dollars.[4]

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[2] "UnitedHealthcare plans 11% premium increase, while employers demand more value". Allison Bell. BenefitsPRO. October 29, 2025.
[3] Anne S. Layne-Farrar, "The Cost of Doubling Up: An Economic Assessment of Duplication in PTAB Proceedings and Patent Infringement Litigation", 10 Landslide 1, 1-2 (May-June 2018) (Cite 37 in AAM White Paper)
[4] Nearly two dozen groups representing employers, pharmacists, think tanks, and consumers recently wrote to the Judiciary Committee endorsing the Skinny Labels, Big Savings Act and the ETHIC Act.

- *Interagency Patent Coordination and Improvement Act of 2025* (H.R. 4570) – this legislation aims to strengthen coordination between the FDA and the U.S. Patent and Trademark Office to prevent misuse of patent filings.[5]

Additionally, a variety of other strategies are now used to delay or escape entirely from prescription drug competition. As such, ERIC supports several commonsense policy solutions to encourage competition and address market failures, including:

- Ending "evergreening" and other gaming of the drug patent system (such as "product hopping", "patent thickets," etc.);
- Stopping abuse of FDA "citizen petitions";
- Preventing the "blocking" of generic competition (and other forms of patent trolling);
- Eliminating so-called "rebate traps" and couponing strategies;
- Enacting other policies to promote an affordable and competitive market for biosimilars;
- Protecting medical management (including step therapy, "try first," and other policies) to ensure value for all plan enrollees;
- Addressing issues related to so-called "international free-riding" wherein Americans pay vastly higher drug costs than other wealthy, industrialized nations;
- Eradicating sovereign immunity schemes;
- Creating reciprocity or a massively shortened FDA approval process for biosimilar products already approved in other industrialized nations and markets;
- Allowing certain medications to be "reimported" or purchased from overseas pharmacies that are registered with and regulated by the FDA; and
- Investigating and addressing false or misleading prescription drug information, discouraging anti-competitive behaviors, and accelerating approval of products.

Conclusion

Employers are working diligently to reduce drug costs and keep health care affordable for more than 160 million Americans with job-based health insurance. But we cannot achieve this objective alone – action from Congress is needed to create policies that foster real competition and crack down on abuses and gaming of the system. We applaud the Subcommittee for holding this hearing and look forward to working with you to make drug costs more sustainable and generics and biosimilars more accessible for American workers, their families, and retirees.

[5] ERIC along with five other stakeholders wrote to the House Judiciary Committee in the 118th Congress urging the committee to advance H.R. 4570 and several other bills.