

Testimony of U.S. Senator John Cornyn
House Judiciary Committee: Subcommittee on Antitrust, Commercial and Administrative
Law
Treating the Problem: Addressing Anticompetitive Conduct and Consolidation in Health Care
Markets
April 29, 2021

[As prepared for delivery]

Thank you Chairman Cicilline, Ranking Member Buck, and members of the Subcommittee for the invitation to join you today.

After more than a year battling the COVID-19 pandemic, the light at the end of the tunnel is growing rapidly because of the astonishing scientific achievements that led to multiple effective vaccines. More than half of adults in America have received at least one dose of the vaccine, and I look forward to a time in the not-so-distant future when this vaccine helps us put this virus to bed once and for all.

I say this because I think it's important to recognize that American ingenuity, creativity, and innovation are remarkable qualities that lead to lifesaving discoveries.

But alongside this innovation we must also have smart public policies that protect both the creators and beneficiaries of those discoveries. There is no better example than prescription drug prices.

As the cost of many prescription drugs have skyrocketed in recent years, countless Texans have reached out to share stories about the impossible decisions their families have had to make, which have only become more heart wrenching over the past year. Not paying certain bills... Cutting pills in half... Skipping doses... Or not filling prescriptions altogether because they're simply too expensive. No family should have to make these types of decisions.

That's why America needs the *Affordable Prescriptions for Patients Act* to be signed into law. I've been proud to work with a bipartisan group of colleagues on this important issue, including my friend from Connecticut, Senator Blumenthal, and members of this subcommittee. The strong bipartisan, bicameral support for this bill demonstrates just how commonsense these reforms are.

Some unfair practices have encouraged these high prices, and the *Affordable Prescriptions for Patients Act* would solve two of the most concerning.

First is something called product hopping. This occurs when a company develops a reformulation of a product that is about to lose exclusivity, and then pulls the original product off the market. This isn't done because the new formula is more effective, but because it prevents generic competitors. That needs to stop.

The Federal Trade Commission should be able to bring antitrust suits against the bad actors who deliberately game the patent system, and this legislation will ensure the bad guys are held accountable.

Second is a practice known as patent thickening. This occurs when an innovator uses multiple overlapping patents or patents with identical claims to make it nearly impossible for competitors to come to market. This abuse of the patent system comes at a high cost for patients who rely on these drugs.

To solve this, our legislation will streamline the way drug manufacturers resolve patent disputes so lengthy legal processes don't stand in the way of competition. We're protecting patent rights, which are critical, but not letting these important issues get bogged down in the sludge of litigation.

Our country offers robust protections for intellectual property, which is why we are ground zero for innovation. We know companies are unlikely pour extensive time, money, and resources into discovering new cures if at the end of it, they can't even recoup their own costs. But we can't allow some bad actors to abuse the system for their own financial gain.

This legislation doesn't stifle innovation. It doesn't limit patent rights. And it doesn't cost taxpayers a dime – in fact, in 2019 the Congressional Budget Office estimated it would lower federal spending by more than half a billion dollars over ten years.

And we already know this bill has bipartisan support. Last Congress, it passed both the House and Senate Judiciary Committees with unanimous support. I hope we can achieve the same success this Congress, and finally get the bill to the President's desk for his signature.

I'm proud to be here to advocate for this legislation alongside my colleagues, and I look forward to working with members of the Committee to bring down drug prices for American families.