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May 3, 2021

The Honorable Anna G. Eshoo  
Chairwoman, Subcommittee on Health  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Brett Guthrie  
Ranking Member, Subcommittee on Health  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairwoman Eshoo and Ranking Member Guthrie:

On behalf of the members of the American Federation of State County and Municipal Employees (AFSCME), I request this letter be included in the record for the May 4 hearing on “Negotiating a Better Deal: Legislation to Lower the Cost of Prescription Drugs.”

We applaud the subcommittee for again considering H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, reintroduced by Chairman Frank Pallone, Chairman Richard Neal and Chairman Robert Scott on April 22, 2021. This bold legislation will help retirees and all Americans better afford their medication by empowering the federal government to negotiate lower prices and lowering out-of-pocket costs. As you consider H.R. 3, we ask that you modify the bill to explicitly ensure that all Americans, not only those covered by Medicare Part B or D, are protected from drug corporations increasing drug prices each year at a rate higher than inflation. For too long drug corporations have gone unchecked in setting and raising sky-high prescription drug prices.

### Congress Must Act to Lower Drug Prices for All Americans

We strongly support H.R. 3, which will lower drug prices, including for insulin, regardless of whether people get their health coverage through a job, the Affordable Care Act (ACA), Medicare or other insurance. Ever rising prescription drug prices affect patients’ out-of-pocket costs as well as the budgets of private and public payers. We cannot overemphasize the importance of lowering prescription drug prices for all Americans.

If Congress takes action to limit government negotiations to lower only Medicare drug prices, then drug manufacturers would likely seek to raise prices elsewhere. This would harm those of us who rely on job-based or private insurance, which in 2019 accounted for 55.5 percent of the population (compared to 14.2 percent who get their coverage through Medicare). In 2017, employer and individual health plans accounted for the largest share of retail prescription drug spending (42 percent), followed by Medicare (30 percent).

### Congress Must Protect All Americans From Yearly Drug Price Hikes Above Inflation

As drafted, H.R. 3 does not plainly and explicitly protect all Americans – regardless of whether they get their health coverage through a job, the ACA, or other insurance – from drug corporations increasing the price of their medication above inflation. Even with job-based health

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benefits, AFSCME members and their families are impacted by rising prescription drug prices when they are asked to pay higher and higher prices every year for needed medications.

Drug corporations raise prices faster than the rate of inflation for all Americans because there is no law or enforceable policy to stop them. [From 2007 to 2018](#), net prescription drug prices increased every year 3.5 times faster than inflation. Drug corporations have not stopped increasing prices because of the pandemic. [In January 2021](#), the list price of over 800 brand name and generic drugs increased by an average of 4.5 percent, nearly double the rate of inflation.

And, we know from past experience that drug corporations will quickly increase prices wherever they can if not constrained by clear law.

In 1990, in response to rising drug prices, Congress created statutory discounts and rebates for Medicaid with the Omnibus Reconciliation Act (P.L. 101-508). By 1991, hard data supported the view that drug corporations were inflating drug prices on other purchasers. The General Accounting Office (GAO) released a report on the impact of the Medicaid rebate program. GAO found the Department of Veterans Affairs (VA) drug costs in 1991 would increase by about 21 percent over 1990 expenditures (or \$28 million) while the Department of Defense (DOD) would have a 14 percent increase.

By 1992, Congress passed the 1992 Veterans Health Care Act granting the VA minimum discounts on drugs, like those received by Medicaid. The 1992 law set a ceiling on prices that manufacturers can charge the VA and several other federal purchasers (DoD, the Public Health Service, and the Coast Guard).

**Given this history and the abusive pricing power of drug corporations, we urge you to modify H.R. 3 to protect all Americans, not just those covered by Medicare Part B or D, from unjustified price hikes above inflation.**

## Summary

It is important to us to assure AFSCME members that Congress is protecting their health and income security through negotiated drug prices *and limits on annual drug price increases*. Prescription drug companies will not give up their power to set and raise prices as high as they want without a fight. We urge you to continue with determination and persistence to improve the lives of all Americans by directly negotiating for lower prescription drug prices. We urge you to explicitly curb annual drug price increases to the rate of inflation for Medicare, group health plans and the ACA.

Sincerely,



Bailey K. Childers  
Director of Federal Government Affairs

BKC:LB:hf

cc: Members of the Committee on Energy and Commerce