

Virtual Leadership Day, May 25-26, 2021

Improve Access to Prescription Drugs and Reduce Costs

Congress should pass legislation to improve access to prescription drugs including: enact legislation to reduce excessive prescription drugs costs through pricing transparency, provide authority to the federal government to negotiate prescription drug prices under the Medicare Part D program, eliminate federal tax deductions for direct-to-consumer (DTC) advertising and remove harmful step therapy protocols, as described below in the “What is ACP Asking of Congress” section.

What’s it all about?

The cost of prescription drugs continues to rise, which greatly affects access to life-saving treatments for patients who are unable to afford high out-of-pocket costs. Patients increasingly face higher co-pays, more drug tiers and prescription drug deductibles, adding to the burden they face in affording high-cost medications. Many Americans face the difficult choice of filling their prescriptions or paying for necessities such as food or housing. Patients may resort to cutting back or skipping doses of their medicines to save money, which can lead to more serious health complications.

As outlined in ACP’s 2019 [position paper](#), *Policy Recommendations for Public Health Plans to Stem the Escalating Costs of Prescription Drugs*, the United States spends more on prescription drugs than other high-income country, with average annual spending of \$1,443 per capita on pharmaceutical drugs and \$1,026 per capita on retail prescription drugs. In a 2021 [study](#) by the Rand Corporation, prescription drug prices in the U.S. average 2.56 times those seen in 32 other Organization for Economic Cooperation and Development (OCED) nations. Global [spending](#) on prescription drugs in 2020 was expected to be \$1.3 trillion, with the U.S. spending approximately \$350 billion. In a 2020 [study](#) by the Medicare Payment Advisory Commission (MedPAC), it estimated that more than half of the growth in Part B drug spending between 2009 and 2015 was accounted for by price growth, reflecting both increases in the prices of existing drugs and new drugs becoming available. A [report](#) by the Senate’s Homeland Security and Governmental Affairs Committee found that the prices of many of the most popular brand name drugs increased on average 12 percent every year for the last five years—approximately ten times higher than the average annual rate of inflation from 2012 to 2017. However, where drug pricing negotiations were allowed, a U.S. Government Accountability Office (GAO) [study](#) found that, on average, the Department of Veteran Affairs paid 54 percent less than Medicare on a sample of 399 brand and generic drugs by negotiating as a single health system and using discounts defined by law not presently available to Medicare.

What’s the current status in Congress and the Administration and what improvements are needed?

Bipartisan consensus has emerged in Congress on the need to lower drug prices, but not on a comprehensive set of reforms on how to get there. Numerous bills, for example, have been introduced in the House and Senate addressing prescription drug pricing transparency, Canadian drug importation, empowerment of government negotiation of prescription drugs, DTC advertising tax deductions, step therapy protocols (e.g., a utilization management tool used by insurers), pharmacy benefit manager accountability, and Medicare X choices. House Speaker Nancy Pelosi has charged Ways and Means, Energy and Commerce and Education and Labor Committee chairs to push forward H.R. 3, the *Elijah E. Cummings Lower Drug Costs Now Act* as part of the infrastructure package focusing on families. This legislation, as introduced in the 117th Congress, would empower the federal government to negotiate the cost of prescription drugs under Medicare Part D and cap Medicare beneficiaries’ out-of-pocket spending on prescription drugs to \$2,000 per year. The legislation further establishes mandatory reporting requirements applicable to manufacturers if they increase the price of a prescription drug by 10 percent or more over a 12-month period, or by 25 percent or more over a 36-month period, or if the estimated price of a qualifying drug for an applicable year per course of treatment is at least \$26,000. ACP supports the overall goals of H.R. 3 but does not have policy on all provisions of the bill. [View](#) ACP’s May 2021 statement to the House Energy & Commerce Committee.

The Senate also has held hearings on prescription drug costs. Focus will be on reintroducing S. 2543, the *Prescription Drug Pricing Reduction Act* in the 117th Congress aimed at lowering prescription drug prices in Medicare and Medicaid, reducing consumers' out of pocket costs, and increasing transparency. During his State of the Union address, President Biden asked Congress to pass legislation giving the federal government authority to negotiate prescription drug prices as a means of controlling prescription drug costs.

The rising cost of prescription drugs is of top concern to constituents from both political parties. It strains the budgets of Medicare, Medicaid, and other payers, forcing trade-offs as more funds need to be allocated to support excessively priced medications at the expense of reduced benefits for other needed services. Congress should focus on increasing [transparency](#) in the pricing and costs associated with the development of drugs, implementing reforms to enable the federal government to negotiate drug prices and lower out-of-pocket costs for seniors, eliminating DTC advertising costs and removing step therapy protocols that deny patients needed medications.

ACP supports the following bills that have been introduced in the 117th Congress:

- *The FAIR Drug Pricing Act (S. 898)*, which would promote pricing transparency by requiring manufacturers to notify the Department of Health and Human Services (HHS) and provide a justification report 30 days before they increase the price of certain drugs.
- *The Empowering Medicare Seniors to Negotiate Drug Prices Act of 2021 (S. 833)*, which would allow the Secretary of HHS to negotiate directly with drug companies for price discounts for the Medicare Prescription Drug Program, thus eliminating a restriction that bans Medicare from negotiating better prices.
- *End Taxpayer Subsidies for Drug Ads Act (S. 141)*, which would prohibit a tax deduction for expenses for direct-to-consumer advertising of prescription drugs, thus eliminating the deduction that pharmaceutical companies use to pay for drug advertising.
- *The Safe Step Act (S. 464 and H.R. 2163)*, which would ensure patient access to appropriate treatments based on clinical decision-making and medical necessity, not arbitrary step therapy protocols. Step therapy is an insurance protocol that requires patients to try and fail drugs selected by their insurer before the treatment prescribed by their doctor is covered, resulting in an arbitrary administering of drugs. Insurers would be required to implement a clear and transparent process to request an exception to a step therapy policy.

What is ACP asking of Congress?

ACP published a position paper with recommendations entitled [Stemming the Escalating Cost of Prescription Drugs](#). Congress should increase its efforts to develop and pass [policy reforms](#), consistent with ACP's paper, to increase transparency and accountability in drug pricing.

- ✓ **Senators should cosponsor and pass the *Fair Drug Pricing Act (S. 898)***, which would require drug companies to disclose and provide more information about imminent drug-price increases, including data about research and development costs; representatives should introduce and pass the companion bill in the House.
- ✓ **Senators should cosponsor and pass the *Empowering Medicare Seniors to Negotiate Drug Prices Act of 2021 (S. 833)***, which would help to reduce drug prices and out-of-pocket costs by allowing the federal government to negotiate lower drug prices on behalf of Medicare beneficiaries; representatives should introduce and pass the companion bill in the House.
- ✓ **Senators should cosponsor and pass the *End Taxpayer Subsidies for Drug Ads Act (S. 141)***, which would end the federal tax deduction that pharmaceutical companies use to pay for drug advertising; representatives should introduce and pass the companion bill in the House.
- ✓ **Congress should pass the *Safe Step Act (S. 464 and H.R. 2163)***, which would ensure patient access to appropriate treatments based on clinical decision-making and medical necessity rather than arbitrary step therapy protocols.

Where can I go to learn more?

advocacy@acponline.org; Digital version of this issue brief can be found at: [Policy Priority Issues | ACP Services](#)