

September 6th, 2024

Chairman Jim Jordan
House Judiciary Committee
2318 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member Jerry Nadler
House Judiciary Committee
2142 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Jordan and Ranking Member Nadler:

As organizations concerned about the high price of prescription drugs, we write to urge the House Judiciary Committee to advance policies to address patent abuse and increase competition in the prescription drug market before the conclusion of the 118th Congress. These policies would help spur competition in the prescription drug market, resulting in greater access to more affordable medications and substantial savings for patients, consumers, employers, and the federal government.

Robust competition from generic drugs and biosimilars is essential to making prescription drugs more affordable. Our patent system was designed to reward innovation and incentivize the development of clinical breakthroughs and inventions that bring meaningful benefits to patients. Unfortunately, brand-name drug companies have employed a variety of strategies to abuse our patent system to extend monopolies and keep prices high for patients far beyond what Congress intended. These tactics include evergreening, patent thicketing, anti-competitive pay-for-delay deals, manipulation of the U.S. Food and Drug Administration (FDA)'s citizen petition process, and product hopping.

Between 2005 and 2015, 74 percent of the new drug patents issued were for drugs already on the market.¹ A second study of the ten top-selling drugs in 2021 corroborated that number.² Of the roughly 100 best-selling drugs in another study, nearly 80 percent obtained an additional patent to extend their monopoly period.³ It was never the intent of our patent laws to extend monopoly pricing in the way that occurs today.

The Senate Judiciary Committee unanimously passed several bipartisan bills to improve competition in the prescription drug market in February 2023. Collectively, these bills would save the federal government more than \$4.5 billion over ten years. The Senate also took action to pass an amended version of one of these bills, S.150, the Affordable Prescriptions for Patients Act, unanimously on July 11, 2024.

¹ Koons, C. (2017, November). Most New Drug Patents Are for Old Remedies, Research Shows. *Bloomberg*.

<https://www.bloomberg.com/news/articles/2017-11-01/most-new-drug-patents-are-for-old-remedies-research-shows>

² Horrow, C., Gabriele, S., Sean Tu, S., et al. (2024, May). Patent Portfolios Protecting 10 Top-Selling Prescription Drugs. *JAMA Intern Med*.

<https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2818277>

³ Feldman, R. (2018, December). May your drug price be evergreen. *Journal of Law and the Biosciences*.
<https://academic.oup.com/jlb/article/5/3/590/5232981?login=true>

We urge your Committee to advance these strongly bipartisan efforts to reduce patent abuse and encourage more rapid development and approval of lower-cost generics and biosimilars in the remaining months of the 118th Congress. This includes the following bipartisan bills: H.R. 6986 to address patent thickets; H.R. 9070, the Affordable Prescriptions for Patients Act; H.R. 1717, the Interagency Patent Coordination and Improvement Act; and, H.R. 5429, the Medication Affordability and Patent Integrity Act.

Decisive action by the House Judiciary Committee in the coming months is critical to deliver much-needed savings for patients and taxpayers by increasing competition in the prescription drug market. We look forward to working together to make medications more affordable for everyone.

Sincerely,

AARP

Campaign for Sustainable Rx Pricing

ERISA Industry Committee

National MS Society

Patients For Affordable Drugs Now

Purchaser Business Group on Health