



DRUG PRICING TRANSPARENCY  
TO ADDRESS SKYROCKETING  
PRESCRIPTION DRUG PRICES

## *The FAIR Drug Pricing Act*

*Bipartisan reform from Senators Tammy Baldwin and John McCain  
and Representative Jan Schakowsky*

### **Drug Price Increase Transparency**

With each new story of another major price increase for a critical prescription drug, Americans understand that the market for prescription drugs is broken. The problem of excessive drug price increases goes beyond well-known examples like Epi-Pen and Daraprim. Reports show that prices for even top selling drugs have increased dramatically over the past five years, in some cases more than doubling in price. Taxpayers and consumers are increasingly feeling the impact as prescription drug prices consume more of the federal and family budget.

Recent reports found that price increases accounted for 100 percent of the pharmaceutical industry's \$8.7 billion growth in earnings in 2016.<sup>1</sup> Unfortunately, Mylan's staggering price hikes of the lifesaving EpiPen is just one example of drug companies increasing prices drastically, often several times a year, with little public transparency.<sup>2</sup>

Today, nearly 60 percent of Americans are taking at least one prescription drug on a regular basis.<sup>3</sup> However, affordability is a growing concern that crosses party lines. A recent survey of both Republicans and Democrats found that 61 percent of Americans think lowering the cost of prescription drugs should be a top priority for the President and Congress.<sup>4</sup>

A key way to help address prescription drug price increases and high consumer costs is by requiring basic price transparency to help restore a functioning market. The current market provides no systematic transparency to inform taxpayers or consumers about significant price increases for even common drugs. The bill will not prohibit manufacturers from increasing prices, but it will, for the first time, give taxpayers and policymakers notice of major price increases—which can often cost the government tens of millions of dollars a year, if not more—and require a basic explanation for the increase. Innovative companies who invest significant resources in research and development should have the opportunity to demonstrate the value of their investment to the public. However, transparency will also apply to require companies who abuse their market power to justify their excessive price increases.

Drug corporations that choose to increase the price of certain prescription drugs by more than 10 percent in a year should be required to disclose the information behind this decision to taxpayers, including their spending on research and development, as well as advertising and marketing. Improved access to such information could help consumers, payers, providers, and policymakers assess whether a drug price increase is reasonable. Drug price transparency is also extremely popular with the public; more than 85 percent of Americans support requiring drug companies to release information to the public on how they set drug prices.<sup>4</sup>

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<sup>1</sup> CNBC, "The drug industry is addicted to price increases, report shows," April 20, 2017. <http://www.cnbc.com/2017/04/20/the-drug-industry-is-addicted-to-price-increases-report-shows.html>

<sup>2</sup> Wall Street Journal, "Drugmakers Raise Prices Despite Criticisms" January 10, 2016. <http://www.wsj.com/articles/drugmakers-raise-prices-despite-criticisms-1452474210>

<sup>3</sup> E.D. Kantor, C.D. Rehm, J.S. Haas, A.T. Chan, and E.L. Giovannucci, "Trends in Prescription Drug Use Among Adults in the United States from 1999-2012," *JAMA* Vol 314(17): 1818-1830.

<sup>4</sup> Kaiser Health Tracking Survey, "Poll: Majorities of Democrats, Republicans and Independents Support Actions to Lower Drug Costs," May 1, 2017. <http://kff.org/health-costs/press-release/poll-majorities-of-democrats-republicans-and-independents-support-actions-to-lower-drug-costs-including-allowing-americans-to-buy-drugs-from-canada/>

## Summary

### **Price Increase Justification**

The *FAIR Drug Pricing Act* would require drug manufacturers to notify the U.S. Department of Health and Human Services (HHS) and submit a transparency and justification report 30 days before they increase the price of certain drugs that cost at least \$100 by more than 10 percent during a 12-month period or 25 percent over 36 months. The report will require manufacturers to provide a justification for each price increase that took place during the year, manufacturing, research and development costs for the qualifying drug, net profits attributable to the qualifying drug, marketing and advertising spending on the qualifying drug, and other information as deemed appropriate. The bill would not in any way prohibit a manufacturer from increasing prices.

HHS will make the information from these reports—excluding any proprietary and confidential information—publicly available in an understandable online format. Failure to comply with this reporting requirement would result in a fine, which would be deposited into a new Drug Value and Price Transparency Fund and used to fund activities to improve price transparency.

### **Report to Congress**

HHS will be required to submit an annual report to Congress summarizing the information and reports submitted by drug manufacturers under this legislation.