

# United States Senate

WASHINGTON, DC 20510

December 20, 2016

President-Elect Donald J. Trump  
Presidential Transition Headquarters  
1800 F Street, N.W., Room G-117  
Washington, D.C. 20270

Dear President-Elect Trump:

During your campaign, you promised to implement bold reforms to bring down the cost of prescription drugs. In fact, you acknowledged that “Congress will need the courage to step away from the special interests and do what is right for America.”<sup>1</sup> You also supported allowing consumers’ access to imported, safe, and dependable drugs from overseas<sup>2</sup> and vowed to negotiate lower prescription drug prices for seniors.<sup>3</sup> And earlier this month you again promised to “bring down drug prices.”<sup>4</sup> While there are many different policy options to achieve lower drug prices, it’s clear that we all agree that all Americans deserve access to safe, effective, and affordable lifesaving medications. As Members of Congress, we are ready to advance bipartisan reforms that will help achieve the goal we all share: reducing the burden exorbitant drug prices are placing on hard-working Americans.

Prescription drugs can work wonders – curing diseases and helping those with chronic illness live longer, healthier lives. Drug companies, however, have often engaged in abusive tactics that price lifesaving drugs out of reach for those in need. It is time to enact policies that improve transparency and competition in the commercial market and make the government a smarter purchaser of prescription drugs.

It is undeniable that more and more families are struggling to access medications, and in many cases, are forced to choose between paying for prescription drugs and other necessities, like food and shelter. The American public is fed up, with roughly 8-in-10 Americans reporting that drug prices are unreasonable, and that we must take action to lower costs.<sup>5</sup> The public’s concern is well founded, just last week the Centers for Medicare and Medicaid’s Office of the Actuary published that, in 2015, prescription drug spending grew faster than any other category of medical spending for the second year in a row.<sup>6</sup> This evidence comes despite claims from the drug industry that high drug spending in 2014 would only be a temporary blip.

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<sup>1</sup> *Healthcare Reform to Make America Great Again*, GREATAGAIN.GOV, <https://greatagain.gov/healthcare-396f348e51ef#.oubaxzw00> (last visited Dec. 14, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> *See Trump backs Medicare negotiating drug prices*, POLITICO.COM (Jan. 25, 2016), <http://www.politico.com/story/2016/01/trump-backs-medicare-negotiating-drug-prices-218215>. See also Peter Sullivan, *Trump calls for Medicare to negotiate drug prices*, THEHILL.COM (Jan. 26, 2016) <http://thehill.com/policy/healthcare/267005-trump-calls-for-medicare-to-negotiate-drug-prices>.

<sup>4</sup> Donald J. Trump, President-Elect, Person of the Year Interview, TIME MAGAZINE (Dec. 7, 2016).

<sup>5</sup> *See Ashley Kirzinger, Bryan Wu & Mollyann Brodie, Kaiser Health Tracking Poll: September 2016*, KAISER FAMILY FOUNDATION (Sept. 29, 2016), <http://kff.org/health-reform/report/kaiser-health-tracking-poll-september-2016/>.

<sup>6</sup> Martin et al., *National Health Spending: Faster Growth in 2015 as Coverage Expands and Utilization Increases*, HEALTH AFFAIRS (Dec. 2016) <http://content.healthaffairs.org/content/early/2016/11/22/hlthaff.2016.1330>.

You now have the authority to push for a future that prioritizes patients. We are ready to advance measures to achieve this goal and we urge you to partner with Republicans and Democrats alike to take meaningful steps to address the high cost of prescription drugs through bold administrative and legislative actions, including but not limited to the following actions:

- 1. Give the Secretary of HHS the Authority to Negotiate Drug Prices.** As you noted on the campaign trail, permitting the Department of Health and Human Services to negotiate drug prices under Medicare could not only produce savings but would bring the largest payer in America in line with the activities of the rest of the insurance industry.<sup>7</sup> In fact, you promised that "(w)hen it comes time to negotiate the cost of drugs, we are going to negotiate like crazy."<sup>8</sup> However, under current law, the Secretary is prohibited from doing so. We urge you to work with Congress to pass a law that lifts the current ban and gives the Secretary the authority to take immediate action and negotiate better prices for prescription drugs for our nation's more than 40 million Medicare Part D beneficiaries.
- 2. Increase Transparency.** Throughout your campaign, you also endorsed price transparency for the entire healthcare system.<sup>9</sup> Patients should know drugs' true cost, not just the price that the drug companies and insurance companies choose to charge. We already have measures in place to require hospitals, providers, and other sections of the healthcare system to report on different cost measures; drug companies should be held to the same standards. We urge you to take immediate administrative action to require drug companies to publicly disclose costs associated with research and development, materials and manufacturing, and the federal benefits they receive in the form of tax credits, government grants, and government-funded research on which their products are based.
- 3. Stop Abusive Pricing.** We urge you to protect consumers from abusive pricing practices—not only gouging consumers with the 5,000-percent overnight price hikes that have made recent headlines,<sup>10</sup> but also the persistent, unjustified double-digit price increases that drug corporations have levied on the American people year after year.<sup>11</sup> As Members of Congress, we are ready to work on legislation to combat these abusive practices.
- 4. Protect and Incentivize True Innovation.** Taxpayers, through the federal government, are deeply involved with every step of the drug development process, from supporting basic scientific research and clinical trials, to granting exclusive monopolies, tax incentives, and fee waivers. However, taxpayer funds need to be better targeted to deliver what we all want: safe, innovative, affordable, and effective drugs to address our most pressing public health issues and unmet medical needs. We urge you to work with Congress to pass commonsense reforms

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<sup>7</sup> See Sullivan, *supra* note 3.

<sup>8</sup> Donald J. Trump, Presidential Candidate, Campaign Event Speech in Farmington, New Hampshire (Jan. 25, 2016). See also Kimberly Leonard, *Not Up For Negotiation*, U.S. NEWS (Feb. 26, 2016), <http://www.usnews.com/news/the-report/articles/2016-02-26/why-clinton-sanders-and-trumps-drug-negotiation-plans-are-unlikely>.

<sup>9</sup> See *Healthcare Reform to Make America Great Again*, *supra* note 1. See also Dylan Scott, *Big Pharma's big question: Is Trump friend or foe?*, STATNEWS.COM (Nov. 9, 2016) <https://www.statnews.com/2016/11/09/trump-drug-prices/>.

<sup>10</sup> See Andrew Pollack, *Drug Goes From \$13.50 a Tablet to %750, Overnight*, NEW YORK TIMES (Sept. 20, 2015).

<sup>11</sup> See, e.g., Robert Langreth, Michael Keller & Christopher Cannon, *Decoding Big Pharma's Secret Drug Pricing Practices*, BLOOMBERG.COM (June 29, 2016), <https://www.bloomberg.com/graphics/2016-drug-prices/>.

that better protect and incentivize innovation with the greatest need and health benefits to ensure affordable access and good stewardship of taxpayer dollars.

- 5. Ensure True Competition.** It is past time to end the rigging of the prescription drug marketplace. Brand-name drug companies, for example, should not be allowed to take actions that block generic competitors from bringing their products to market. We urge you to task the Federal Trade Commission and the Department of Justice with aggressively enforcing laws that currently exist and push for new provisions to ensure timely entrance of generics to the marketplace.

During your campaign, you promised to address the high prescription drug prices that the vast majority of Republicans and Democrats expressed as a top concern in the election. In this letter, we have listed tangible ways your Administration can lead bipartisan work on this issue and fight for the millions of Americans who rely on prescription drugs to lead healthy lives. There will be ample opportunities to make good on these promises as Congress considers the Prescription Drug, Generic Drug, and Biosimilars User Fee Agreement reauthorizations and other health-related legislative priorities, and we look forward to your leadership on this issue by steering both sides of the aisle to work together to pass concrete reforms. We stand ready to support meaningful changes to the status quo and are committed to a future when all Americans can access lifesaving treatments when they need them.

We hope that you will join with Congress in living up to the expectations of the American people and prioritize this issue as President of the United States.

Sincerely,



Sherrod Brown  
United States Senator



Al Franken  
United States Senator



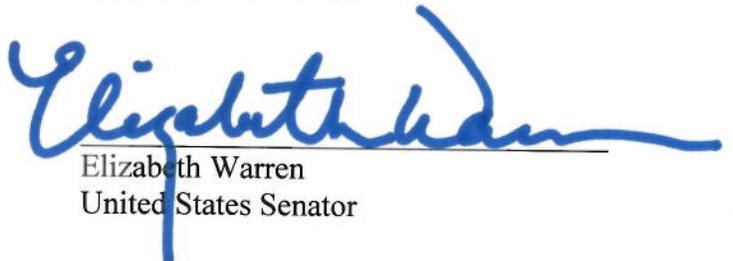
Amy Klobuchar  
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Bernard Sanders  
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Sheldon Whitehouse  
United States Senator

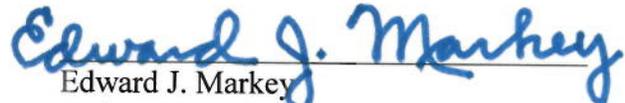


Elizabeth Warren  
United States Senator

  
Tammy Baldwin  
United States Senator

  
Jack Reed  
United States Senator

  
Patrick J. Leahy  
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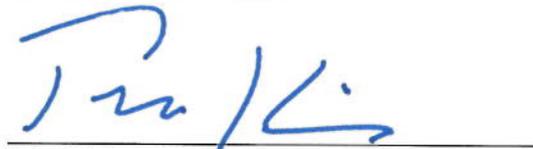
  
Edward J. Markey  
United States Senator

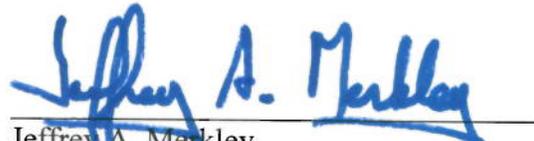
  
Jeanne Shaheen  
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Debbie Stabenow  
United States Senator

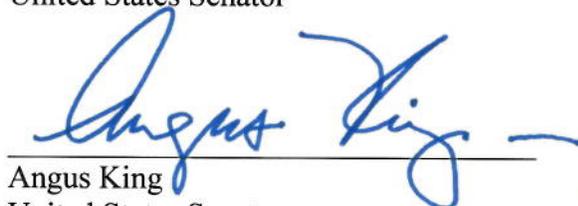
  
Tom Udall  
United States Senator

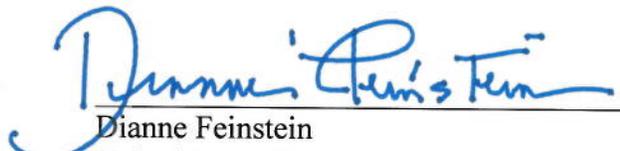
  
Tim Kaine  
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Jeffrey A. Merkley  
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Richard Blumenthal  
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Angus King  
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