



the campaign for **SUSTAINABLE Rx PRICING**

DOSE OF REALITY: BIG PHARMA'S BIOLOGIC PATENT ABUSE WILL COST AMERICAN PATIENTS AN ADDITIONAL \$25 BILLION WITHOUT REFORM

Report Finds Market-Based Solutions to Boost Biosimilar Competition and Hold Drug Companies Accountable Would Lower Prices And Increase Innovation

BIG PHARMA AND THE CRISIS OF PRESCRIPTION DRUG PRICES

Before the COVID-19 crisis, more than [58 million](#) Americans struggled to afford their prescription drugs. Now, the economic impact of the pandemic continues to leave [millions more](#) American workers, families and seniors struggling just to stay afloat.

Prescription drug prices are out-of-control thanks to the anti-competitive tactics and price-gouging practices of Big Pharma. Despite an escalating crisis of affordability, made worse by the economic impact of the COVID-19 pandemic, brand name drug companies continue to engage in anti-competitive behavior and price-gouging tactics in order to keep prices high and pad their bottom lines. In fact, even in the midst of America's battle against the pandemic, Big Pharma hiked prescription drug prices — increasing prices on [at least 67 brand name drugs](#) in July 2020.

BIG PHARMA'S BIOLOGIC PATENT ABUSE

As prices continue to climb, a [September 2020 study](#) from Avik Roy and Gregg Girvan of the Foundation for Research on Equal Opportunity (FREOPP) finds that ballooning spending on U.S. prescription drugs is being particularly driven by Big Pharma's abuse of the patent system to undermine biologic and biosimilar competition.

The report, "[The Growing Power of Biotech Monopolies Threatens Affordable Care](#)," finds that **despite representing less than one percent of U.S. prescriptions, biologic drugs account for nearly half of all drug spending**. That's because biologics face less competition from their generic equivalents, known as biosimilars, due to differences in how the marketplace is regulated and how Big Pharma games the system to undermine competition.

- One way Big Pharma is able to maintain monopoly power is through '**patent thickets**.' By seeking a multitude of patents for marginal aspects of a biologic, brand name drug companies are able to create a 'thicket' of patents that can dramatically extend exclusivity periods — blocking cheaper generics, or biosimilars, from coming to market.
- Another way Big Pharma maintains monopoly power is through '**submarining**' and '**evergreening**,' in which a branded drug maker purposefully delays the filing and issuance of a patent in order to extend market exclusivity of drug for as long as possible.

Without action, the study's authors estimate ***the anti-competitive nature of the biologic drug marketplace will cost American patients more than \$30 billion from 2015-2029.***

Key Takeaways:

- In 2018, **Biologics Represented 0.4 Percent Of U.S. Prescriptions, But 46 Percent Of All U.S. Rx Spending – And Biologics' Share Of Rx Spending Is Rising.**
- From 2015-2020, The Anti-Competitive Nature Of The U.S. Biologic Market **Has Cost Patients \$5 Billion, And Will Cost U.S. Patients An Extra \$25 Billion By 2029 Without Reform.**
- Increasing Competition By Enabling Biosimilar Drugs To Launch Without Risk Of Treble Damages, Rationalizing Biosimilar Interchangeability, Eliminating Patent Trolling, Reforming Medicare Parts B And D And Establishing A Pathway For Price Reductions For Un-Genericizable Treatments, **Would Lower Prices And Increase Innovation.**



CURBING COMPETITION: 'BUSINESS AS USUAL' FOR BIG PHARMA

Unfortunately, engaging in anti-competitive tactics is a time-honored tradition for Big Pharma. Pharmaceutical companies abuse the patent system by deploying a host of other anti-competitive tactics – including ploys like co-pay coupons, 'charitable' kickback schemes and patent abuse – to prevent patients from accessing more affordable alternatives:

- **'Charitable' Kickback Schemes:** It's no secret that Big Pharma employs a number of shady tactics in order to keep prices high. [Recent reports](#) show how brand name drug manufacturers [game the system](#) by using industry backed 'charities' to provide [kickbacks](#) in the form of copays to doctors and patients to quell concerns over sky-rocketing prices.
- **Co-pay Coupons:** Brand name drug manufacturers have long used co-pay coupons to drive patients towards their expensive drugs and away from cheaper alternatives under the guise that they are helping patients afford their prescription medications. This scheme [keeps health care costs high for patients and taxpayers](#).
- **Patent Abuse:** Big Pharma has a long history of price gouging American patient through patent abuse [schemes](#), like patent thicketing and product hopping, [to hinder generic competition and maintain monopolies](#) over their biggest money makers.

LOWERING RX PRICES & HOLDING BIG PHARMA ACCOUNTABLE ARE TOP PRIORITY FOR VOTERS

Before the COVID-19 crisis, too many Americans were already unable to afford their medications and resorting to dangerous measures like rationing. Americans have had enough and are looking for their elected officials to support solutions to hold drug companies accountable for their price-gouging behavior and anti-competitive tactics. A recent Gallup and West Health [poll](#) found nearly nine in 10 Americans are concerned Big Pharma will capitalize on the coronavirus crisis to hike prescription drug prices. The survey found more than half (55 percent) of Americans are "very concerned" about Big Pharma increasing drug prices.

And a recent [national survey](#) commissioned by CSRxP and conducted by Morning Consult found American voters overwhelmingly blame Big Pharma for rising prescription drug prices, believe pharmaceutical companies still put profits over people and back market-based solutions to hold drug companies accountable and lower drug prices.

- **Voters Overwhelmingly Agree Drug Prices are a Top Priority Issue:** **90 percent** of American voters view prescription drug prices as "very important" or "somewhat important" among every issue confronting Americans.
- **A Decisive Majority Hold Big Pharma Responsible for Rising Rx Prices:** **Nearly 85 percent** of survey respondents lay blame for "the rising price of prescription drugs" at the feet of pharmaceutical companies.
- **Americans Remain Skeptical of Big Pharma and Believe the Industry Continues to Put Profits Over People:** **Two-thirds** of American voters believe Big Pharma puts profits before people, has left too many Americans unable to afford the medications they need to survive and must be held accountable now.
- **Americans Support Market-Based Solutions to Lower Prescription Drug Prices and Hold Big Pharma Accountable:** **Nearly 90 percent** of American voters believe it's important Congress pass solutions to hold Big Pharma accountable.
- **A Strong Majority of Voters Say Congressional Inaction on Rx Prices Will Impact Their Vote:** **More than 70 percent** of voters say it will impact their vote if Congress fails to pass legislation to lower prescription drug prices.

The projected ballooning cost of Big Pharma's biologic patent abuse underscores the urgency to hold drug companies accountable for their egregious pricing practices and anti-competitive tactics. Policymakers must act to encourage biosimilar competition and stop Big Pharma from gaming the system to undermine competition and keep prices high.

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About CSRxP: The [Campaign for Sustainable Rx Pricing](#) is a broad-based coalition of physicians, nurses, hospitals, consumers, health plans, pharmacy benefit managers, pharmacists, and businesses promoting bipartisan, market-based solutions to lower drug prices. Learn more: www.csrxp.org