



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

December 10, 2019  
(House Rules)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 3 – The Elijah E. Cummings Lower Drug Costs Now Act

(Rep. Pallone, D-NJ, and 106 cosponsors)

The Administration opposes passage of H.R. 3, which contains several provisions that would harm seniors and all who need lifesaving medicines. Nevertheless, as Congress follows the President’s lead on reducing prescription drug costs, the Administration welcomes bipartisan efforts to enact legislation that provides additional prescription drug-cost relief for American families.

In its current form, H.R. 3 would likely undermine access to lifesaving medicines. The bill creates a statutory scheme for “negotiation” between the Secretary of Health and Human Services and pharmaceutical manufacturers regarding the price of prescription drugs, but the penalty for failing to reach agreement with the Secretary is so large that the Secretary could effectively impose price controls on manufacturers. Moreover, this price-fixing mechanism places price controls on drugs available under Medicare and commercial plans, and imposes devastating fines on manufacturers, raising serious concerns under the Fifth Amendment’s Takings Clause and Eighth Amendment’s Excessive Fines Clause.

This bill would also compromise the health of Americans by dramatically reducing the incentive to bring innovative therapeutics to market. The preliminary Congressional Budget Office (CBO) analysis indicates that the bill would reduce the number of new medicines coming to market. [The Council of Economic Advisers \(CEA\) finds](#) that H.R. 3’s price controls would affect as much as one third of drugs under development, meaning that out of 300 projected new medicines that would otherwise be approved over 10 years by the Food and Drug Administration, 100 could be severely delayed or never developed. As a result, CEA estimates H.R. 3 would erase a quarter of the expected gains in life expectancy in the United States over the next decade.

The preliminary CBO analysis of H.R. 3 does not account for the additional costs that would burden families and the Federal Government due to the unavailability of lifesaving and cost-reducing medicine that would otherwise exist. For example, an Alzheimer’s cure, or new treatments for site specific cancers or diabetes, may be delayed or never developed under the regime imposed by H.R. 3. Thus, the cost of caring for a growing and aging population with direct care, skilled nursing, and home health could be substantially greater than the drug-cost savings estimated by CBO. More importantly, the effects of these cost increases on individuals and their families will be significant, personal, and long-lasting.

This legislation does include important policies championed by the Trump Administration to lower prescription drug costs. These include establishing a cap on out-of-pocket expenses for all beneficiaries in Medicare Part D and simplifying and improving that program. H.R. 3 also would limit annual price increases of certain drugs in Medicare to the rate of inflation, protecting beneficiaries and taxpayers from excessive price hikes. These provisions reflect the Administration's priorities, although modifications should be made to strike a better balance in protecting beneficiaries, taxpayers, and innovation.

The Administration strongly prefers the Prescription Drug Pricing Reduction Act of 2019, which was reported out of the Senate Finance Committee on a bipartisan basis. This legislation offers a sound approach to delivering relief to seniors from high prescription drug costs while safeguarding the ongoing development of life-saving and sustaining medicines.

Additionally, H.R. 19, the Lower Costs, More Cures Act, shares many of the same bipartisan elements of the Prescription Drug Pricing Reduction Act and is also a far better approach to lowering drug prices and discovering life-saving cures than H.R. 3.

The President believes there is a path forward to enacting bipartisan legislation that lowers prescription drug costs for American families. The Administration remains committed to working with both parties to pass legislation that will lower drug costs while encouraging innovation in the development of lifesaving medicines.

If H.R. 3 were presented to the President in its current form, he would veto the bill.

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