

**Testimony of John M. Prince, Chief Executive Officer, OptumRx**  
**Before the United States Senate Committee on Finance**  
**“Drug Pricing in America: A Prescription for Change, Part III”**  
**April 9, 2019**

Chairman Grassley, Ranking Member Wyden, and Members of the Committee, I am honored to be here today on behalf of OptumRx. Our company has 28,000 dedicated employees – including 5,000 pharmacists and pharmacy technicians – working every day to deliver value to society, improve the quality of pharmacy care services, simplify the health care experience, and ensure that the individuals we are privileged to serve have affordable access to the drugs they need.

We reduce the costs of prescription drugs. We negotiate substantial discounts from drug manufacturers on behalf of our customers. And we are leading the way to ensure that those discounts directly benefit consumers. We recently announced that soon all of our new employer-sponsored drug plans must provide point-of-sale drug discounts to their employees at the pharmacy counter. This builds on a similar initiative we launched at scale last year for millions of members in fully insured employer plans.

Manufacturers are increasing drug prices for one simple reason: a lack of meaningful competition allows them to. In the absence of competition, manufacturers often set exceptionally high prices. There is a vital role for Congress and the Administration to play in addressing this important issue.

I look forward to discussing this issue with the Committee. I will focus on the following points:

1. OptumRx’s pharmacy care services business is achieving better health outcomes for patients, lowering costs for the system, and improving the health care experience for consumers.
2. OptumRx negotiates better prices with drug manufacturers for our customers and for consumers.
3. Drug manufacturers are solely responsible for the high cost of prescription drugs.
4. Drug manufacturers are not helping solve the problem by blaming others in the supply chain and offering so-called "authorized generics" that often result in net prices higher than the brand drugs they replace.
5. Sensible policy reforms that promote competition and value-based payment models will help make drugs more affordable.

Let me address these points in order.

- 1. OptumRx’s pharmacy care services business is achieving better health outcomes for patients, lowering costs for the system, and improving the health care experience for consumers.**

Our team delivers pharmacy care services to 250,000 patients each day. These services improve health outcomes for patients and reduce costs in the system. Here are some examples:

- We communicate with patients (and their physicians) about how to take their medications, avoid harmful drug interactions, and access convenient home-delivery services.
- We provide drug infusion services directly in patients' homes, so they do not need to visit a hospital to obtain the same, high-quality care, which improves medication adherence and reduces costs.
- We have more than 450 pharmacies embedded in community mental health centers to serve the behavioral health medication needs of patients receiving care there. Our ability to deploy those on-site services has improved medication adherence, reduced emergency room visits and hospitalizations, and reduced overall costs by \$700 per patient.
- We provide special assistance for patients who need help managing their chronic conditions, including real-time video consultations with pharmacists.
- We are helping to address the opioid crisis by developing evidence-based programs that help prevent overprescribing by physicians and detect suspected opioid misuse, as well as offering medication-assisted treatment to patients with opioid use disorder. Our customers who have adopted our opioid management program have achieved a 96 percent adherence rate by prescribers with the Centers for Disease Control and Prevention's prescribing guidelines.

Our pharmacy care services business is doing important work to improve health outcomes and lower costs. We are not stopping with those efforts. We are also developing consumer-friendly tools to make the health care experience more satisfying and effective for patients. For example, one of these tools, PreCheck MyScript®, is a digital platform that simplifies the drug prescribing experience by showing the prescribing physician what the patient's true out-of-pocket cost would be while the patient is still in the physician's office. PreCheck MyScript® has helped lower consumer out-of-pocket costs by an average of \$135 per prescription filled. This is just one of the ways we are working to simplify the system.

## **2. OptumRx negotiates better prices with drug manufacturers for our customers and consumers.**

OptumRx manages pharmacy benefits on behalf of our customers, including self-insured employer groups, fully insured health plans, union funds, Medicare, Medicaid, and federal and state government employee plans. In that role, we promote use of clinically effective, lowest net-cost prescription drugs for consumers when medications are needed.

This work starts with an independent, clinically based formulary design process. OptumRx's Pharmacy & Therapeutics (P&T) Committee is comprised of independent physicians and pharmacists who evaluate existing and emerging drugs based on scientific evidence, and review and appraise those drugs in an unbiased and evidence-based way. The P&T Committee meets regularly, and its deliberations are open and transparent to OptumRx's customers and prospective customers.

A drug's cost plays no role in the P&T Committee's clinical review. Cost only becomes relevant after the P&T Committee has identified drugs in a particular therapeutic class that are clinically effective and should be covered. If there is more than one drug in a particular class, OptumRx

gives preferable placement on its formulary to the lowest-net-cost drug. For about ninety percent of prescriptions processed, OptumRx can identify a generic drug in a particular therapeutic class, and give that drug preferred placement on its formulary over the more expensive branded (or “on-patent”) drug. If there is no generic product available, there may still be other therapeutically equivalent branded alternatives. If so, OptumRx negotiates with those competing brand manufacturers to obtain discounts, and places the drug with the lowest overall net cost in a preferred position on the formulary.

OptumRx has been effective in driving utilization of clinically effective low-cost medications. OptumRx’s negotiated network discounts and clinical tools are reducing annual drug costs, on average, by \$1,600 per person for our customers. Even greater savings are achieved by customers who implement evidence-based utilization management and other OptumRx clinical programs.

OptumRx also ensures that these cost-savings go to our customers and consumers. Our customers receive approximately 98 percent of the value of the discounts we negotiate from drug manufacturers. The application of discounts is subject to audit and verification by an independent third-party on behalf of any of our customers. In those limited instances in which we retain some of the discount, it is because our customers have chosen to pay us that way.

We have heeded the call for change by taking direct action to ensure that the discounts we obtain directly lower consumers’ out-of-pocket costs at the pharmacy counter. Last year, we implemented a point-of-sale discount solution at scale for fully insured group customers so that consumers receive the benefit of discounts at the pharmacy counter. This action has already made nearly six million consumers eligible for point-of-sale discounts. Eligible consumers filling prescriptions on discounted brand drugs are seeing average savings of \$130 per eligible prescription. We believe it will also improve prescription drug adherence by as much as 16 percent. By the end of 2019 we expect more than nine million consumers will be eligible for these point-of-sale discounts. Last month, we announced a decision to expand this point-of-sale discount solution to all new employer-sponsored plans beginning in January 2020.

It is important to recognize that pharmacy benefit managers are the only stakeholders in the prescription drug supply chain working to reduce costs for their customers and the only ones able to effectively negotiate with drug companies. In fact, studies have shown that pharmacy benefit managers will save the Medicare Part D program over \$900 billion in the next ten years.<sup>1</sup> If states fully utilized those same tools and capabilities, Medicaid could save more than \$100 billion over the next ten years.<sup>2</sup>

### **3. Drug manufacturers are responsible for the high cost of prescription drugs.**

Drug manufacturers have continued to increase the prices of their branded drugs. List prices have increased on the twenty most-prescribed brand drugs for seniors by an average of 12 percent for each of the past five years.<sup>3</sup> And from 2017 to 2018, drug manufacturers raised the list prices on twenty drugs by more than 200 percent.<sup>4</sup> In January 2019, manufacturers increased prices yet again on 15 of the top 20 most utilized brand drugs. There appears to be

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<sup>1</sup> Oliver Wyman, *Savings Generated by Pharmacy Benefit Managers in the Part D Program*, June 2017. Available at: [http://www.affordableprescriptiondrugs.org/app/uploads/2018/05/resources\\_medicarepartd\\_report.pdf](http://www.affordableprescriptiondrugs.org/app/uploads/2018/05/resources_medicarepartd_report.pdf).

<sup>2</sup> UnitedHealth Group, *Pharmacy Benefit Management Can Save Medicaid Drug Programs Over \$100 Billion*, March 2018. Available at: <https://www.unitedhealthgroup.com/content/dam/UHG/PDF/2018/PBM-Medicaid-Savings-Study040418.pdf>.

<sup>3</sup> U.S. Committee on Homeland Security & Government Affairs, “Manufactured Crisis: How Devastating Drug Price Increases Are Harming America’s Seniors,” March 2018.

<sup>4</sup> Pharmacy Benefit Consultants Analysis, AWP Price Increases (12-2016 to 12-2017), January 2017-March 2018.

no end in sight. The Centers for Medicare and Medicaid Services (CMS) estimates a faster rate of growth in prescription drugs than all other health care expenditures.<sup>5</sup>

Drug manufacturers alone decide what list price to set for their branded products. If market conditions permit OptumRx to negotiate better prices for a particular branded product, then we do so. As a matter of economics, where there is no competition over a branded drug, or where a drug's "exclusivity period" is extended by anti-competitive tactics, it is difficult to control price-gouging by manufacturers.

There is no better example of the economic calculus driving manufacturers' drug-pricing decisions than "specialty" drugs. These drugs treat complex conditions like cancer, HIV, rheumatoid arthritis, immune disorders, and multiple sclerosis, and they often lack therapeutic equivalents. If a manufacturer sets a very high price for a specialty drug, it is very difficult to negotiate a better price, since that drug has no competing therapeutic equivalent.

As a result, the prices of specialty drugs are spiraling out of control. At least 26 non-discounted specialty drugs cost in excess of \$200,000 per year.<sup>6</sup> These include Elaprase at \$985,000 per year, Myalept at \$889,000 per year, and Cinryze at \$626,000 per year.<sup>7</sup> Today, less than two percent of the population takes specialty drugs, yet those drugs will account for approximately 50 percent of total drug spending by 2022.<sup>8</sup>

Drug manufacturers not only set high prices for branded drugs; they regularly extend the lives of those patented products by using aggressive, anti-competitive tactics to delay the entry of cheaper generic alternatives into the marketplace. One such tactic involves obtaining new patents for products that are not actually new drugs. A recent academic paper found that "78% of the drugs associated with new patents were not new drugs, but existing ones, and extending protection is particularly pronounced among blockbuster drugs."<sup>9</sup> The study further found that "Adding new patents and exclusivities to extend the protection cliff is particularly pronounced among blockbuster drugs. Of the roughly 100 best-selling drugs, more than 70% had their protection extended at least once, with almost 50% having the protection cliff extended more than once."<sup>10</sup>

Drug manufacturers have also engaged in "pay-for-delay" tactics to avoid competition. For example, in November 2018, AbbVie entered into an agreement with Pfizer to keep Pfizer from marketing a generic version of AbbVie's top-selling Humira in the U.S. until 2023.<sup>11</sup> This agreement represented AbbVie's seventh pay-for-delay deal with a would-be competitor.<sup>12</sup> This means that patients in the U.S. will continue to pay much higher prices for an additional six years after Humira's patent expires before a lower-priced, therapeutically equivalent drug is available. AbbVie has also secured more than 100 patents on this one drug.<sup>13</sup> As a result of these tactics, the list price of Humira — a drug that was introduced in 2003 — has increased by

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<sup>5</sup> American Academy of Actuaries, March 2018.

<sup>6</sup> OptumRx Book of Business, January-March 2019.

<sup>7</sup> *Ibid.*

<sup>8</sup> IQVIA, *Medicine Use and Spending in the U.S.*, April 2018. Available at: <https://www.iqvia.com/institute/reports/medicine-use-and-spending-in-the-us-review-of-2017-outlook-to-2022>.

<sup>9</sup> Professor Robin Feldman, "May Your Drug Price Be Evergreen." *Journal of Law and the Biosciences*, December 2018. Available at: <https://academic.oup.com/ilb/advance-article/doi/10.1093/ilb/lsv022/5232981>.

<sup>10</sup> *Ibid.*

<sup>11</sup> Eric Sagonowsky, "AbbVie inks Humira patent deal No. 7, delaying Pfizer's U.S. biosim launch until late 2023." *Fierce Pharma*, November 30, 2018. Available at: <https://www.fiercepharma.com/pharma/abbvie-inks-humira-patent-deal-no-7-delaying-pfizer-s-u-s-biosim-launch-until-late-2023>

<sup>12</sup> *Ibid.*

<sup>13</sup> Cynthia Koons, "This Shield of Patents Protects the World's Best-Selling Drug." *Bloomberg*, September 7, 2017. Available at: <https://www.bloomberg.com/news/articles/2017-09-07/this-shield-of-patents-protects-the-world-s-best-selling-drug>.

78 percent over the last four years alone.<sup>14</sup> Humira is now projected to generate annual revenues of nearly \$20 billion — 16 years after its launch.<sup>15</sup>

**4. Drug manufacturers are not helping solve the problem by blaming others in the supply chain and offering so-called “authorized generics” that often result in net prices higher than the brand drugs they replace.**

Manufacturers have blamed pharmacy benefit managers, health plans, and hospitals for high drug costs. They contend that the discounts or rebates we negotiate with them are the root cause of the problem. That is simply untrue.

We have a proven track record of reducing net costs to our customers. We negotiate a discount when there are two or more competing brand drugs in the same therapeutic class. In those circumstances, we take advantage of the competitive market. We negotiate better prices with manufacturers, give preferred formulary status to the drug that offers the best price, and then we provide those savings to our customers and consumers. That is a formula for reducing costs, not increasing them.

The data simply does not support the manufacturers’ contrary assertion. If they were right, drug prices would be rising more steeply for the drugs on which we negotiate discounts. But the opposite is true. In fact, drug prices are rising the fastest in the area of specialty drugs, where due to the importance of the drugs and the lack of clinical alternatives, manufacturers are unwilling to negotiate a discount. It is no surprise, then, that CMS recently reported that in 2016 and 2017 drug manufacturers raised prices the most on those drugs that have no discounts.<sup>16</sup> The related assertion by brand manufacturers that discounts force them to increase list prices is simply an attempt to avoid accountability. If market conditions permit it, OptumRx harnesses the purchasing power of its customers to negotiate discounts.

Drug manufacturers have also responded to criticisms of the high prices they set for their products by introducing so-called “authorized generic” versions of their higher-priced brand products. To be clear, these are not generic drugs. Their marketing and production is exclusively controlled and directed by the brand drug manufacturers. They do nothing to promote competition. Rather, in our experience, these so-called “generics” often result in higher overall cost when compared to the discounted price of the original brand drug.

As an example, consider a hypothetical brand manufacturer that has set the list price for its brand drug at \$100. OptumRx has successfully negotiated a \$70 discount off that list price, resulting in a net overall cost of \$30 for the brand drug. If the brand manufacturer announces a so-called “authorized generic” at a list price of \$50, the list price may be lower, but the overall net price of the “generic” is \$20 higher than the brand drug. This may result in a lower cost-sharing obligation for some plan members in the short-term, but in the long-term it will be more expensive for plans and lead to higher overall drug costs for everyone, benefiting no one other than the manufacturers.

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<sup>14</sup> OptumRx Book of Business, 2015-2019.

<sup>15</sup> Bob Herman, “Humira sales approach \$20 billion.” *Axios*, January 25, 2019. Available at: <https://www.axios.com/abbvie-humira-2018-sales-20-billion-e4039176-baeb-44ff-b4fe-1b63005283b9.html>.

<sup>16</sup> Sarah Karlin-Smith, Sarah Owermohle and Janie Boschma, “Drugs with a single manufacturer drive Medicare, Medicaid spending increases, CMS says.” *Politico*, March 14, 2019.

## **5. Sensible policy reforms that promote competition and value-based payment models will help make drugs more affordable.**

An effective intellectual property environment plays an indispensable role in both promoting drug discovery and ensuring innovations are affordable and sustainable. Today's intellectual property system does not work as intended. The most important step Congress can take to address the high cost of prescription drugs is to modernize the intellectual property system for the 21st century and eliminate drug manufacturers' ability to manipulate the patent and regulatory system and thereby prevent lower-cost generics and biosimilars from reaching consumers more quickly. Specifically, Congress should:

- Pass the bipartisan CREATES Act to end the manipulation by drug manufacturers of the Risk Evaluation and Management Strategies (REMS) program to block timely entry of generic competition.
- Prohibit "pay-for-delay" settlements between manufacturers that delay the market entry of lower-cost alternatives.
- Restrict "ever-greening" of patents in which drug manufacturers make minor changes to their product, or to the delivery technology for their product, to extend the patent exclusivity period.
- Reduce the exclusivity period for brand and specialty drugs.
- Increase patent transparency for biologics (which are essentially generic equivalents for expensive specialty drugs), promote biosimilar competition, and bring needed biosimilar treatments to market faster and at lower cost.

Beyond patent law reform, there are also other policy solutions that will help lower the net price of drugs, eliminate market barriers, increase transparency, and promote true competition. In particular, the federal government should:

- Continue to support Food & Drug Administration (FDA) reforms around biosimilars. Specifically, the FDA should adopt reforms to release these products to the market more quickly and should finalize guidance to promote substitution of these products over expensive branded specialty products. As other countries have shown, these two measures have been proven to increase competition and lower drug prices.
- Finalize Proposed Rules that would modernize the Medicare Part B and Part D programs by implementing utilization management tools in Medicare Part B and enabling negotiation in the six protected classes in Medicare Part D.
- Finalize a Proposed Rule that would enable Medicare and Medicaid to use real-time benefits tools at the point-of-prescribing to allow beneficiaries to have meaningful and actionable information about out-of-pocket drug costs.
- Evaluate the entire prescription drug regulatory structure to identify opportunities to advance value-based payments and promote comparative effectiveness.

The Administration's proposed Safe Harbor Rule does not address the root cause of rising drug prices. In fact, according to actuaries at CMS, the Proposed Rule would increase premiums up to 25 percent for seniors and create a \$40 billion windfall for drug manufacturers.

If the Administration intends to finalize the Proposed Rule, it should prevent the disruption of the existing and proven supply chain, and ensure that pharmacy benefit managers are explicitly authorized to facilitate discounts at the point of sale for seniors. Today, pharmacy benefit managers administer point-of-sale discounts, including for Medicare Part D, through proven, stable, secure, and highly efficient systems that have evolved through three decades of investment, innovation, and partnership with key stakeholders. Unless pharmacy benefit managers facilitate point-of-sale discounts, existing, negotiated drug discounts will be jeopardized, net prices will increase, and consumers will experience disruption.

The Proposed Rule potentially would allow these discounts to be administered by wholesalers. A new, unregulated, and unproven system of wholesaler-based discounts and service fees to local pharmacies would be unworkable because:

- Wholesalers get paid more if drug prices are high.
- It would create a standing conflict of interest for wholesalers whose subsidiaries help drug manufacturers *undermine* formularies.
- There is no current federal structure to regulate wholesalers' administration of discounts, nor will CMS have visibility to these discounts and service fees as it currently does.
- Wholesalers lack the underlying claims data to facilitate these transactions.
- Unlike Part D plans and pharmacy benefit managers, wholesalers and drug manufacturers are not subject to prompt pay laws.

It is critically important to understand that drug manufacturers pay wholesalers based on list prices and are not subject to the U.S. Department of Health and Human Services' proposed Safe Harbor reforms. Because they are paid based on list prices, allowing wholesalers to begin administering point-of-sale discounts will recreate the very concern that Congress and the Administration are attempting to address.

We appreciate the opportunity to address the Committee today, and share with you the meaningful solutions we are advancing to deliver value for consumers and bring down prescription drug costs. We are committed to doing our part to make prescription drugs more affordable for people and sustainable for the country. I would be pleased to answer any questions you have.