

116TH CONGRESS
1ST SESSION

S. 1227

To require the Federal Trade Commission to study the role of intermediaries in the pharmaceutical supply chain and provide Congress with appropriate policy recommendations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2019

Mr. GRASSLEY (for himself, Ms. CANTWELL, Mr. DAINES, Mr. BLUMENTHAL, Mr. LANKFORD, and Ms. ERNST) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require the Federal Trade Commission to study the role of intermediaries in the pharmaceutical supply chain and provide Congress with appropriate policy recommendations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prescription Pricing
5 for the People Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term “appropriate committees of Con-
3 gress” means—

4 (A) the Committee on the Judiciary of the
5 Senate; and

6 (B) the Committee on the Judiciary of the
7 House of Representatives.

8 (2) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 **SEC. 3. STUDY OF PHARMACEUTICAL SUPPLY CHAIN**
11 **INTERMEDIARIES AND MERGER ACTIVITY.**

12 (a) REPORT.—Not later than 1 year after the date
13 of enactment of this Act, the Commission shall submit to
14 the appropriate committees of Congress a report that—

15 (1) addresses at minimum—

16 (A) whether pharmacy benefit managers—

17 (i) charge payers (including Medicare
18 and Medicaid) a higher price than the re-
19 imbursement rate at which the pharmacy
20 benefit managers reimburses competing
21 pharmacies while reimbursing pharmacies
22 in which the pharmacy benefit managers
23 have an ownership interest at the rate
24 charged to payers;

1 (ii) steer patients to pharmacies in
2 which the pharmacy benefit managers have
3 an ownership interest;

4 (iii) audit or review proprietary data,
5 including acquisition costs, patient infor-
6 mation, or dispensing information, of com-
7 peting pharmacies that can be used for
8 anticompetitive purposes; or

9 (iv) use formulary designs to depress
10 the market share of low-cost, lower-rebate
11 prescription drugs;

12 (B) the current state of competition in the
13 pharmaceutical supply chain, particularly with
14 regard to intermediaries and the recent vertical
15 integrations of pharmacy benefit managers with
16 insurance companies or other payers of pre-
17 scription drug benefits;

18 (C) how companies and payers assess the
19 benefits, costs, and risks of contracting with
20 intermediaries, including pharmacy services ad-
21 ministrative organizations, and whether more
22 information about the roles of intermediaries
23 should be available to consumers and payers;
24 and

1 (D) whether there are any specific legal or
2 regulatory obstacles the Commission currently
3 faces in ensuring a competitive and transparent
4 marketplace in the pharmaceutical supply
5 chain, including the pharmacy benefit manager
6 marketplace and pharmacy services administra-
7 tive organizations; and

8 (2) provides—

9 (A) observations or conclusions drawn
10 from the November 2017 roundtable entitled
11 “Understanding Competition in Prescription
12 Drug Markets: Entry and Supply Chain Dy-
13 namics”, and any similar efforts;

14 (B) specific actions the Commission in-
15 tends to take as a result of the November 2017
16 roundtable, and any similar efforts, including a
17 detailed description of relevant forthcoming ac-
18 tions, additional research or roundtable discus-
19 sions, consumer education efforts, or enforce-
20 ment actions; and

21 (C) policy or legislative recommendations
22 to—

23 (i) improve transparency and competi-
24 tion in the pharmaceutical supply chain;

1 (ii) prevent and deter anticompetitive
2 behavior in the pharmaceutical supply
3 chain; and

4 (iii) best ensure that consumers ben-
5 efit from any cost savings or efficiencies
6 that may result from mergers and consoli-
7 dations.

8 (b) INTERIM REPORT.—Not later than 180 days
9 after the date of enactment of this Act, the Commission
10 shall submit to the appropriate committees of Congress
11 an interim report on the progress of the report required
12 by subsection (a), along with preliminary findings and
13 conclusions based on information collected to that date.

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