November 16, 2026

The Honorable Chuck Grassley
Chairman
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dick Durbin
Ranking Member
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Jim Jordan
Chairman
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

The Honorable Jamie Raskin
Ranking Member
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear Chairman Grassley, Ranking Member Durbin, Chairman Jordan, and Ranking Member Raskin:

On behalf of the 15 undersigned organizations representing consumer advocates and patient groups working in states across the country to lower prescription drug costs, we urge Congress to take urgent action before the end of the year to address big drug company abuse of the patent system. Our organizations have worked state by state to pass and implement policies that take on unaffordable prescription drug costs — including price transparency laws, anti-gouging statutes, and Prescription Drug Affordability Boards (PDABs) with upper payment limits. But we need your help: federal patent law is increasingly being wielded by drug manufacturers to block the state reforms our organizations have fought to enact. Without Congressional intervention this year to stop or minimize patent abuses, our affordability efforts will be stymied, and families in your districts and states and across the country will pay the price.

High and rising prescription drug costs remain a major driver of the health care affordability crisis. Between 2000 and 2022, U.S. per capita prescription drug spending nearly tripled, from $432 to $1,217.[1] Launch prices grew by more than 20% each year for the past 15 years.[2]

States have not waited for Washington to act. At least eleven states had enacted PDABs, four have granted upper payment limit authority, and many others have advanced price transparency and other reforms. This is federalism working as intended: states responding directly to a crisis their residents face every day, filling gaps that federal policy has yet to address.

But now we need Congress to step in to fix the broken prescription drug patent system that drug companies manipulate to prevent lower cost drugs from being accessible for families across the country. The patent system exists to spur innovation and reward the discovery of new cures, but drug companies are increasingly abusing patent law to limit competition and raise prices instead. They blanket one drug with multiple and overlapping patents to create a "patent thicket" and "product hop" from one patent to the next by making minor tweaks to existing drugs that add no clinical

benefit. They reduce competition by offering patent settlements to generic companies to keep lower-cost alternatives off the market through "pay-for-delay" schemes.

Once big drug companies have successfully blocked competition, they are free to raise prices year after year at shocking rates, long after a drug's initial release. From 2022 to 2023, 4,200 existing prescription drugs saw price increases,3 with average increases of 15.2% (or $520 per drug) — more than four times the rate of inflation.[4] These increases are rarely justified by additional clinical benefit: one study of high-spend drugs found that seven of the ten reviewed provided no additional clinical benefit relative to other available treatments.[5]

Patent Abuse Is Now Being Used to Undo State Progress

Drug companies are now turning patent law against the states. Colorado's PDAB, one of the first of its kind in the country, found that Amgen's drug Enbrel had become unaffordable for state residents and set an upper payment limit close to what Medicare had already negotiated for the same drug. Amgen sued, arguing that patent law gives it the unqualified right to charge whatever it wants for a drug it holds a patent on — including Enbrel, whose list price has risen more than 1,500% since it launched in 1998.[6] That argument, if it succeeds, will not stay confined to Colorado or to a single drug. It would convert every federal patent into a shield against every state affordability standard, every PDAB upper payment limit, and every legislative effort to rein in the price of a patented medicine – no matter how excessive that price is. States are not attempting to rewrite patent law, they are attempting to protect their residents from prices that are frequently the product of patent abuse, not patent-protected innovation.

Congress should want states to succeed here. States have long been the country's leaders on health policy innovations exploratory laboratories for health policy improvements, including prescription drug affordability policy, through testing models, building evidence, and delivering real relief to state residents. If federal patent law can be stretched to override these efforts, Congress will have handed drug companies a nationwide veto over state consumer protections. Congress can close these loopholes without weaking legitimate patent rights and should make clear that patent law is not a free pass to price gouge, nor a tool to nullify state laws.

We urge the Committees to continue their work on patent reform and to advance bipartisan legislation to the full Congress for action. Bills that would further these goals by cracking down and minimizing patent abuses, some of which have already been approved by the Senate Judiciary Committee, include:

- ETHIC Act (S.2276/H.R.3269), which reforms patent litigation rules to limit patent thickets;
- Drug Competition Enhancement Act (S.1040), which prohibits product hopping;
- Affordable Prescriptions for Patients Act (S.1041), which cracks down on patent thickets – a bill that passed the Senate by unanimous consent in July 2026;
- Preserve Access to Affordable Generics and Biosimilars Act (S.1096), which curbs pay-for-delay practices;

- Stop STALLING Act (S.1095), which stops abuse of citizen petitions before the FDA to delay generic and biosimilar entry; and
- Interagency Patent Coordination and Improvement Act (S.1097), which establishes a task force between the U.S. Patent and Trademark Office and the FDA to strengthen patent-related coordination.

The high and rising price of prescription drugs threatens the financial security and health of families across the country. Under the current system, big drug companies abuse patents, delay generic entry, and price-gouge to protect their profits, all while families go into medical debt, ration or skip medications, and choose between medicine and daily necessities. States have stepped up, only to find federal patent law invoked against the very reforms their residents demanded. Only Congress can close this gap by cracking down on patent abuses before the end of the year and making clear that federal patent law is not a weapon against state efforts to lower drug prices. We stand ready to support you in those efforts.

Sincerely,

Families USA

AIDS Chicago

Colorado Consumer Health Initiative

Colorado Policy Institute

Community Service Society of New York

Freedom Virginia

Hoosier Action

Iowa Citizen Action Network

Health Action New Mexico

Maine Consumers for Affordable Health Care

Maryland Health Care for All

Metro Health New York

New Jersey Appleseed

New Jersey Citizen Action

Utah Health Policy Project

[1]"National spending on services and prescriptions," Peterson-KFF Health System Tracker, https://www.healthsystemtracker.org/indicator/spending/national-spending-services/.
[2]Benjamin N. Rome, Alexander C. Egilman, and Aaron S. Kesselheim, "Trends in Prescription Drug Launch Prices, 2008-2021," JAMA 327, no. 21 (2022): 2145-2147, https://jamanetwork.com/journals/jama/article-abstract/2792986.
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[4]U.S. Bureau of Labor Statistics, "TED: The Economics Daily," Jan. 19, 2024, https://www.bls.gov/opub/ted/2024/consumer-price-index-2023-in-review.htm.
[5]Eliot Fishman, "Our Broken Drug Pricing and Patent System Diverts Resources Away From Innovation and Into Mergers, Patent Gaming and Price Gouging," Families USA, August 2021, https://familiesusa.org/resources/our-broken-drug-pricing-and-patent-system-diverts-resources-away-from-innovation-and-into-mergers-patent-gaming-and-price-gouging/.
[6] Colorado Division of Insurance, *Enbrel Affordability Review Final Report* — doi.colorado.gov/sites/doi/files/documents/PUBLIC_Enbrel%20Affordability%20Review%20Final%20Report.pdf