



## **Prescription for a Healthier Virginia: Holding Big Pharma Accountable to Ensure Affordable Drug Prices**

The rising costs of prescription drugs continue to burden families across the nation and in the Commonwealth. According to the CDC, nearly 50% of people have taken at least one prescription drug within the past 30 days between 2013 and 2016.<sup>1</sup> These numbers increase dramatically with age and close to 90% of people over the age of 65 take prescription medications. Unfortunately, we also know that one in four Virginians struggle to pay for their prescription medications, and nearly one-third of Americans report that they do not take prescription medications as prescribed by medical professionals because they are too expensive.<sup>23</sup> That is unconscionable. Virginians deserve immediate and bold action to combat this growing crisis. The health and well-being of our Commonwealth depends on it.

No person should have to choose between taking medically-necessary prescriptions or providing for the basic needs of their families, especially while pharmaceutical companies and other related industries rake in enormous profits and raise the price of drugs. One study indicates that list prices for prescription drugs have increased 33% since 2014, and the actual cost to consumers has risen 20%.<sup>4</sup> Prescription drug prices have also risen at a higher rate than other medical services, including inpatient hospital care.<sup>5</sup> The cost crisis has continued to worsen during the pandemic, with drug companies raising prices on more than 245 medications, including life-saving cancer drugs and even some that are being used to treat COVID-19 patients.<sup>6</sup>

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<sup>1</sup> Table 38. *Prescription Drug Use in the Past 30 Days, by Sex, Race and Hispanic Origin, and Age: United States, Selected Years 1988–1994 through 2013–2016.* [www.cdc.gov/nchs/data/abus/2018/038.pdf](http://www.cdc.gov/nchs/data/abus/2018/038.pdf).

<sup>2</sup> “State Health Compare.” *Map | Percent Who Made Changes to Medical Drugs Because of Cost in the Past Year by Age | State Health Access Data Assistance Center*, [statehealthcompare.shadac.org/map/73/percent-who-made-changes-to-medical-drugs-because-of-cost-in-the-past-year-by-age#13/24/110](http://statehealthcompare.shadac.org/map/73/percent-who-made-changes-to-medical-drugs-because-of-cost-in-the-past-year-by-age#13/24/110).

<sup>3</sup> Kirzinger, Ashley, et al. “KFF Health Tracking Poll – February 2019: Prescription Drugs.” KFF, 1 Mar. 2019, [www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/](http://www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/).

<sup>4</sup> Marsh, Tori. “Prescription Drug Prices Rise Faster Than Any Medical Good or Service - GoodRx.” *The GoodRx Prescription Savings Blog*, 17 Dec. 2020, [www.goodrx.com/blog/prescription-drugs-rise-faster-than-medical-goods-or-services/](http://www.goodrx.com/blog/prescription-drugs-rise-faster-than-medical-goods-or-services/).

<sup>5</sup> Ibid

<sup>6</sup> Bunis, Dena. “Rx Companies Raise Prices on COVID-19 Drugs.” *AARP*, 30 June 2020, [www.aarp.org/politics-society/advocacy/info-2020/covid-drug-prices-increase/](http://www.aarp.org/politics-society/advocacy/info-2020/covid-drug-prices-increase/).

Pharmaceutical companies often cite the cost of research and development (R&D) as the reason for increased prices, when in reality they are spending nearly twice as much on marketing and sales as they are on R&D.<sup>7</sup> Additionally, there are many industries involved in the complex pharmaceutical drug industry. This, coupled with a tremendous lack of transparency, makes it difficult to understand the system and implement policy solutions to bring down costs for consumers.

Lowering prescription drug prices in the Commonwealth will require bold leadership and aggressive action. As governor, Terry will do everything in his power to increase accountability, create transparency, and ensure that Virginians can afford their life-saving medications. He will also call on the federal government to tackle this issue head-on, and work with President-elect Biden, his good friend of more than 40 years, to address this crisis. Terry recognizes that taking on these industries will not be easy, but as Virginia's 72nd Governor, he never turned down the opportunity to do what was right for Virginians. Terry fought tirelessly to expand Medicaid and provide affordable healthcare to 400,000 Virginians despite a radical, obstructionist Republican legislature. He implemented the Healthy Virginia plan when Republicans would not pass Medicaid expansion and extended coverage to thousands of Virginians in need.

Terry will continue to champion bold reforms that protect Virginia consumers and lower the rising costs of healthcare. As Virginia's next governor, Terry will:

**Create a Prescription Drug Accountability Division at the State Corporation Commission (SCC).** As the cost of prescription drugs continues to skyrocket, we must intervene and protect Virginians so they don't have to choose between taking medically-necessary prescriptions or paying their basic living expenses. While states generally have limited power to regulate these industries, several states have successfully created boards to implement cost-saving strategies, and many more are considering this opportunity. As governor, Terry will work with the legislature to create a Prescription Drug Affordability Division at the SCC that will be charged with monitoring prescription drug prices and serving as a watchdog for Virginia consumers. The SCC is well-equipped to take on this responsibility, as it already regulates the insurance industry and Pharmacy Benefit Managers (PBMs), the industry middlemen operating between insurance companies and pharmacies. When rising drug prices surpass certain thresholds, the SCC will step in to conduct an affordability review and require drug manufacturers to justify price increases. If an increase is determined to be excessive, the Board could set an upper limit on how much state payers in Virginia would spend on that drug, which will reduce costs and ensure consumers can afford the drug. Under this framework, Terry will create long-needed regulatory infrastructure in the Commonwealth and protect consumers from predatory pricing.

**Pass a Prescription Drug Price Sunlight Law and finally open up the black box of prescription drug pricing.** The prescription drug supply chain is incredibly complex and involves numerous middlemen. There are also countless confidential negotiations for rebates and discounts, making it hard to know what is actually driving drug prices higher.

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<sup>7</sup> "The R&D Smokescreen." *Institute for Health IHSP & Socio-Economic Policy, Institute for Health and Socio-Economic Policy*, 20 Oct. 2016, [nurses.3cdn.net/e74ab9a3e937fe5646\\_afm6bh0u9.pdf](https://nurses.3cdn.net/e74ab9a3e937fe5646_afm6bh0u9.pdf).

The lack of transparency makes it easy for these industries to operate in the shadows and profit off the backs of Virginia taxpayers and consumers. Terry will shine a light on this obscure system and require drug manufacturers, wholesalers, insurers, and PBMs to submit detailed cost and price information on high-cost drugs for Virginians, including the impact of drug costs on rising premiums. Terry will also ensure that these industries report information about certain increases in drug prices to the SCC and consumers in advance of the increase and provide justification for the increase. Virginians can rely on Terry to deliver transparency and fairness.

**Maximize Virginia’s ability to negotiate for the lowest drug prices possible.**

Currently, state agencies responsible for prescription drug coverage in the Commonwealth all negotiate the price of drugs independently. That means that the cost of state-purchased or reimbursed prescription drugs could vary significantly among employee health plans, state hospitals, correctional facilities, and others. Terry will pool Virginia’s purchasing power for these state payers so we can negotiate directly with drug companies, seek discounts and better bulk drug pricing for the Commonwealth. He will also direct the Medicaid program to seek additional discounts from drug companies by joining with other states in multi-state purchasing pools, negotiating higher rebates for drugs that surpass certain price limits, and creating value-based payment arrangements with individual manufacturers for specific drugs. Terry will explore every opportunity available to the Commonwealth to save money and protect consumers.

**Implement a pharmacy benefit carve-out model for Virginia’s Medicaid program.**

The Virginia Department of Medical Assistance Services (DMAS) currently contracts with Managed Care Organizations (MCOs) to administer its Medicaid program, including the pharmacy benefit. Four states have implemented models that carve out the pharmacy benefit from the MCOs and enable the state Medicaid program to administer this benefit, and several other states are considering this option as well.<sup>8</sup> In 2019, DMAS was directed to study the most cost-effective manner to deliver this benefit without jeopardizing clinical benefits. The DMAS study ultimately found that carving out the pharmacy benefit would not only result in a \$32 million savings to the Commonwealth, but it would also provide the most transparency into this complex system.<sup>9</sup> As governor, Terry will ensure that DMAS adopts and implements a carve-out model for its pharmacy benefit and redirects those savings into other critical services.

**Implement a Reverse Auction procurement model for PBMs for public plans.** In order to obtain the lowest drug prices for the Commonwealth, we must leverage every tool available to us, including our state procurement process. New Jersey transformed its procurement process and required PBMs to engage in a transparent, multi-round bidding process where PBMs could review other bids and improve their offers throughout the

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<sup>8</sup> Gifford, Kathleen, et al. “How State Medicaid Programs Are Managing Prescription Drug Costs: Results from a State Medicaid Pharmacy Survey for State Fiscal Years 2019 and 2020 - Pharmacy Benefit Administration.” *KFF*, 29 Apr. 2020, [www.kff.org/report-section/how-state-medicaid-programs-are-managing-prescription-drug-costs-pharmacy-benefit-administration/](http://www.kff.org/report-section/how-state-medicaid-programs-are-managing-prescription-drug-costs-pharmacy-benefit-administration/).

<sup>9</sup> Kimsey, Karen. “DMAS Update for Joint Subcommittee for Health and Human Resources Oversight - Pharmacy Benefit Delivery Models.” *HAC Virginia*, 2 Dec. 2019, [hac.virginia.gov/subcommittee/JT\\_HHR\\_Oversight\\_Sub/12-2-19/12022019\\_No1a\\_Pharmacy%20Rx%20Cost%20Report.pdf](http://hac.virginia.gov/subcommittee/JT_HHR_Oversight_Sub/12-2-19/12022019_No1a_Pharmacy%20Rx%20Cost%20Report.pdf).

process. Ultimately, because of this model, New Jersey is anticipating a \$2.5 billion savings over a five-year period. Several other states have adopted, or are considering adopting, a similar model. As governor, Terry will institute a similar model that will increase competition and create savings for the Commonwealth.

**Hold industry middlemen to a higher standard, and accountable when they engage in predatory practices.** In recent years the Virginia legislature has adopted several important initiatives, including: eliminating “gag orders” that prevent pharmacies from advising patients of true drug prices or cheaper alternative options; requiring licensure of PBMs; and prohibiting spread pricing that allows industries to profit without passing on savings to consumers. However, there is more work to be done to protect Virginia consumers from predatory practices. As governor, Terry will require PBMs to act as fiduciaries, ensuring that they are acting in the best interests of their clients and not their bottom lines. Too often, PBMs are incentivized to favor high-cost drugs due to rebates and other discounts, resulting in savings for insurers and high costs for consumers. This practice must end. Additionally, Terry will ensure that the recently passed provisions and the new fiduciary requirement become conditions of PBM licensure in Virginia, meaning that any PBM that fails to comply with these provisions could lose their licensure. It is past time for bold, aggressive action and Terry will deliver for Virginia consumers as governor.

**Penalize pharmaceutical companies for imposing excessive and unsupported price increases on Virginia consumers.** While Virginians and Americans struggle to pay for their prescription medications, the pharmaceutical industry continues to increase drug prices, despite raking in nearly \$12 trillion in revenues between 2000 and 2018.<sup>10</sup> As governor, Terry will hold pharmaceutical companies accountable for unjustifiable price increases. The Institute for Clinical and Economic Review (ICER) conducts evidence-based reviews of prescription drug prices, labeling them as unsupported if they are not backed by clinical effectiveness, patient experiences, or similar evidence. Virginia will become one of the first states in the nation to adopt a bold policy to utilize ICER's reviews and impose aggressive taxes on companies that dole out unsupported price increases on their drugs. If pharmaceutical companies want to raise their prices without cause, we will ensure they pay a sizable tax that can be reinvested to meet the healthcare needs of Virginians.

**Obtain approval from the U.S. Secretary of Health and Human Services (HHS) to import prescription drugs from Canada.** In recent years, states across the nation have explored the possibility of importing prescription drugs from Canada. Recent analyses indicate that prescription drug prices in Canada can be anywhere from 28%-35% of the price for the same drugs in America.<sup>11</sup> Under federal law, HHS can grant states approval to purchase drugs from Canada if they determine that importation would lead to savings

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<sup>10</sup> McCall, Rosie. “Big Pharma Companies Earn More Profits than Most Other Industries, Study Suggests.” *Newsweek*, *Newsweek*, 4 Mar. 2020, [www.newsweek.com/big-pharma-companies-profits-industries-study-1490407#:~:text=Their%20calculations%20found%20that%20in,gross%20profit%20of%20%248.6%20trillion.](http://www.newsweek.com/big-pharma-companies-profits-industries-study-1490407#:~:text=Their%20calculations%20found%20that%20in,gross%20profit%20of%20%248.6%20trillion.)

<sup>11</sup> Neuman, Tricia, et al. “10 FAQs on Prescription Drug Importation.” *KFF*, 8 Oct. 2020, [www.kff.org/medicare/issue-brief/10-faqs-on-prescription-drug-importation/](http://www.kff.org/medicare/issue-brief/10-faqs-on-prescription-drug-importation/).

for consumers and does not pose a health or safety risk to the American public. As Virginia's next governor, Terry will develop a plan that allows Virginia wholesalers to safely import prescription drugs from Canada, and work with the Biden administration to obtain approval from HHS. President-elect Biden has identified this as a priority for his administration, and Terry will work to ensure that Virginians see their drug costs lowered from this effort.

**Create a Prescription Drug Affordability Commission.** In addition to creating an accountability division within the SCC, Terry will immediately create a Prescription Drug Affordability Commission to begin exploring additional policy solutions to lower costs for consumers. While Terry works to build capacity within the SCC, this Commission will be able to dive right in and get to work. Terry will direct the Commission to develop short and long-term policy recommendations, including immediate solutions that can be implemented through executive action. The Commission will be tasked with exploring multi-state purchasing pools, bulk purchasing opportunities and additional transparency measures that are necessary to protect consumers. Leveraging every mechanism the Commonwealth has to rein in drug costs, Terry will be the ambitious leader Virginians need in Richmond.