



September 21, 2011

The Honorable Patty Murray
Co-Chair
Joint Committee on Deficit Reduction
United States Congress
Washington, D.C. 20510

The Honorable Jeb Hensarling
Co-Chair
Joint Committee on Deficit Reduction
United States Congress
Washington, D.C. 20515

Dear Senator Murray and Representative Hensarling:

Today, the Generic Pharmaceutical Association (GPhA) is releasing independently produced data demonstrating the staggering savings made possible by the use of generic prescription drugs – nearly \$160 billion in 2010 alone, which equates to \$3 billion in health care savings each week. According to the study, over the last 10 years, the use of generic prescription drugs has yielded more than \$930 billion in national health expenditure savings. The new study is complemented by the Medicare Trustees report released this summer that projected that Medicare Part D costs for the first 10 years of the program will be 41 percent below initial estimates — a \$300 billion savings — due primarily to higher-than-expected utilization of generic drugs. In our view, the right policies will continue to generate these savings for years to come and further generic utilization within government programs will improve upon our already demonstrated success.

As you begin your important deliberations to target policies to reduce the nation's deficit and debt, we ask you to consider approaches that remove, rather than erect, barriers to increase system-wide generic drug use. In summary, we believe that incentives to increase the utilization and availability of generic drugs will produce substantial savings for both the public and private sectors and should be embraced. Conversely, policies that reduce access to these products (such as through banning pro-competitive patent settlements) or simply shift costs to the private sector (such as federal rebate increases) are counterproductive and should be rejected.

Productive Policies that Constrain Cost Growth System-Wide and Reduce the Federal Deficit

As the study, "Savings: An Economic Analysis of Generic Drug Usage in the U.S.," being released today by GPhA makes clear, increasing generic use in Medicaid by just two percentage points would save the program more than \$1.3 billion annually. A recent study conducted by Alex Brill of the American Enterprise Institute (AEI) demonstrates that state Medicaid programs have forgone significant savings by underutilizing lower-cost generic medicines. At a time when both the federal and state governments are having great difficulty affording their health care commitments, it simply makes common sense that the Super Committee should give consideration to current legislative proposals that encourage states to increase their generic drug substitution rates to become closer to the levels that the best plans serving Fortune 500 companies and the Congress achieve.

Likewise, ensuring that the Food and Drug Administration (FDA) has the resources it needs to expedite the more than 2,000 generic drug applications awaiting agency action would provide more affordable options, competition and savings. We have worked closely with the FDA on two new user fee programs and our companies will be providing more than \$300 million annually to further FDA's important public health mission. Furthermore, increased appropriations would yield hundreds of millions of dollars in savings a year to the government, to Medicare and Medicaid beneficiaries, to taxpayers, employers and their workers.

Finally, as the Congress and the Administration work toward finding better ways to prevent and coordinate care for chronically ill Americans, new and well-managed programs designed to deliver better care and avoid costly hospitalizations for these citizens would be welcomed by the generic drug industry. We recognize that model initiatives in this area will rely on coordinated prescription drug utilization programs that will thoughtfully utilize our cost-effective and high quality products. For example, improving generic drug utilization among the LIS population could provide significant savings.

Counterproductive Policies that Decrease Competition and/or Cost-shift

We believe it would be counterproductive to increase or extend Medicaid rebates beyond what currently is paid by manufacturers. Doing so would unconstructively shift costs to other payers in the private sector and burden manufacturers that are working hard to maintain American jobs. As costs increase in the private sector, revenues would decline as employers and employees take health care deductions for higher premiums. We are additionally concerned that new rebates could inadvertently decrease the future availability of generic medicines due to the dampening effect they could have on investment in the development of new pharmaceutical products. With these concerns in mind, we urge you to reject policies in this area.

Additionally, it would be unwise to eliminate the tools we need to make generics available by pursuing policies to ban or severely derail pro-competitive patent settlements, which have demonstrably saved billions of dollars for businesses, consumers and the government. Patent challenges and settlements accelerate the introduction of competition into the pharmaceutical market. Banning patent settlements is anti-consumer because these settlements guarantee early market entry. Notably, of the 370 drug patent suits that generic companies filed to challenge brand patents from 2000 through 2009, only 48 percent of the cases that were litigated to conclusion were decided for the generic company. Consequently, in those suits that were not settled, consumers gained access to the lower cost generic prior to brand patent expiration in less than half of the cases. However, when factoring settlements into the total patent challenges, generics were successful in bringing the generic product to market before patent expiration in 76 percent of the cases. In short, banning patent settlements would cut by more than a third the number of new generics that are launched prior to brand patent expiration. It would be ill-advised to pursue a policy that would reduce generic market introduction and, as such, delay competition. We, therefore, urge you to reject any policy in this arena.

We are heartened that many on Capitol Hill on both sides of the aisle agree with us that cost containment, not cost shifting, is the way to reduce the deficit and limit Medicare, Medicaid and other government health care spending. We hope you find our recommendations to be constructive and useful to your ongoing and extraordinarily important deliberations.

Thank you for your consideration of our views on this matter. Please do not hesitate to contact us if you would like additional information concerning our positions and the vital role generic medicines play in lowering health care costs.

Sincerely,



Ralph G. Neas
President and CEO
Generic Pharmaceutical Association