



EXECUTIVE SUMMARY

At your request, this memorandum analyzes the policies discussed by the Presidential candidates related specifically to drug pricing and broader health care reform. While Ms. Clinton's proposals related to drug pricing are much more detailed than Mr. Trump's, both candidates have been critical of pharmaceutical manufacturers and have proposed policies that would be detrimental to the industry.

HILLARY CLINTON

Hillary Clinton's health care proposals seek to build on the Affordable Care Act and focus on drug costs. One of her stated goals is to "crack down on prescription drug prices and hold companies accountable so they get ahead by investing in research, not jacking up costs."¹ She also has focused on "price gouging" in the specialty drug market.²

Ms. Clinton has campaigned vocally against pharmaceutical manufacturer "predatory pricing" and believes they spend more money on marketing than on research and development ("R&D"). Last fall, Mrs. Clinton outlined a plan to decrease the cost of prescription drugs at a town hall event in Iowa.³ The plan would:

- Regulate the percentage of revenues a pharmaceutical company that receives federal support must spend on research and development and require manufacturers to increase their R&D or pay rebates if they do not meet targets;
- Cap the out-of-pocket cost of many drugs for chronic and serious health conditions;
- Allocate additional funding to increase the number of generic drugs on the market, including clearing the FDA's Office of Generic Drugs backlog;
- Cap the out-of-pocket amount insurers can ask individuals to pay for specialty drugs;
- Increase competition for specialty drugs, including decreasing the exclusivity period for biologics from twelve to seven years and authorizing the FDA to give expedited review to biosimilar applications when there are only one or two competitors in the market;
- Allow Americans to import lower-cost drugs from abroad;
- Prohibit "pay for delay" arrangements that keep generic drugs off the market;
- Eliminate deductions for direct-to-consumer ("DTC") advertising and devote those funds to making permanent and simplifying the R&D tax credit;
- Use the results of private-sector analyses to "hold drug companies accountable for justifying their costs and ensure Americans pay drug prices that reflect the improved value new treatments provide";
- Establish a mandatory FDA pre-clearance procedure for DTC advertising, funded through manufacturer-paid user fees;
- Give HHS the authority to negotiate drug prices under the Medicare Part D program; and

¹ See Hillary Clinton's campaign website: <https://www.hillaryclinton.com/issues/health-care/>

² See September 22, 2015 *New York Times* article: <http://www.nytimes.com/politics/first-draft/2015/09/22/hillary-clinton-to-present-health-care-plan-2/>

³ *Ibid.*

- Require drug companies to provide higher rebates (equivalent to Medicaid rebates) under Part D for low-income Medicare enrollees.

While some of Ms. Clinton's proposals are positive for the pharmaceutical industry, such as making the R&D tax credit permanent and capping monthly out-of-pocket costs, most of the proposals have the potential to be detrimental to the industry.

Beyond prescription drug prices, Ms. Clinton would reduce the cost of purchasing health insurance through the Affordable Care Act exchanges by providing tax credits to offset out-of-pocket and premium costs above five percent of income, enhance premium tax credits, and allow families to access coverage when their employer's family plan premium is too expensive. Ms. Clinton continues to support a "public option" for health insurance and would begin working toward that goal by allowing states to establish a public option within the exchanges. She also plans to lower out-of-pocket costs, including copays and deductibles. Ms. Clinton would repeal the Affordable Care Act's upcoming tax on high-cost employer-sponsored insurance (the so-called Cadillac tax), which is scheduled to take effect in 2018.⁴ In addition to the Affordable Care Act's requirement for free preventive health services, Ms. Clinton would require insurers and employers to cover three "sick visits" each year with no deductible. Ms. Clinton has discussed the idea of allowing individuals to buy into Medicare, beginning at age 50 or 55.⁵

DONALD TRUMP

Mr. Trump's health care reform ideas are much less detailed than Ms. Clinton's. He has not presented a plan specific to prescription drug pricing, though he has called for the government to negotiate drug prices with pharmaceutical manufacturers under Medicare Part D.⁶ The idea of repealing the "non-interference" provision of the Medicare Part D statute has long been opposed by Republicans. He also supports importation of prescription drugs from other countries.

Most of his ideas seek to follow free market principles.⁷ Mr. Trump's plan has seven legislative health care priorities:

- Repeal the Affordable Care Act;
- Allow the sale of health insurance across state lines;
- Allow individuals to fully deduct health insurance premium payments from their tax returns;
- Allow contributions to Health Savings Accounts (HSAs) to be tax-free and HSAs to become part of the estate of an individual;
- Require price transparency from all healthcare providers;
- Provide block-grants to states for Medicaid and allow state governments to manage the administration of Medicaid "without federal overhead"; and
- Remove barriers to entry for drug providers and allow consumers to access imported, safe and dependable drugs from other countries.

⁴ See October 6, 2015 *New York Times* article: http://www.nytimes.com/2015/10/07/us/politics/hillary-clintons-proposed-changes-to-health-law-zero-in-on-affordability.html?_r=0

⁵ See May 10, 2016 *New York Times* article: http://www.nytimes.com/2016/05/11/us/politics/hillary-clinton-health-care-public-option.html?_r=0

⁶ See <http://thehill.com/policy/healthcare/267005-trump-calls-for-medicare-to-negotiate-drug-prices>

⁷ See "Healthcare Reform to Make American Great Again" on Mr. Trump's campaign website: <https://www.donaldjtrump.com/positions/healthcare-reform>

Mr. Trump also suggests that enforcing immigration laws and eliminating fraud and waste will lower healthcare costs. He states that the country's mental health programs and institutions are in need of reform. While not discussed in his list of priorities, Mr. Trump has publicly supported universal coverage, saying, "everybody's got to be covered. This is an un-Republican thing for me to say."⁸

While Mr. Trump's proposals regarding pharmaceutical manufacturers do not have the detail of Ms. Clinton's, he has supported ideas that would be detrimental to the industry, such as reimportation and price negotiation in Medicare Part D. In his health care ideas document, he states, "[t]hrough the pharmaceutical industry is in the private sector, drug companies provide a public service."

CONCLUSION

During their presidential campaigns, both Hillary Clinton and Donald Trump have called for policies that would be detrimental to pharmaceutical manufacturers, including importation and government negotiation under Medicare Part D. Mrs. Clinton's proposals go much further, including tax, patent, and pricing issues.

⁸ <http://www.forbes.com/sites/dandiamond/2015/09/27/trump-tells-60-minutes-that-obamacare-is-a-disaster-heres-what-he-didnt-say/#38fecf1f506e>