

**Superpower America can achieve the medicine prices of non-superpowers:
Canada is one (flawed) example**

Testimony for
United States Senate Subcommittee on Primary Health and Retirement Security
“Why Does the US Pay the Highest Prices in the World for Prescription Drugs?”
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Canada regulates the price of patented medicines and pays less for the same medicines

In Canada, per capita drug spending is \$879 versus over \$1,229 in the United States.ⁱ Per capita drug spending is about 40 % higher in the United States largely because of the regulation of patented drug prices by the Canadian Patented Medicine Prices Review Board.

Posted prices for patented medicines are approximately 3 times lower in Canada.ⁱⁱ The Patented Medicines Prices Review Board is slated, in July, to drop the United States from its list of comparator countries used to set “price ceilings”, because prices are shockingly high in the United States compared with other high-income countries including the United Kingdom.ⁱⁱⁱ

The marketing of a raft of patented medicines during the 1990s boosted per capita drug spending more in the United States.^{iv} The large rise in drug spending during the 1990s was partly due to patented opioid products such as OxyContin that was illegally marketed by Purdue Pharma on the lie that these medicines were safer than less expensive alternatives.^v Pharmaceutical companies continue to profit from the opioid crisis that killed approximately 80,000 Americans in the 12 month period ending in May of 2020.^{vi}

Change is possible with political will

Pressure and lobbying by the pharmaceutical companies (and private insurers) have undermined reforms in both Canada and the United States. Multiple government reports over decades have recommended including medicines in Canada’s public single-payer system to improve fair access and to save billions each year.^{vii} But this has not happened, so we continue to pay higher prices than comparable countries such as New Zealand and Australia and inequities persist. America is a superpower that has not shown its strength in standing up to pharmaceutical companies that rip off Americans, as proven by the price differences for patented medicines across our border.

My colleagues and I have conducted a randomized controlled trial of distributing essential medicines, as per international guidance from the World Health Organization, to people who report not being able to afford them. We found improvements in the control of blood pressure and diabetes, fewer missed

medical appointments, and total healthcare savings that averaged more than a thousand dollars per patient per year.^{viii} The biggest benefit was in the ability to “make ends meet” or afford basic necessities such as rent and food: only 29 % in the usual access or control group could make ends meet, but 86 % of those who did not have to pay out-of-pocket for life-saving medicines could afford necessities. A farmer in our study, for example, was better able to grow food when he had asthma puffers.

Could public funding for a list of essential medicines work in the United States? It already is working at the United State’s Veteran’s Administration. Since its creation in 1997, the VA’s national formulary has led to improvements in care and its negotiating power has led to impressive reductions in prices.^{ix} The VA’s approach of creating a rational list of medicines and then using proven methods to negotiate prices accords with international guidance. It’s a model that could be adapted to an even larger scale in the United States.

Three ways America – the superpower – can lower drug prices

There are three key elements of government action to reduce drug spending while promoting access and equitable care:

(1) Punish abusive pricing of patented medicines by creating a new Bureau.

Create a new Bureau to set price ceilings for patented medicines,^x give that Bureau the resources and teeth to keep prices low, and empower that Bureau to issue compulsory licences when companies price patented medicines unreasonably.^{xi} The new Bureau should be able to cut annual drug spending by at least \$100 billion.

(2) Use negotiating power and open tendering processes to secure low prices on a defined set of essential medicines as per international guidance.^{xii} Negotiating power can help to ensure equitable access to needed medicines including off-patent or generic medicines.

(3) Use existing legislation, and additional political will, to discipline the companies currently bloated by high medicine prices that illegally market products. There is a need for urgent action – Americans are getting ripped off by more than \$100 billion each year and, in the wrong hands, this money is used to illegally market medicines in ways that kill Americans.

(1) Punish abusive pricing of patented medicines

The Canadian Patented Medicine Prices Review Board was created in 1987 through an amendment of the Patent Act. The Patented Medicine Prices Review Board sets a “price ceiling” for patented products based in part on the prices paid in comparator countries. Companies forgo revenues from excessive pricing. The Patented Medicine Prices Review Board is revising its guidelines for setting price ceilings including the list of comparator countries and plans to stop using the United States (as well as Switzerland) in its list of comparator countries.

The United States Federal government can create a new Bureau empowered to fine companies that sell patented products at excessive prices. This Bureau could define abusive pricing based on comparator countries that currently pay lower prices for patented medicines including Canada and the United Kingdom. Since the purpose of medicines is to promote health and save lives (as opposed to supporting a specific industry or “the economy”), prices that prevent people from accessing needed medicines should prompt action.

Patented medicine prices are approximately 3 times higher in the United States compared with Canada (Average Foreign-to-Canadian Price Ratios was 3.36 in 2017 for patented products for the United States; for comparison it was 1.08 for generic medicines for the United States and 0.94 for patented medicines in the United Kingdom in 2017).^{xiii} If per capita pharmaceutical spending in the United States equalled that in Canada, there would be savings of over \$100 billion per year in the United States and this would represent more than 30 % of drug spending. The budget of the Canadian Patented Medicine Prices Review Board is approximately \$15 million annually. The new Bureau in the United States should be adequately funded and insulated from political influence and lobbying so it can take on large multinational pharmaceutical companies.

The new Bureau should be empowered to issue compulsory licenses for patented products sold at unreasonable prices.^{xi} This power will reassure Americans that they will not be priced out of life-saving treatments and also ensure that patentees respect the Bureau.

(2) Use negotiating power and open tendering processes to secure low prices on a defined set of essential medicines as per international guidance.^{xiv} The World Health Organization recommends that countries create an essential medicines list

that includes the medicines people need. Essential medicines meet the priority needs of a population. Twenty-one high-income countries, including Portugal and Sweden, have registered essential medicines lists with the World Health Organization. Essential medicines lists typically include around 300 medicines that include treatments for cardiovascular disease, cancer, infectious diseases, respiratory diseases, joint conditions, mental health conditions and other conditions.^{xv} There is a procedure for adding medicines to the list and a committee usually reviews relevant evidence before making a recommendation or decision about whether a medicine should be added. My colleagues and I have surveyed 127 national essential medicines lists and we have created a database of lists in collaboration with the World Health Organization and it is available at: essentialmeds.org

A national essential medicines list is one important component of national medicines policies, and the list should be used in conjunction with other policies to ensure access and appropriate use of medicines while controlling costs.^{xvi} Transparency is vital to procurement processes to ensure all potential medicine suppliers are treated fairly and to maintain confidence in procurement processes. Secretive deals between manufacturers and purchasers should be avoided regardless of what “special” considerations might be offered by companies in exchange for secrecy. After a list of needed medicines is established, open tendering processes should be used to secure the best prices for high-quality medicines. While the main way to curb drug spending is to lower prices, a national essential medicines list can also support rational medicine selection, for example, toward biosimilar medicines.^{xvii}

Medicines are excluded from Canada’s publicly funded single-payer healthcare system. The Canadian Parliamentary Budget Office has estimated that including medicines in our single-payer publicly funded healthcare system would save approximately \$4.2 billion while improving access.^{xviii} We know from experiences in the province of Quebec that the answer to excessive drug costs is not expanding or mandating private insurance plans. This has predictably fuelled an increase in drug spending with minimal improvements in access and no measured improvement in health (8.8 % cost-related non-adherence in Quebec versus 10.7 % for Canada and 6 % in comparator countries).^{xix} Some are paying into private

insurance plans that they do not access due to the deductibles. While Canada is doing better than the United States and reigning in the prices of patented products by regulating price ceilings, Canada spends more on drugs per person than comparable high-income countries such as the United Kingdom, Australia and Sweden. Although essential health care services are included in our single-payer publicly funded health care system, medications are excluded and instead covered by a loose patch work of private and public plans that leaves out millions of Canadians. Private spending represents the majority of total drug spending in Canada and private employer-based drug insurance plans welcome high drug prices because private insurance companies take a percentage of each claim. While Canadians pay less, in general, for patented products compared with Americans, we pay similar or higher prices for generic products compared with Americans and those in most other high-income countries. Attempts to reduce generic prices have largely failed. When, generic companies were faced with the prospect of an open tender process in Canada in 2017 and 2018, companies that should be competing with each other came together and offered “rebates” worth at least \$6.5 billion to provincial governments purchasing medicines for social assistance recipients and, in exchange, provincial governments agreed not to implement open tendering processes. The Canadian Competition Bureau studied the generic pharmaceutical sector in 2007 and 2008 and found that competition was not lowering prices as expected in Canada, but these reports are largely ignored and Canadians continue to overpay for generic medicines.^{xx}

While some get rich, others die. Cost-related non-adherence to medicines – not taking pills as instructed due to the cost – is more common in Canada (8%) and the United States (17 %) than in comparable high-income countries where it is typically below 5 %.^{xxi} The Centers for Disease Control and Prevention estimated that all-cause mortality was 15 % to 22 % higher among Americans with chronic diseases such as diabetes who cannot afford their medicines compared with those who could afford them.^{xxii} Drug pricing is a life and death issue.

The distribution of the burden is inequitable. Medicine access is a highly racialized issue in both Canada and the United States. Taxi drivers, factory workers and food servers are among the Canadians who pay taxes that support the private drug plans –that enjoy public subsidies – and that exclude many “blue collar” workers with dark skin. Part of the legacy of enslaving Black people in North America is

inequitable access to health care including to life-saving medicines, and opposition to ensuring access for everyone is rooted in racism. Downloading medications costs into people's pockets means that those who face discrimination in the workplace, including women, are harmed twice, first by the pay gap and then at the pharmacy.

We have studied the effects of the free distribution of essential medicines and found health improvements and substantial improvements in financial wellbeing:

CLEANmeds.ca

<https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2752366>

(3) Pursue and discipline the bloated pharmaceutical companies created by bloated drug prices

The high prices Americans pay for patented medicines help make pharmaceutical companies so big and powerful that they openly engage in illegal marketing, as they can easily shrug off billion-dollar fines as the cost of doing business. Other companies watched Purdue Pharma almost literally get away with murder in creating the opioid crisis that has killed more than 500,000 Americans over more than twenty years.^{xxiii} Purdue invested hundreds of millions of dollars in spreading lies about long-acting opioid products and it was rewarded with billions in profits. Other companies saw how Purdue profited from its illegal conduct, despite tiny penalties, and decided to join in and share the spoils. This is just one example of high prices for patented medicines fuelling illegal marketing. Billion-dollar fines have been paid by GlaxoSmithKlein, Pfizer and Eli Lilly for illegal marketing practices. Tens of billions of dollars are spent on advertising and marketing of pharmaceutical products in the United States each year, and this marketing is fuelled by the high prices Americans pay for patented medicines.

Most inappropriate marketing practices violate existing laws in most countries including the United States where it is illegal to make false claims about pharmaceutical products. But authorities apparently often lack the will to pursue and prosecute offenders. This lack of willingness to hold pharmaceutical companies to account is rooted in concerns about harming an industry that plays an important societal role, undue influence of pharmaceutical companies and private insurers over authorities they lobby, and fear of investing resources in an

investigation or prosecution that will fail to secure a conviction. Authorities often assume a meek posture and seek voluntary undertakings and settlements with pharmaceutical companies that are “too big to jail”.

In concert with efforts described above to limit the resources companies have to fuel illegal marketing campaigns, authorities must also promptly discipline companies that break the law. The opioid crisis shows that delays in holding companies to account can cost, not just \$100 billion dollars per year, but also hundreds of thousands of lives.

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Brief Biography

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He works in collaboration with community members and decision-makers such as the World Health Organization to conduct studies that promote health equity or fairness. He led the first ever clinical trial of providing people with free access to a comprehensive set of essential medicines.

He trained at the University of Toronto, and at the University of Oxford as a Rhodes scholar.

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- ⁱ <https://data.oecd.org/healthres/pharmaceutical-spending.htm>
- ⁱⁱ <https://www.canada.ca/en/patented-medicine-prices-review/services/reports-studies/annual-report-2018.html>
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