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116TH CONGRESS
1ST SESSION

H. R. 2376

To require the Federal Trade Commission to study the role of intermediaries in the pharmaceutical supply chain and provide Congress with appropriate policy recommendations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2019

Mr. COLLINS of Georgia (for himself and Mr. NADLER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To require the Federal Trade Commission to study the role of intermediaries in the pharmaceutical supply chain and provide Congress with appropriate policy recommendations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prescription Pricing for the People Act of 2019''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate; and

(B) the Committee on the Judiciary of the House of Representatives.

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

SEC. 3. STUDY OF PHARMACEUTICAL SUPPLY CHAIN INTERMEDIARIES AND MERGER ACTIVITY.

(a) INITIAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the appropriate committees of Congress a report that—

(1) addresses at minimum—

(A) whether pharmacy benefit managers—

(i) charge payers a higher price than the reimbursement rate at which the pharmacy benefit managers reimburse competing pharmacies;

(ii) steer patients for anticompetitive purposes to any pharmacies, including retail, mail-order, or any other type of phar-

macy, in which the PBM has an ownership interest;

(iii) audit or review proprietary data, including acquisition costs, patient information, or dispensing information, of competing pharmacies that can be used for anticompetitive purposes; or

(iv) use formulary designs to increase the market share of higher cost prescription drugs and depress the market share of lower cost prescription drugs (each net of rebates and discounts);

(B) whether there are any specific legal or regulatory obstacles the Commission currently faces in ensuring a competitive and transparent marketplace in the pharmaceutical supply chain, including the pharmacy benefit manager marketplace and pharmacy services administrative organizations;

(C) how companies and payers assess the benefits, costs, and risks of contracting with intermediaries, including pharmacy services administrative organizations, and whether more information about the roles of intermediaries

should be available to consumers and payers; and

(D) whether there are any specific legal or regulatory obstacles the Commission currently faces in ensuring a competitive and transparent marketplace in the pharmaceutical supply chain, including the pharmacy benefit manager marketplace and pharmacy services administrative organizations; and

(2) provides—

(A) observations or conclusions drawn from the November 2017 roundtable entitled ''Understanding Competition in Prescription Drug Markets: Entry and Supply Chain Dynamics'', and any similar efforts;

(B) specific actions the Commission intends to take as a result of the November 2017 roundtable, and any similar efforts, including a detailed description of relevant forthcoming actions, additional research or roundtable discussions, consumer education efforts, or enforcement actions; and

(C) policy or legislative recommendations to—

(i) improve transparency and competition in the pharmaceutical supply chain;

(ii) prevent and deter anticompetitive behavior in the pharmaceutical supply chain; and

(iii) best ensure that consumers benefit from any cost savings or efficiencies that may result from mergers and consolidations.

(b) INTERIM REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the appropriate committees of Congress an interim report on the progress of the report required by subsection (a), along with preliminary findings and conclusions based on information collected to that date.

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