

Congress of the United States
Washington, DC 20510

March 16, 2022

Mr. Stephen J. Ubl
President and Chief Executive Officer
PhRMA
950 F Street NW
Washington, DC 20004

Dear Mr. Ubl:

On March 1, 2022, we wrote to you regarding troubling findings from two new analyses that revealed rapid, broad, and unjustified prescription drug price hikes that drug manufacturers imposed in January 2022.¹ One analysis, conducted by Dr. Stephen Schondelmeyer of the University of Minnesota's PRIME Institute, found that brand name drug products had a mean price increase of 5.1% in just one month – and many brand name products had even greater price increases.² The second analysis, provided by the Johns Hopkins Drug Access and Affordability Initiative, reviewed price increases in January 2022 for the 20 drugs with the highest expenditures under the Medicare Part D program.³ This analysis found that, in January 2022, manufacturers increased prices for 16 of the top 20 Medicare Part D drugs, and almost half of these drugs had price increases of 5% or more.

We sent you a series of questions seeking an explanation for how and why drug manufacturers imposed these new and harmful drug increases.

Your response, which you sent to us on March 8, 2022, was extraordinarily disappointing.⁴ It failed to provide an adequate explanation for why pharmaceutical manufacturers continue to rapidly increase brand name drug prices, hurting consumers and taxpayers. Your letter attempted to shift the blame from drug manufacturers – who have a long history of using their monopoly power to raise prices – to other actors in the drug delivery chain. And it provided misleading

¹ Letter from Sens Warren, Klobuchar, Baldwin, Hassan, Smith Sanders, Whitehouse, Wyden, and Reps. Porter, Schakowsky, Welch, and Wild, to Stephen J. Ubl, President and CEO, PhRMA, March 1, 2022, [https://www.warren.senate.gov/imo/media/doc/2022.03.01%20Letter%20to%20PhRMA%20on%20January%202022%20Drug%20Price%20Increases%20\(1\).pdf](https://www.warren.senate.gov/imo/media/doc/2022.03.01%20Letter%20to%20PhRMA%20on%20January%202022%20Drug%20Price%20Increases%20(1).pdf).

² Stephen W. Schondelmeyer, PharmD, PhD, FAPhA, FNASI, *Prescription Drug Price Changes in January 2022*, PRIME Institute, University of Minnesota, February 9, 2022, <https://www.warren.senate.gov/imo/media/doc/Prescription%20Drug%20Price%20Increases%20in%20January%202022%202022-02-24.pdf>.

³ John's Hopkins Drug Access and Affordability Initiative, *Analysis of January 2022 Price Increases for Top 20 Medicare Drugs*, February 2022, [https://www.warren.senate.gov/imo/media/doc/JHU%20Part%20D%20Price%20Change%20Feb%207%20Sales%20Updated%20\(1\).pdf](https://www.warren.senate.gov/imo/media/doc/JHU%20Part%20D%20Price%20Change%20Feb%207%20Sales%20Updated%20(1).pdf).

⁴ Letter from Stephen J. Ubl, President and CEO, PhRMA, to Sen. Warren, March 8, 2022, https://www.warren.senate.gov/download/phrma-response-to-warren-rfi_03082022.

statistics and information about drug manufacturers' history of increasing prices on brand name products, and how it raises costs at the pharmacy counter.

Your letter was simply unresponsive to our concerns, leading to one clear conclusion: there is no good explanation for drug manufacturers' behavior other than corporate profiteering. You wrote that, "To have a productive dialogue, there needs to be agreement on the true causes of the fundamental problem at hand."⁵ We are disappointed that you are not willing or able to engage in this dialogue.

Specifically, our concerns about your response include:

- (1) **Misleading information about drug manufacturers' price increases.** The findings of the analyses described in our initial letter were clear and unequivocal: drug manufacturers increased prices in January 2022 for many popular brand name drugs. There is no reasonable explanation for these price increases other than profit-seeking.

Your response attempted to indicate that manufacturers were not increasing brand name drug prices. But to justify this, you presented highly misleading data that conflate brand name drug prices with generic prices, despite the fact that brand name drug manufacturers generally face little competition, while the generic drug market tends to be highly competitive.

For example, you stated that "government data indicate that the average price of medicines has fallen over the past decade," pointing to a recent Congressional Budget Office (CBO) report that "found that the average net price per prescription in Medicare Part D and Medicaid declined between 2009 and 2018, even though this period saw the introduction of many new treatments and cures."⁶ But your representation of CBO data included both brand and generic drugs, and ignored key context. In fact, CBO found that:

Brand-name drugs, while accounting for a declining share of prescriptions, have experienced substantial growth in average prices. Over the 2009–2018 period, the average price of a prescription for a brand-name drug more than doubled in the Medicare Part D program and increased by 50 percent in Medicaid. Two key drivers of those increases were higher launch prices for new drugs and growth in the prices of individual drugs already on the market.⁷

Specifically, CBO found that over this time period:

⁵ *Id.*

⁶ *Id.*

⁷ Congressional Budget Office, "Prescription Drugs: Spending, Use, and Prices," January 2022, <https://www.cbo.gov/publication/57772>.

The average net price of brand-name prescription drugs increased substantially [between 2009 and 2018]: from \$149 to \$353 in Medicare Part D and from \$147 to \$218 in Medicaid.⁸

As a result, PhRMA’s assertion that manufacturers are actually decreasing brand name drug prices is simply not credible.

- (2) **Misleading information about the impact of drug manufacturers’ price increases on patients at the pharmacy counter.** You also claim that the analyses discussed in our letter reflect list prices and fail to account for discounts and rebates provided to manufacturers. But we specifically acknowledged in our letter that “An increase in baseline prices, even if they are partially offset by rebates, will still result in an increase in net costs for providers, taxpayers, and consumers, who often pay cost-sharing based on list prices.”⁹

Citing an analysis by the IQVIA Institute, an industry consultant, your letter states that “The list prices of protected branded products ... increased 4.4% in 2020. [But] [n]et manufacturer prices — the cost of medicines after all discounts and rebates have been paid — declined 2.9%.”¹⁰ However, this same analysis continued: “Most discounts are offered to wholesalers and pharmacies and do not necessarily result in lower out-of-pocket costs for patients.”¹¹ In other words, when pharmaceutical manufacturers increase list prices, consumers pay more at the pharmacy counter.

Similarly, a detailed analysis by experts from Brigham and Women’s Hospital and Harvard University studied the impact of increases in wholesale list prices on out of pocket costs for patients and concluded that “patients with deductibles and coinsurance pay more when manufacturers raise a drug’s list price and do not directly benefit from confidential rebates paid by manufacturers to insurers.”¹²

Contrary to the assertions in your response, the rapid and broad increases in brand name drug manufacturer list prices are ultimately passed on to patients at the pharmacy counter.

- (3) **Shifting blame from drug manufacturers.** Your response appears to absolve drug manufacturers of any blame for their own decisions to increase prices, claiming (while citing a PhRMA-funded study) that “more than 50% of spending on brand name

⁸ *Id.*

⁹ Letter from Sens Warren, Klobuchar, Baldwin, Hassan, Smith, Sanders, Whitehouse, Wyden, and Reps. Porter, Schakowsky, Welch, and Wild, to Stephen J. Ubl, President and CEO, PhRMA, March 1, 2022, [https://www.warren.senate.gov/imo/media/doc/2022.03.01%20Letter%20to%20PhRMA%20on%20January%202022%20Drug%20Price%20Increases%20\(1\).pdf](https://www.warren.senate.gov/imo/media/doc/2022.03.01%20Letter%20to%20PhRMA%20on%20January%202022%20Drug%20Price%20Increases%20(1).pdf).

¹⁰ IQVIA, “The Use of Medicines in the U.S.: Spending and Usage Trends and Outlook to 2025,” May 27, 2021, <https://www.iqvia.com/insights/the-iqvia-institute/reports/the-use-of-medicines-in-the-us>.

¹¹ *Id.*

¹² JAMA Network, “Correlation Between Changes in Brand-Name Drug Prices and Patient Out-of-Pocket Costs,” Benjamin N. Rome, MD; William B. Feldman, MD, DPhil, MPH; Rishi J. Desai, MS, PhD; and Aaron S. Kesselheim, MD, JD, MPH, *JAMA Netw Open*. 2021; 4(5):e218816. doi:10.1001/jamanetworkopen.2021.8816, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2779442>.

medicines goes to others in the supply chain...not the companies that research, develop, and manufacture the novel medicines,” and that “the true barrier to affordable patient access to life saving medicines [is that] payer incentives in the current system are misaligned.”¹³

There may indeed be changes that Congress or others can make to modify misaligned incentives for prescription drugs. But your attempt to reassign blame for high drug prices to every entity except drug manufacturers completely misses the point. Even a PhRMA-funded study reveals, not surprisingly, that brand name drug manufacturers receive more revenue from the sales of their drugs than any other individual entity in the supply chain – more than three times as much as pharmacists, and approximately 2.5 times as much as the rebates received by pharmacy benefit managers.¹⁴

Moreover, a more detailed review, which was funded by PhRMA member Amgen, found that more than 75 cents of every dollar spent on brand name drugs flows to drug manufacturers.¹⁵ And even more importantly, drug manufacturers earn the highest profit margins of any entity in the supply chain: 71%.¹⁶ Contrary to your assertions, drug manufacturers are not helpless, innocent bystanders to drug price increases – they have significant market power that they are using to increase costs for patients and providers.

The House Committee on Oversight and Reform, in their December 2021 investigation of high pharmaceutical prices, debunked these excuses for high prices. The Committee found that (emphasis added),

The net prices—the prices manufacturers collect after accounting for rebates, price concessions, and other discounts—of nearly all of the drugs in the investigation increased year over year. Net prices for all of the drugs examined are significantly higher today than at launch. This data, which has never before been shared with the public, undermines industry claims that price increases are primarily due to increasing rebates and discounts paid to pharmacy benefit managers (PBMs).¹⁷

(4) Failure to answer key questions. Finally, we sent a series of questions seeking to understand why drug manufacturers were raising prices so rapidly in January 2022. Your

¹³ Letter from Stephen J. Ubl, President and CEO, PhRMA, to Sen. Warren, March 8, 2022, https://www.warren.senate.gov/download/phrma-response-to-warren-rfi_03082022.

¹⁴ Berkeley Research Group, “The Pharmaceutical Supply Chain, 2013-2020,” January 7, 2022, pp. 8, Table A2, <https://www.thinkbrg.com/insights/publications/pharmaceutical-supply-chain-2013-2020/>.

¹⁵ This includes 58 cents of every dollar that is captured by drug manufacturers, and an additional 18 cents of production costs. University of Southern California, Leonard D. Schaeffer Center for Health Policy and Economics, “The Flow of Money Through the Pharmaceutical Distribution System,” Neeraj Sood, Tiffany Shih, Karen Van Nuys, and Dana Goldman, June 2017, Figure 3, Panel A, pp. 6, https://healthpolicy.usc.edu/wp-content/uploads/2017/06/USC_Flow-of-MoneyWhitePaper_Final_Spreads.pdf.

¹⁶ *Id.*

¹⁷ House Committee on Oversight and Reform, “Drug Pricing Investigation: Majority Staff Report,” December 2021, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DRUG%20PRICING%20REPORT%20WITH%20APPENDIX%20v3.pdf>.

response not only evaded responsibility for manufacturer price increases, while providing us with misleading information – it failed to supply even the basic information we requested. You argued back that “the questions in your letter raise competitively sensitive topics,” and made the specious claim that “our response is limited by antitrust laws and PhRMA’s antitrust compliance policy.”¹⁸ But we asked basic factual questions that could be answered with your knowledge of industry strategy or with your obtaining information from your member companies. Instead of answering, you dodged.

The table below contains the questions that we asked in our earlier letter and your responses. It exposes your failure to directly answer any of our key questions about the pharmaceutical industry’s price increases.

Questions	Response from PhRMA
Why did manufacturers increase prices for virtually all top-selling brand name prescription drugs in January 2022? By how much did these price increases increase total manufacturer profits?	No response
What were the research costs associated with the development of the top-selling drugs in Medicare in January 2022? What are the cumulative gross revenues for each of these drugs since they came to market?	No response
By how much did manufacturing and distribution costs increase between January 2021 and January 2022, and how did these increases compare to price increases on popular brand name drugs over the same period? Which brand name manufacturers and which drugs faced the greatest increases in such costs, and why?	No response

¹⁸ Letter from Stephen J. Ubl, President and CEO, PhRMA, to Sen. Warren, March 8, 2022, https://www.warren.senate.gov/download/phrma-response-to-warren-rfi_03082022.


<p>Is there any reason other than difference in the level of competition for brand name drugs versus generic drugs to explain the large price increases for popular brand name drugs in January 2022 and relatively limited price increases for generic drugs?</p>	<p>No response</p>
<p>Why did virtually every manufacturer of popular prescription drugs increase their prices, on average, more in January 2022 than in previous years?</p> <p>a. Are you aware of PhRMA or any other person or entity advising drug manufacturers to delay price increases in 2021, holding them until 2022?</p> <p>b. Are you aware of any other coordinated behavior by brand name drug manufacturers to increase prices?</p>	<p>No response</p>

Congress and the public deserve clear answers about brand name drug price increases affecting millions of Americans. We therefore reiterate our request that you provide full and complete answers to the questions asked in our March 1, 2022 letter by March 22, 2022.

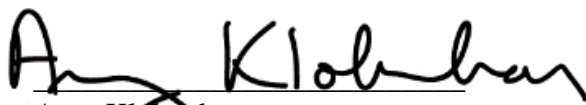
Sincerely,



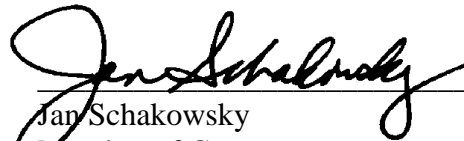
Elizabeth Warren
United States Senator



Katie Porter
Member of Congress



Amy Klobuchar
United States Senator



Jan Schakowsky
Member of Congress

Maggie Hassan

Margaret Wood Hassan
United States Senator

Pete DeFazio

Peter A. DeFazio
Member of Congress

Ron Wyden

Ron Wyden
United States Senator

Susan Wild

Susan Wild
Member of Congress