**Affordable Prescriptions for Patients Act**

*Senator John Cornyn (R-TX) and Senator Richard Blumenthal (D-CT)*

**Curb anti-competitive abuses of the patent system by the pharmaceutical drug industry that restrict access to generic and biosimilar drugs.**

**The Problem**

Major drug companies have been abusing the patent system to impede potential competitors from entering the marketplace. While every patent is by definition anticompetitive—after all, a patent is a government-sanctioned monopoly—drug manufacturers have engaged in behaviors that are an abuse of the system for wrongful anticompetitive reasons.

* Drugs that first came on the market in 1996 with over 70 patent applications
* Drugs that first came on the market in 2003 with over 136 patents—and no biosimilar until 2023
* Insulin products that have over 30 patents filed 15 years after their primary patents were approved that have blocked generic competition

**Product Hopping:**

Product Hopping takes advantage of our current FDA approval system to get around pharmacy-level generic substitution laws. When making a new version of a drug, like a minor reformulation, that new drug can’t be substituted for the generic, because the generic is tied to the old version. Sometimes the manufacturer will go so far as to remove the old version from the market completely. This leaves the generic with nowhere to go, as patients are forcibly switched to the new version.

**Patent Thicketing:**

Pharmaceutical drugs, especially the category known as biologic products, are complex products that often have several patents to their name. Some manufacturers have taken advantage of the complex interplay of different the different kinds of patents that inhere to one drug—methods of manufacture, formulations, devices, uses, as well as the underlying composition of matter patents—to deploy these patents strategically in order to prevent competition. This is a patent thicket. Would-be competitors, known as generic or biosimilar manufacturers, have to fight through these patents before they can get their drug approved, or they risk losing their chance to sell their drug.

**The Solution**

These behaviors are intentional and problematic, and they result in higher drug prices for consumers. This bill would codify definitions of these actions within the FTC Act, empowering the FTC to challenge them as anticompetitive. The FTC will be able to use its equitable remedy authority to keep companies from capitalizing on their abuse of the system.

***The Affordable Prescriptions for Patients Act is supported by: Patients for Affordable Drugs, Coalition for Affordable Prescription Drugs, Vizient, Prime Therapeutics, and Mylan.***