

No. 5

(House Joint Resolution No. 9)

A House Joint Resolution concerning

Pharmaceutical Manufacturers – Unlawful Discriminatory Pricing Practices

FOR the purpose of urging the President and the Congress of the United States to investigate the effects of unlawful discriminatory pricing practices on the prices paid by consumers of prescription drugs and to take the action necessary to ensure that unlawful discriminatory pricing practices do not result in cost shifting to retail pharmacies and higher prices for consumers.

WHEREAS, U.S. consumers pay the highest prices in the world for prescription drugs; and

~~WHEREAS, Discriminatory pricing is the practice by most U.S. drug manufacturers of offering lower prices, regardless of the volume ordered; and~~

~~WHEREAS, The application of discriminatory pricing practices to one class of trade but not to other classes of trade has contributed to the high cost of prescription drugs in the U.S.; and~~

~~WHEREAS, Under the federal Robinson Patman Act, manufacturers are required to make the same prices and promotional allowances available to all customers within the same class of trade; and~~

WHEREAS, Under the federal Nonprofit Institutions Act, nonprofit institutions such as hospitals are exempt from the provisions of the Robinson-Patman Act when manufacturers sell products to the nonprofit institution for the nonprofit institution's own use; and

~~WHEREAS, In addition to utilizing the nonprofit institution exemption, drug manufacturers have circumvented the Robinson Patman Act by recognizing as many as eight different classes of trade: retailers, wholesalers, chain warehouses, mail order pharmacies, nursing home pharmacies, managed health care pharmacies, hospitals, and dispensing physicians with a different price set for each class; and~~

~~WHEREAS, While hospitals, health maintenance organizations, and other similar groups receive the lowest prices from drug manufacturers, Medicaid and Medicare beneficiaries and the general public subsidize those low prices by paying the highest prices at retail pharmacies; and~~

WHEREAS, Unlawful discriminatory practices can lead to increases in health care costs; and