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Some Congress members say a 1980 law may curb rising drug prices

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No single federal agency reviews US drug prices, but 51 members of the US House of Representatives have discovered a 35-year-old law that allows the government to control huge **hikes** in drug costs. And they want the Department of Health and Human Services and National Institutes of Health (HHS) to use it.

Earlier this week the group led by Texas Democrat Lloyd Doggett **wrote** to HHS Secretary Sylvia Matthews Burwell and NIH director Dr Francis Collins to explain why.

Under an obscure provision in the 1980 Bayh-Dole Act, federal agencies retain some patent rights to the drugs produced through government-funded research. These rights include sharing the patents with drug makers so that no single company controls the price of a drug. The law says the government can assert what are called “march-in” rights when “action is necessary to alleviate health and safety needs which are not being reasonably satisfied” or when the benefits of a patented product are not “available to the public on reasonable terms.”

“When drugs are developed with taxpayer funds, the government can and should act to bring relief from out-of-control drug pricing,” says Doggett. “The [Obama] Administration should use every tool it has to rein in the practice of pricing a drug at whatever the sick, suffering, or dying will pay.”

This is not the first time NIH has been asked to intervene. When consumer groups urged NIH in 2012 to use

the Bayh-Dole Act to open access to an HIV/AIDS drug, NIH director Francis Collins **declined**.

“The general issue of drug pricing is appropriately addressed through legislative and other remedies, not through the use of the NIH’s march-in authorities,” he wrote in a 2013 decision.

That was before HHS, which includes NIH, hosted an unprecedented day-long public **forum** last November on drug price hikes to find ways to help patients. Burwell told the forum that HHS had asked drug companies for information about their “pricing arrangements.”

NIH and HHS spokeswomen acknowledged receiving the congressional letter and said the agencies would respond directly to the senders.

“We share a focus on ensuring access and affordability for people across the country, while encouraging drug development and innovation,” said HHS spokesman Benjamin Wakana.

But drug costs should not be singled out, said Holly Campbell, a spokeswoman for the Pharmaceutical Research and Manufacturers of America, which represents 56 major drug companies.

“Conversations about cost need to look at spending across the health care system and not just at the share of spending that goes toward life-changing medicines,” she said. “The share of spending on medicines has been consistent for more than 50 years.”

