

Washington, DC (July 26, 2012)—Rep. Elijah E. Cummings, Ranking Member of the House Committee on Oversight and Government Reform, released a report titled [“Shining Light on the Gray Market,”](#) which exposed a network of private “gray market” companies that take advantage of the national drug shortage crisis to charge exorbitant prices for drugs used to treat cancer and other life-threatening conditions.

“Nobody should be allowed to profiteer at the expense of patients by jacking up the price of drugs in critically short supply,” said Cummings, who testified before the Senate Commerce Committee yesterday. “The current system allows this network of private companies to boost their profits. And for what? For doing nothing but charging offensively high prices, increasing the overall costs to our nation’s health system, and raising significant safety concerns as these drugs crisscross the country with mark-ups at every stop.”

The bicameral report was the result of an investigation initiated by Cummings and joined by Senator John D. Rockefeller IV, Chairman of the Senate Committee on Commerce, Science, and Transportation, and Senator Tom Harkin, Chairman of the Senate Health, Education, Labor, and Pensions Committee.

Cummings started the [investigation](#) by examining transactions of five drugs on the Food and Drug Administration’s national shortage list that gray market companies aggressively marketed to hospitals and pharmacies at prices many times higher than those negotiated with authorized manufacturers and distributors. The Members expanded the investigation to cover 125 different companies and reviewed 300 different drug transaction chains.

In more than two-thirds of the drug sale chains examined (69%), gray market companies were able to buy shortage drugs from entities with pharmacy licenses. The drugs were then sold into the gray market and marked up before being sold to hospitals and patients. In one case, fluorouracil, a drug used to treat colon, stomach, breast, and pancreatic cancer, was marked up by more than 8,400% before being sold to a California hospital.

Below are the top findings from the joint congressional investigation.

- **Gray Market Drug Companies Charge Exorbitant Prices for Shortage Drugs.**

Documents obtained during the investigation demonstrate that drug wholesalers often charge exorbitant prices to health care providers for drugs facing critical national shortages that are used to treat cancer and other life-threatening illnesses. These inflated prices are often the result of unnecessarily long distribution chains that include significant markups at almost every level.

- **“Fake Pharmacies” Acquire Prescription Drugs from Authorized Distributors and Sell Them Into the Gray Market.**

The investigation identified a number of businesses holding pharmacy licenses that do not dispense drugs, but instead appear to operate for the sole purpose of acquiring short-supply drugs that can be sold into the gray market.

- **“Drug Brokers” Recruit Pharmacies to Purchase Drugs for the Gray Market.**

Some gray market wholesalers gain access to shortage drugs by recruiting pharmacies to act as their purchasing agents.

- **Gray Market Business Practices Are Widespread.**

Pedigree and price information collected for five different short-supply injectable drugs, documenting the activities of 125 different companies, showed similar patterns of leakage and aggressive gray market price markups. For all five drugs, units normally costing \$10 to \$20 were regularly marked up to prices of \$200 or more while they traveled through the gray market.

- **Gray Market Drugs Are Marked Up as They Quickly Pass from Owner to Owner.**

On average, the prescription drugs examined in this investigation were owned by three to four different gray market businesses before being sold to a hospital; most of the drugs traveled through the gray market in five days or less.

- **Gray Market Companies Sometimes Charge Hospitals Significantly Different Prices for the Same Drug Product on the Same Day.**

Gray market companies sold units of the exact same drug product to different hospitals on the same day at significantly different prices. On the same day, for example, a gray market company sold a drug to a U.S. military hospital for \$315 per unit, and sold the exact same drug product to another hospital for \$215 per unit.

On May 22, 2012, Cummings introduced [H.R. 5853, the Gray Market Drug Reform and](#)

[Transparency Act of 2012](#), to reform gray market drug sales. The legislation includes several provisions to address weaknesses in the drug supply chain, deter price gouging, and improve drug safety and efficacy.

Cummings launched this investigation after receiving a heartfelt [letter](#) from University of Maryland women’s basketball coach Brenda Frese, whose son was diagnosed with leukemia and treated with a drug called cytarabine, which was on FDA’s shortage list.