

These aggressive and off-label promotion tactics were out of the Purdue Pharma playbook that got us into this opioid crisis in the first place.

Cephalon ultimately pleaded guilty in 2008 to illegally promoting the fentanyl drug and paid a \$425 million fine. This relationship is deeply disturbing.

Dr. Gottlieb seems to believe that pharmaceutical profits are more important than the public's health. When the prescription opioid epidemic was taking deadly hold, Dr. Gottlieb advocated to put even more addictive fentanyl onto the market when it was not appropriate or necessary.

Dr. Gottlieb said during his confirmation hearing that the FDA unwittingly fueled the opioid epidemic, but he is guilty of intentionally pushing an addictive prescription opioid onto the American public just to benefit one company instead of working to prevent this massive public health crisis. Dr. Gottlieb's actions could have made the opioid crisis worse.

Serious questions remain about Dr. Gottlieb's association with Cephalon, which was fined hundreds of millions of dollars for violating FDA rules.

After his tenure at the FDA, Scott Gottlieb was then hired by a law firm as an expert witness used to defend the actions of Cephalon in court.

In advance of this floor vote, I and a group of other Senators questioned Dr. Gottlieb on this work and the extent of his historical and financial relationship with Cephalon, but we received nothing that shed any light on his relationship with the company.

We cannot have a leader at the FDA who has worked on behalf of a company that aided and abetted the prescription drug and heroin epidemic.

Sadly, Dr. Gottlieb is yet another example of President Trump's lack of commitment to address the opioid crisis. President Trump believes that if we just build a border wall, well, we will end this opioid crisis.

We don't need a wall, President Trump, we need treatment.

President Trump's support for the repeal of the Affordable Care Act and the legislation the House passed just last week means coverage for opioid-use disorders for 2.8 million people could be ripped away. President Trump has proposed slashing the research budget of the National Institutes of Health by 18 percent, undercutting our ability to better understand addiction and come up with alternative, less addictive pain medication.

If President Trump and his Republican allies are committed to combating the opioid crisis, they should release their plan for addressing this crisis, including committing to quickly release the remaining \$500 million authorized last year in the 21st Century Cures Act, and plan for investing more Federal dollars into understanding, preventing, and treating this debilitating disease of addiction. The crisis is wearing families down to the bone

and we need to give them hope. That is what a comprehensive strategy to address this crisis is all about, and strong leadership at the FDA is a critical component of any plan.

We need the FDA to be a tough cop on the beat, not a rubberstamp approving the latest big pharma painkillers that are the cause of this deadly scourge of addiction in overdoses. We need to stop the overprescription of pain medication that is leading to heroin addiction and fueling this crisis. The United States has less than 5 percent of the world population, but we consume 80 percent of the global opioid painkillers and 99 percent of the global supply of hydrocodone and the active ingredients inside of Vicodin.

We also need to ensure that prescribers are subject to mandatory education responsible for prescribing practices. Anyone who prescribes opioid pain medication and other controlled substances must undergo mandatory medical education so we are sure these physicians know what they are doing. The FDA would be in a position to be the primary enforcer of this critical education.

We also shouldn't allow companies to continue to promote their opioids as abuse deterrents. It is misleading. Fifty percent of all physicians believe the "abuse deterrent" that is on the label means the drug is not addictive. Physicians don't even know this is addictive, and we know through Purdue Pharma that this is just not the case.

The FDA is in a prime position to ensure the terminology used for promoting a drug is not confusing or misleading. At this time of crisis, we need a leader at the FDA who recognizes the dangers of prescription painkillers, who will stand up to big pharma and reform the FDA to prevent addiction before it takes hold. Dr. Scott Gottlieb is not that individual.

Dr. Gottlieb's nomination signals a continuation of FDA policy that has cultivated and fueled the opioid epidemic. I strongly oppose Dr. Gottlieb's nomination and call on my colleagues to join me in voting no.

Mr. President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

#### HEALTHCARE LEGISLATION

Mr. VAN HOLLEN. Mr. President, I join my colleague in opposing the nomination of Dr. Gottlieb and thank him for laying out the case.

The FDA, of course, is an important part of our healthcare system, and just last week we saw the House of Representatives jam through a piece of legislation that would wreak havoc on the healthcare system. In fact, many people are appropriately calling what they did "wealthcare" because it represents a huge transfer of wealth away from caring for patients to the very wealthiest in our country, including many powerful special interests.

I think everybody understands—Republicans, Democrats, Independents alike—the Affordable Care Act is not

perfect and specifically that we need to address the issues within the Affordable Care Act exchanges. We need to address those issues to lower the deductibles, lower the copays, and make it more affordable. There are some very straightforward ways of doing that.

One good idea is to create a public option within the Affordable Care Act exchanges, a Medicare-for-all-type choice. What will that do? It will create more competition. That will drive down the price of insurance within the Affordable Care Act exchanges, and it will ensure that you have a provider everywhere in the United States in every community of this country. Even better, the Congressional Budget Office, the last time they looked at it, concluded that it would save taxpayers \$160 billion over 10 years, so it would reduce our deficit.

The House Republican healthcare bill doesn't try to fix the exchanges. What it does is blow up the Affordable Care Act and in the process wreaks havoc on our entire healthcare system. You don't have to take my word for it. Just take a look at the long list of groups that have come out strongly opposed to the House bill, starting with patient advocacy groups, such as the American Lung Association, the American Diabetes Association, the American Heart Association, the American Cancer Society, and the list goes on. These aren't Democratic groups. They don't have only Democratic patients. They have patients who are Democrats, Republicans, Independents, and people who aren't participating in the political process. These are groups that care about patients, they don't care about politics, and they are strongly opposed.

How about those who are providing care to those patients? Well, here is a partial list of the groups that are strongly opposed: the American Academy of Family Physicians; the American Medical Association, the doctors; the American Academy of Pediatrics, the folks who look after the care of our kids; the American Nurses' Association.

Let's look at the hospital groups. The American Hospital Association strongly opposes this; the Children's Hospital Association opposes this, and the list goes on. It is opposed by those who are spending all their time advocating for patients and opposed by those who provide care to patients.

Then you have a long list of senior groups, including AARP, that strongly oppose this because the House bill discriminates against older Americans—people over 50 years old—because it allows insurance companies to charge them a whole lot more for their healthcare than they currently have to pay.

These groups don't care about party. They don't care about politics. They care about patients in our healthcare system, and it should tell us all a lot that they are opposed and strongly opposed to this bill. Now, why is that?

This House bill is rotten at its core. Its foundation was rotten when the Congressional Budget Office first looked at it, and then they made it even worse. Let's look at the foundation of this, which the Congressional Budget Office did have a chance to look at. I do want to remind the Presiding Officer that the head of the Congressional Budget Office was selected by the chairman of the House Republican Budget Committee, the House Budget Committee, the Republican chairman, and the chairman of the Senate Budget Committee, a Republican chairman. They took a look at that first foundation of the House bill, and here is what they concluded. This is right in their report; that 24 million Americans would lose their access to affordable healthcare. That is on page 2 of the nonpartisan Congressional Budget Office report.

Why is that? It is because they take a wrecking ball to Medicaid and a wrecking ball to the exchanges. They don't make the exchanges better. They don't drive down the prices. They make the exchanges worse, and they take a big whack at Medicaid. In fact, they also take a cut at Medicare. In fact, if you go to the table in this CBO chart, I will just refer people to table 3. Sometimes you just have to dig deep in these reports to get to the bottom line. There is an \$883 billion cut that consists of about \$840 billion cuts to the Medicaid Program, \$48 billion cut to the Medicare Program, and I should emphasize that will actually make the Medicare Program somewhat more insolvent. You add it up, you have \$880 billion in cuts to Medicare and Medicaid combined.

I remind people that the Medicaid funding not only went to provide more access to people for healthcare through expanding Medicaid, which many States have talked about and Governor Kasich has been talking about recently, but this bill also cuts the core Medicaid Program to the States, and two-thirds of that money goes to care for seniors in nursing homes and people with disabilities. So it puts all of them at risk. That is \$880 billion in cuts to Medicaid and Medicare and people who need healthcare.

What is the other big number in the House bill? Well, \$900 billion is the amount of the tax cuts in what is being described as a healthcare bill. That is why people are calling this a wealthcare bill because you are cutting \$880 billion out of Medicaid and Medicare and transferring those dollars that are currently being spent to provide healthcare to tens of millions of Americans, transferring that money back primarily to the wealthiest people in this country and corporate special interests.

Under this \$900 billion tax cut, if you are earning over \$1 million a year, you are getting an average tax cut of \$50,000 a year. If you are in the top one-tenth of 1 percent of income earners—we are talking about the wealthiest

people in this country—you are getting an average annual tax cut of \$200,000.

Do you know what they did for insurance companies? They used to say the bonuses that were paid to the CEOs of insurance companies would be taxed, but they took that away. So now insurance companies can essentially pay bonuses and deduct those. They can deduct those now from their bottom line, which drives up the profits of insurance companies by allowing the deduction of CEO bonuses. So we have \$900 billion in tax cuts that primarily go to the wealthiest, and \$880 billion in cuts to the Medicaid Program and Medicare that goes to care for people. That is why this bill is rotten at its core, because it is going to hurt our healthcare system, according to all those patient advocacy groups and all those patient provider groups, and for what? To give this windfall tax break to the wealthy and powerful interests.

That is why it is probably no surprise that when the American people were asked about that original House bill, only 17 percent said: Yes, that is a good idea. Everybody else said: Uh-uh, we don't like what we are seeing. That is the bill I was just describing.

Then the House took that rotten foundation and put even worse stuff on top of it. They added a provision that would eliminate the essential benefits package. These are the provisions that ensure that when you are buying an insurance policy, you are getting something that will be there when you need it rather than a junk policy—the policies people used to get, where they found out after they got sick, “Uh-uh, we are not paying for that,” said the insurance companies “because look here at the back of page 100, last paragraph, fine print, you are not covered for that.” That is why we had an essential benefits package for things like maternity care, mental health care, coverage for substance abuse.

I hear a lot of talk about the problems with the opioid epidemic. Those are real problems that are hurting families around the country. That was part of the essential health benefits—not there in the House bill.

Then, to add insult to injury, they took out the requirement that you have coverage for preexisting conditions in an affordable way. You know, people can play word games all they want. You can say that you have to provide coverage for someone with preexisting conditions, but if the policy you propose is \$200,000 a year, \$300,000 a year, we all know that is a false promise. That is a hoax. That is playing games with the American people. So you can write in any kind of requirement you want that preexisting conditions be covered, but if they are unaffordable, it is not real. That is why the Affordable Care Act put everybody into a pool together, to help reduce the costs so we could make sure we protected people with preexisting conditions—asthma, diabetes or whatever it may be. The House bill pulls the plug

on that. Maybe that is why the House didn't want to wait for the next Congressional Budget Office report to tell them what their bill would do to the American people.

I have already read a little from the original Congressional Budget Office report that was based on the foundation of this House bill. That hasn't changed. That bill is rotten at its core, and as the Congressional Budget Office says, it is going to knock 24 million people off of affordable healthcare, going to apply big tax breaks to wealthy people, but then they added other provisions as well—getting rid of the essential health benefits, getting rid of protections for preexisting conditions. Then it was let's see no evil, let's hear no evil. We are not even going to wait for the next Congressional Budget Office report. I am looking forward to hearing what they have to say.

For the American people, I think the greatest danger is that here in the Senate we are going to hear from a lot of Senators that they don't like the House bill just as it is; yes, we are going to have to make some changes. What I would say to the American people is to beware of people who say they are going to make a change that is meaningful to the Affordable Care Act that the House bill passed—their version of the bill. Beware of people who say they are making a change that is meaningful when it is really only a cosmetic change, when it is really only a small change that then provides some kind of rationale or excuse for supporting a House bill that is rotten at its core.

For example, someone may say: Well, let's do a little more by way of covering opioid addiction. That would be a good idea. But that doesn't salvage a bill that is fundamentally flawed. That doesn't salvage a bill that at its core cuts \$880 billion from Medicaid and Medicare to provide a tax cut of over \$900 billion, most of which goes to wealthy people and corporate special interests.

I would say to all the other people who are on employer-provided healthcare, which are the majority of Americans: Beware, because that House bill will affect you too.

I just want to read a portion from something that appeared in TheUpshot public health section of the New York Times—“G.O.P. Bill Could Affect Employer Health Coverage, Too.” They write:

About half of all Americans get health coverage through work. The bill would make it easier for employers to increase the amount that employees could be asked to pay in premiums, or to stop offering coverage entirely. It also has the potential to weaken rules against capping worker's benefits or limiting how much employees can be asked to pay in deductibles or co-payments.

So for someone who is getting coverage through their employer, beware because this is going to have harmful effects on you.

I want to close with one of the many stories that I have received—and I

know many of us have received from our constituents—about how that House bill would wreak havoc in their lives. Here is one that I received:

I'm 29 years old and was just diagnosed Feb. 24th with breast cancer. . . . I buy insurance myself, and did so with the assistance from the ACA. Without that program in place, I might not have gone in when I felt this lump. I might have waited much longer, just to be told that it was too late. Without this program, I would be bankrupted by the screenings alone just to find out I am dying. . . . Someone told me not to make this political—but this is my life. It will literally be life or death for so many of us.

This is a life-or-death issue for tens of millions of our fellow Americans. I urge the Senate to flatly reject the House healthcare-wealthcare bill, which is rotten to its core.

Let's focus on fixing the issues in the exchanges. We can do that if people of good faith want to work from scratch to address that issue, but let's not blow up the Affordable Care Act and hurt our constituents and tens of millions of other Americans in the process.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I particularly appreciate the comments of my colleague from Maryland about the Affordable Care Act. The fact is, they are taking insurance from 200,000 Ohioans right now who are getting opioid treatment because of the Affordable Care Act, and the vote in the House of Representatives would turn those 200,000 families upside down. They should be ashamed of themselves. Then to go to the White House and celebrate—that is just the ultimate despicable, political act. I just can't imagine that in the 21st century people would actually do that.

The FDA has incredible influence over Americans' lives, and the Commissioner of the Federal Food and Drug Administration will lead the agency dedicated to ensuring that our medicine and food supplies are safe.

It is the job of the FDA Commissioner, and has been for decades, to be an independent check on big pharmaceutical companies, to crack down on Big Tobacco, and to oversee the safety and efficacy of new prescription drugs, including, most essentially in the last few years, opioid painkillers. Unfortunately, Dr. Scott Gottlieb's record gives me serious concern, as Senator MARKEY has pointed out so well, that this Commissioner will fall short on all of these measures.

We know the havoc that opioid painkillers have wreaked on communities across the country. My State of Ohio has had more overdose deaths from heroin, OxyContin, oxycodone, Percocet, opioids, morphine-based opioids; we have had more deaths than any other State in the United States of America. In my State and across this country, people die because of the opioid epidemic; 91 Americans, including 12 Ohioans, will die today—91 Americans, 12 Ohioans will die today—from opioid overdoses.

The Commissioner will have a lot of tools to fight this epidemic that is ravaging our families and our communities. We need all hands on deck to fight this crisis. We need the FDA.

Unfortunately, Dr. Gottlieb's record indicates he would not take the epidemic and the FDA's authority to rein in prescription painkillers and other drugs seriously, which is why I cannot support his nomination.

I don't want to point fingers, but there are a whole host of reasons for this epidemic. One of them clearly is the proliferation of prescriptions and the manufacture of so many of these opioids. They are getting to market, and doctors are prescribing them, and pharmacists are filling them.

I don't point fingers at individual people and even individual industries; we are all at fault and not doing this right. But Dr. Gottlieb has had a cozy relationship with big drug companies for decades as an investor, as an adviser, and as a member of the board for a number of these companies. He supported allowing those same companies to rush their drugs, including potentially addictive opioid painkillers, onto the market before we were sure they were safe—more on that in a moment.

He has called into question the Drug Enforcement Administration's authority to police opioids, despite the fact that these drugs are often sold on the black market. He has defended industry's efforts to market new drugs and devices with minimal safety oversight. He has refused to answer questions about his previous work for pharmaceutical companies that make the opioid fentanyl. We know he participated in a meeting on their behalf at the time that the company was under FDA investigation for pushing off-label uses of fentanyl.

Anyone who thinks we need more fentanyl on the market in many of Ohio's 88 counties should visit the coroner's office. Imagine this: In some counties, the coroner's office has had to bring in refrigerated semitrailers to keep up with the growing body count from the lives lost to overdoses. Think of that; just think of that picture bringing in refrigerated semitrailers to keep up with the growing body count from opioid deaths.

Let Mr. Gottlieb explain himself to the parents, the children, and the friends who have lost loved ones to this deadly drug. A friend of my wife's, a woman she knew growing up, lost her son to fentanyl. He had a 2-year-old child. He was starting to come clean. My understanding is that he relapsed, and he passed away just a few days ago.

We need a leader at the FDA who will step up the agency's efforts to fight this addiction epidemic, which is tearing families upside down. It rips up communities. We need a Commissioner who will fight the addiction epidemic, not one who will roll over for his Big Pharma friends. We need a strong public health advocate to address probably the worst public health crisis of my

lifetime, a public health advocate who will continue to stand up to Big Tobacco with strong rules for all tobacco products, including newer products like e-cigarettes, which are particularly appealing to kids.

The opioid crisis is certainly a bigger health crisis that we face right now, and tobacco is an ongoing public health crisis. We have made huge victories; we have made huge strides and have had huge victories in this country. Young people smoke in significantly lower numbers than they used to. Tobacco companies don't much like that, so they have introduced e-cigarettes. Tobacco companies are buying more and more of the manufacturing capabilities of these e-cigarettes. The FDA hasn't stepped up the way it should. I implore Dr. Gottlieb to do that, but there is no evidence so far that he cares enough to.

Once again, his extensive business dealings call into doubt whether he can seriously serve as the people's cop on the beat when it comes to policing Big Tobacco. Dr. Gottlieb himself invested in an e-cigarette company—the new FDA Commissioner. He probably will be confirmed today. I accept that because for every Trump nominee, no matter their ethics, no matter their background, no matter their inability to serve well, no matter their lack of qualifications for a whole host of their responsibilities, almost every Republican—it is sort of like when one bird flies off a telephone wire, they all do, and they have voted for almost every one of these nominees.

But think of this: Dr. Gottlieb's job is public health, his job is to police Big Tobacco. His job is to stand between these multimillion-dollar marketing executives and the 15-year-old who is attracted to these e-cigarettes with the flavors and the colors and the marketing, and he has invested in the past in e-cigarette companies. What does that tell you? Can we really trust him to impose tough rules on these potentially dangerous products? Can we trust him to protect our children?

Whoever is in charge of the FDA—whoever is in charge—must put the people's safety over drug company profits, whether it is addictive painkillers or e-cigarettes.

I don't think Dr. Gottlieb is the right person for this. I hope I am wrong. I plan to vote no. I hope he proves me wrong. If he does, I will come back to the floor and applaud him. But from his background, from his statements, from his qualifications, from his investments, from his business background, I don't think he fits the bill.

Mr. President, I suggest the absence of a quorum.

Mr. President, I withdraw the suggestion.

The PRESIDING OFFICER. So noted.

#### RECESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate stand in recess as under the previous order.