

Crapo Statement at Hearing on Drug Shortages

December 5, 2023

Washington, D.C.—U.S. Senator Mike Crapo (R-Idaho), Ranking Member of the U.S. Senate Finance Committee, delivered the following remarks at hearing entitled “Drug Shortages: Examining Supply Challenges, Impacts, and Policy Solutions from a Federal Health Program Perspective.”

As prepared for delivery:

“Thank you, Mr. Chairman.

“This year, the Finance Committee has taken unparalleled action on prescription drug access and affordability.

“Our bipartisan PBM reform legislation would cut patient costs at the pharmacy counter, strengthen provider choice for seniors across the country and reverse warped incentives that currently favor higher-priced medications.

“Our proposed policies would accomplish all of this—and more—while reducing the federal deficit. Taxpayers, consumers and community pharmacies deserve to see these bills passed by the full Congress, and delivered to the President’s desk, as quickly as possible.

“For patients with chronic conditions, as well as independent pharmacies at risk of potential closure, inaction is not an option.

“As our PBM process has shown, bipartisan, consensus-based and market-driven policymaking can address a wide range of challenges facing seniors and working families.

“In that same spirit of exploring effective legislative solutions, today we turn to another issue harming the health and finances of Americans in every state: the surge in drug shortages.

“For treatments targeting any number of conditions, from pediatric cancer to mental health ailments, our ability to prevent and resolve shortages can mean the difference between life and death.

“To develop meaningful policy improvements to reverse the current rise in drug shortages, however, we first need to understand and examine the economic drivers, with a focus on the federal programs within our committee’s jurisdiction.

“While high-priced medications have received outsized attention during prescription drug discussions in Congress, shortages disproportionately affect low-cost therapeutics,

which operate in a largely different—and increasingly challenging—economic environment.

“In fact, 84 percent of shortages occur in generic drugs, and 56 percent of products in shortages have unit prices below a single dollar. Given that generics comprise roughly nine in every ten prescriptions filled across the United States, these shortages can inflict drastic harm on massive populations of Americans.

“The average shortage affects at least half a million consumers, forcing them to scramble for viable alternatives or else forgo treatment entirely.

“As experts and officials have broadly affirmed, the structure of the generic drug market incentivizes a proverbial ‘race to the bottom’ on pricing. Since 2016, generics have seen price erosion in excess of 50 percent.

“The razor-thin margins resulting from these dynamics trigger a host of dire consequences, from discouraging quality investments to spurring widespread outsourcing—including to China.

“Moreover, the generic drugmaker exit rate currently exceeds the rate of entry, and upwards of 40 percent of generic medication markets are supplied by a single manufacturer.

“Rather than reduce shortage risks, unfortunately, a number of government policies likely make them more pervasive—and worse.

“Medicaid’s inflation-based rebates, for instance, can trigger massive, uncapped losses on even low-cost generics, in addition to requiring literal ‘penny pricing’ under 340B. These and other price control policies warrant serious scrutiny in the context of generic products, especially for sterile injectables, which carry high production costs and offer minimal returns.

“More broadly, our reimbursement systems, including under Medicare, offer little opportunity or incentive for drugmakers to compete on dimensions other than price—such as reliability and resiliency.

“The House Energy and Commerce Committee’s comprehensive work on this issue thus far is welcome. Enacting effective legislation will necessitate bipartisan, bicameral collaboration.

“The Finance Committee can build on our strong track record of solutions-oriented policymaking to address the rash of drug shortages afflicting families across the country.

“Mr. Chairman, before I conclude, I ask unanimous consent to enter a statement from the Community Oncology Alliance into the record. This statement highlights the grave

risks posed by shortages for those seeking cancer care. For many of these patients, this issue—and our ability to take effective action in this context—can mean the difference between life and death.

“With that, thank you to our witnesses for being here today, and thank you, Mr. Chairman.”