



FOR IMMEDIATE RELEASE

Contact: Taylor Harvey (202) 224-4515

December 5, 2023

Wyden Statement at Finance Committee Hearing on Prescription Drug Shortages

As Prepared for Delivery

This morning the Finance Committee gathers to discuss the drug shortages that are harming Americans in communities around the country. In America today, if you receive a cancer diagnosis, chances are scientists and doctors have developed effective treatments to fight or beat this awful disease. While most of the spotlight tends to fall on new, cutting-edge innovations, some of the most vital treatments for millions of Americans suffering from cancer and other chronic diseases are lower-cost generic medicines that have been around for many years. These are the products where the shortages are felt the most, and it's threatening the health and wellness of the country.

Earlier this year the Finance Committee began to investigate what was causing a widespread shortage of ADHD medications in Oregon and around the country. What we found shocked me. The supply chains for these prescriptions that millions of Americans count on to work and learn were bogged down in what can only be called a bureaucratic bedlam. Manufacturers, the Drug Enforcement Agency, and the Food and Drug Administration all offered conflicting explanations for why the shortages for Adderall and its generics have persisted, and patients were left in the dark without clear answers. We're pushing to resolve these shortages and add transparency and flexibility so it doesn't happen again.

Today the Finance Committee will examine the causes of these devastating drug shortages. In particular, the committee needs to look to the power of Medicare and Medicaid, which covers millions of Americans and pays for hundreds of billions in health spending each year. It is urgent business for the Finance Committee to find bipartisan solutions that will get at the causes of a persistent and tragic problem.

The consequences of drug shortages are not abstract. I hear about them at pharmacies in Oregon and town halls all over the state, landing especially hard in rural communities. There has been story after story of drug shortages resulting in rationing, inappropriately low doses, or alternative treatments that aren't as safe or effective as the product that's experiencing a shortage. These shortages can be life or death for children, especially when it comes to cancer drugs.

The evidence shows the cause of the vast majority of drug shortages are caused by market failures. Right now they exist across the prescription drug supply chain, from manufacturers to providers, as well as middlemen like PBMs and drug wholesalers. A substantial portion of these market failures are driven

by the consolidation of generic drug purchasing among a small group of powerful health care middlemen.

There are many companies that manufacture generic drugs, but they must compete for the attention of highly consolidated middlemen, such as drug wholesalers and hospital group purchasing organizations (GPOs), to gain access to the market. In the case of drug wholesalers, three companies control 90 percent of the pharmaceutical market in this country, and all three of those companies are among the top 15 largest businesses in America by revenue. The generic manufacturers that are awarded contracts by these middlemen do so by offering penny-on-the-dollar prices that mean they can't invest in the capacity or equipment needed to make reliable, high quality medications. This "race to the bottom" price war for generics leads to quality control problems and factory shutdowns, which leads to shortages of generic drug products that are in high demand.

The Finance Committee is in a prime position to adopt policies to correct this mess. The committee oversees Medicare Parts A and B, which pays for services in doctors' offices and hospitals, including prescription drugs that are administered there, like chemotherapy treatments and related injectable drugs. Some of these injectable products are facing the most severe shortages. In Part D, 90 percent of prescriptions dispensed are generics.

As the committee has found through its work on Pharmacy Benefit Managers, even if manufacturers are selling generics at low prices, middlemen have free rein to mark up prices along the way, leaving seniors with high costs. While middlemen get rich and consumers pay more than they ought to for these generics, manufacturers may decide it's not worth the trouble to produce these medicines and exit the market altogether.

In my view there are a lot of possibilities to work in a bipartisan way to resolve drug shortages and I look forward to continuing the productive partnership Democrats and Republicans have demonstrated on this committee this Congress with respect to health care.

###