United States Senate

WASHINGTON, DC 20510

June 2, 2023

The Honorable Robert Califf
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, Maryland 20993-0002

Dear Commissioner Califf,

My staff and I met with you and the head of the Drug Enforcement Agency (DEA) on April 18 to discuss urgent supply chain concerns and federal regulation related to the widespread shortage in Oregon and nationwide of amphetamine mixed salts, the generic medication for Adderall that treats attention deficit hyperactivity disorder (ADHD).

Following the meeting, I expected that the DEA and Federal Drug Administration (FDA) would issue a joint statement on ADHD medication to clarify the role and management of quotas, as well as the conflicting reports from agencies, manufacturers and pharmacies that fail to explain these generic drug shortages.

While I appreciate that your staff followed up with more information on the role the Center for Drug Evaluation and Research (CDER) plays in preventing and mitigating drug shortages, it falls short of the statement and actions needed. Specifically, the process is muddy and obscure as to how generic manufacturers are navigating the process to request a quota increase, and the fact that your agency does not seek out or report regional data is a grave concern.

As you know, ADHD can severely interfere with daily activities but stimulant medications like amphetamine mixed salts are commonly used treatments that are very effective and safe. As I pointed out in the April 18 meeting, in rural areas of Oregon largely served by independent pharmacies, these generic medication shortages may require unsustainable expenses for both the pharmacies and the consumers, or challenging travel times of 60-90 minutes each way – especially in the winter months – to have access to this much-needed medicine.

As requested, I remain committed to support Congressional action to allow the agency to require manufacturers to report sustained increases in demand. Until that happens, I believe the agency has a responsibility to provide clear guidance and outreach to manufacturers of these essential medications that are now difficult to access. The agency should request updates from manufacturers on their ability to meet consumer demand, and inform the public accordingly.

You have authority and opportunity to move us toward solutions to these significant drug shortages. The FDA maintains a list of drugs in shortage with their manufacturers for which

demand or projected demand of the drug exceeds supply that have a significant impact on public health. However, the list does not provide information on the level of excessive demand, how the FDA works with manufacturers, and how manufacturer availability translates to retailer access which may vary across the country. I would like to know whether some of the obscurity may be due to the agency's lack of information on the drugs that manufacturers send to distributors and distributors send to retail chains and independent pharmacies.

Although I understand that the FDA cannot compel a manufacturer to begin or change their production of a drug, I am determined to support the agency in its efforts to tackle the shortage of ADHD medication and other medications for chronic conditions that are in shortage or at risk of being in shortage.

I am requesting answers to the following questions and requests:

1. A drug shortage on the FDA Drug Shortage List is accompanied by one of seven reasons listed in the Food and Drug Administration Safety and Innovation Act of 2012, which include “Demand increase for the drug” and “Shortage of an active ingredient.” Does the agency have the authority to disclose when a drug manufacturer refuses a request from the FDA to provide information on the cause(s) or extent of the shortage?

2. The FDA and the American Society of Health-System Pharmacists (ASHP) have two drug shortage websites with the latter often listing more shortages and regularly sourcing from a wider range of sources including patients and health care providers. Understanding that the two organizations share information, how does the FDA work to reconcile this situation when drug shortages appear on both lists and some drugs that are only present on ASHP’s list?

3. How does the agency, with the use of market data, factor in availability to more affordable generics and access to rural areas in its work to anticipate and mitigate shortages, particularly given potential limitations on information?

4. In May of 2022, HHS issued the Essential Medicines Supply Chain and Manufacturing Resilience Assessment, an action plan to address vulnerabilities in the pharmaceutical supply chain for medicines determined to be most critically needed for typical acute patient care that were drawn from the FDA’s Essential Medicines List. As the List was created to ensure protection against infectious disease outbreaks and various other emergent threats, does the agency have plans or a position on identifying medical products that do not fall into that category but whose shortage would present serious public health concern?

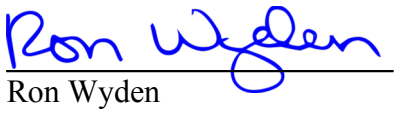
5. The FDA issued draft guidance in May of 2022 on risk management plans that certain manufacturers are required to develop, maintain, and implement beginning September 23, 2020. Congress enacted the requirement into law following a recommendation from the

FDA-led Drug Shortages Task Force and in recognition of quality issues causing the majority of drug shortages. Please provide an update on the FDA's finalization of the guidance and any plans for further rulemaking in this area.

6. The agency's recent draft guidance lists the minimum information manufacturers must provide under section 506C of the FD&C Act and FDA regulations for "permanent discontinuance or interruption in the manufacture of a covered finished product that is likely to lead to a meaningful disruption in supply" but also recommends additional information the manufacturers provide updates to their initial notifications that would help the agency. Should Congress require manufacturers to provide any of the recommended additional information or give the FDA authority to require certain of the information be provided as relevant to the situation?

I am expecting a timely response to these questions, as well as a joint statement from your agency and the FDA that comprehensively explains the reasons for the continued shortage of ADHD medications and how the agencies are tackling it. Thank you for shining a light on these and other drug shortages, and I look forward to collaborating further soon.

Sincerely,



Ron Wyden
United States Senator

CC:
The Honorable Anne Milgram
Administrator
Drug Enforcement Agency