Sound Policy. Quality Care.

Margaret A. Hamburg, MD
Commissioner of Food and Drugs
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852
Re: Docket No. FDA-2009-N-0247

August 7, 2009

Dear Commissioner Hamburg:

The Alliance of Specialty Medicine (Alliance), a coalition of 10 national medical specialty societies representing more than 200,000 physicians and surgeons, is dedicated to the development of sound federal health care policy that fosters patient access to the highest quality specialty care. We commend your efforts to establish the Food and Drug Administration's (FDA) Transparency Task Force and host an open public meeting on transparency issues. The Alliance will provide suggestions on ways to increase transparency to the clinical community and the public.

PATIENT AND PHYSICIAN ACCESS TO SAFETY AND EFFECTIVENESS INFORMATION

The Alliance acknowledges the difficult task that the FDA has in assuring that information remains proprietary while protecting and promoting public health. We believe physicians acting on behalf of their patients should have access to safety and effectiveness information about drugs, devices, and biologics if the FDA has data indicating that a significant public health concern exists. We concur with Dr. William Maisel's testimony on June 24, 2009, during the FDA Transparency Task Force meeting; "one way to promote transparency is to report data in aggregate…. By presenting data in aggregate and combining groups in a biologically plausible way, FDA can protect manufacturer confidentiality, have greater power to identify trends, and provide meaningful information to patients and health care providers."

DISCONTINUATION OF DRUGS

The Alliance urges Congress to give the FDA the authority to enhance drug discontinuation efforts whereby the manufacturer discontinues due to reasons not related to the safety or efficacy of the drug. The Food, Drug, and Cosmetic Act requires manufacturers to provide the FDA with a six-month notification of the discontinuation of sole source products that are life-supporting, life-sustaining, or for use in the prevention of a debilitating disease or condition. While the FDA is informed of a manufacturer's drug discontinuation plans, the Agency has no authority to assure that the plans and their communications meets the needs of physicians and patients. The FDA currently is not allowed to

notify the public (including medical societies) of such drug discontinuations because it is considered proprietary information. Discontinuation of drug therapy must be medically supervised and patients may be harmed when single source drugs are discontinued without adequate notice or planning.

An example of inappropriate drug discontinuation is Shire pharmaceutical's discontinuation of Ethmozine (moricizine hydrochloride)[1]. In this example, physicians were provided three month's notice that this drug was being discontinued. Assuming six month's notice per the Act, the Agency knew at least seven months prior to discontinuation that this problem would occur in the clinical community. Unfortunately, the FDA had no authority to act on this threat to patient safety. Physicians typically require six to nine months advance notice of these types of drug discontinuations since they see the chronic, stable patient infrequently. Patients may not learn of drug discontinuation in the news and may not schedule a doctor's appointment until it is too late to transition to a new therapy. In the Ethmozine instance, some of these patients had to be admitted to the hospital due to inadequate treatment. Thus, the lack of transparency on this drug discontinuation developed into a public health emergency for some patients. The Alliance understands that the FDA Drug Shortage team makes every effort within its authority to assist the clinical community, but it falls short of assuring patient safety in certain cases due to limitations of the FDA's authority.

WEBSITES

Adverse Event Reporting

The Alliance recommends that the Transparency Task Force harmonize and centralize its post-market surveillance and reporting programs. The Alliance appreciates that the FDA provides several websites for adverse event information and reporting--the Manufacturer and User Facility Device Experience Database (MAUDE), the Adverse Event Reporting Data Files, the Medical Devices Reporting Database, and the MedWatch FDA Safety Information, and Adverse Event Reporting System. These systems are important and we urge the FDA to make them straightforward to use and the public data as easily retrievable as possible. The Alliance suggests that there should be clear guidance for all users explaining how the reports are generated and the level of analysis given to them by FDA staff.

Retrieval of adverse event data is sometimes a very difficult task, lacking in transparency. For example, in 1998 the FDA took action to grant a Class II designation for cranial orthoses used for the treatment of infant skull deformity. This action had the unintended consequence of causing the cost of manufacturing the device to increase markedly. Prior to this action, the device was produced safely and inexpensively in orthotics labs at many Children's Hospitals. In 2006, the American Association of Neurological Surgeons (AANS) and the Congress of Neurological Surgeons (CNS) petitioned the FDA to request that cranial orthoses be exempt from Class II regulations. On December 26, 2006, the FDA published a notice in the *Federal Register* denying the petition. FDA staff stated that AANS and CNS had not adequately reviewed adverse event reports and implied that such reports existed. After searching though both the MDR and MAUDE databases, no adverse events were found. We recommend that the FDA include any adverse event reports used in the evaluation of a petition for change of class designation in the docket for the petition, so that the documents are readily available to all interested parties.

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[1] http://www.hrsonline.org/Policy/DevicesDrugsFDA/Drugs/Ethmozine_discontinued.cfm

FDA WEBSITE REDESIGN

The Alliance notes that the FDA has recently redesigned its website (http://www.fda.gov). As a result, some web pages have been discontinued or archived that provided very useful information to medical societies such as the "What's New" page on Center for Devices and Radiological Health (CDRH) site. Key website features lost in upgrades are currently decreasing the transparency of medical device information. Additionally, the drug, device, and biologics pages have similar appearances, which is confusing to the viewer.

Previously, the device advice link contained useful information about devices. The link has been replaced with information citing CFRs. The Alliance suggests that previously useful links and pages be reinstated. Furthermore, the Alliance recommends that the Agency reinstate the "Dockets Management" function on the FDA website in order to access submitted comment letters from the dockets. Finally, we want to ensure easy access to FDA advisory committee pages. Therefore, the Alliance suggests that each of the four main landing pages contain a link to the advisory committees, with easy access to the attachments for panel meetings.

GUIDANCE DOCUMENT DEVELOPMENT

The Alliance agrees with the recommendations of the 2007 Science Board that the CDRH should develop and spend more time on guidance documents, standards and other written publications, archiving and retrieval systems, with written precedent files so that once a decision is reached, subsequent reviewers are informed of the previous decisions. The Alliance and member organizations have separately commented repeatedly over the last few years on the decreased publication of guidance documents following the establishment of the 2002 Medical Device User Fee Act (MDUFMA) performance goals.

The MDUFMA instituted progressively challenging performance goals for the review of pre-market approval applications, biological license applications, and 510(k) submissions. Prior to the passage of MDUFMA, the timelines for meeting performance criteria were more discretionary. In order to meet the performance goal timelines, priorities were shifted with fewer resources devoted to guidance document development. Thus, the diminished production of the CDRH guidance documents was an unintended consequence of the MDUFMA of 2002.

Delays in publishing guidance documents are of significant concern to the Alliance. We recognize that that there are differing priorities within the FDA divisions, offices, and centers. However, the Alliance suggests that the Agency devote considerably more resources to the development of needed guidance documents.

The Alliance acknowledges the success of the utilization and development of FDA guidance documents in aiding transparency. These documents assist in enhancing predictability for manufacturers, FDA reviewers, and other stakeholders in the development of pre-market device and notification submissions, and expedite the review process. Manufacturers often cite receiving different interpretations of product reviews. Guidance documents assist in the standardization of FDA policy and interpretation. Additionally, guidance documents are often used as special controls to support a

downclassification. The Alliance stands ready to assist the FDA in revising and creating guidance documents to address critically important clinical information.

MEDSUN PROGRAM

The Alliance urges the Agency to allow specialty medical societies to participate in the Medical Product Safety Network (MedSun) program webinars so that the Agency and the clinical community can discuss emerging threats to patient safety. MedSun provides a secure, internet-based data entry system that helps gather information from participants (i.e., hospitals) to assist the Agency in proactively addressing safety concerns before serious injuries or deaths occur. The Agency routinely provides confidential feedback and on-line discussion of the findings; however, it is rare that the Agency allows participation beyond MedSun participants. In other words, medical societies are not currently allowed to participate in MedSun discussions.

The Alliance recommends that the Agency change in this policy and allow relevant medical societies to access MedSun programs, webinars, and other initiatives. An exception to this policy was the "FDA preliminary public health notification: Possible malfunction of electronic medical devices caused by computed tomography (CT) scanning[2]" issued to the public on July 14, 2008. Upon the release, the Heart Rhythm Society reached out to the Agency to request further information and only then learned of the MedSun webinar. Through participation, the Heart Rhythm Society obtained critical knowledge on the nature of the threat such as the duration of the malfunction, use of follow-up protocols by hospitals with the occurrence (i.e., devices required to be checked after every MRI or CT scan), and the relationship of the incidents to the beam directly crossing the medical device.

Through the awareness gained from the webinar, the Heart Rhythm Society was able to inform a wider audience about the public health notification. Our physicians, healthcare teams and patient members thanked us for the ability to make more informed judgments. Through this experience, the Alliance believes the FDA should leverage appropriate medical societies to be involved in MedSun communications.

OUTREACH AND EDUCATION

The Alliance urges the FDA to consider new approaches for outreach and education initiatives to better educate the medical community about the FDA rules, regulations, and guidance documents, as well as its impact on the day-to-day operations of physicians. The FDA is a highly complex regulatory agency that impacts the physician and medical community in a significant way. Efforts to learn more about the FDA and how it operates are challenging, even for regulatory professionals who have experience in managing FDA relationships.

The FDA should look to its HHS partners, such as the Centers for Medicare and Medicaid Services (CMS), for suggestions and guidance on communicating with the medical community in a meaningful way. There are several avenues available that have been used by similar agencies that fall under HHS. For example, the CMS often hosts national provider conference calls and/or "open door forums" whereby providers can participate in a conference call style meeting on a focused topic, such as the CMS Physician's Quality Reporting Initiative (PQRI), or hear general updates from the agency that may

[2] http://www.fda.gov/MedicalDevices/Safety/AlertsandNotices/PublicHealthNotifications/ucm061994.htm

impact the day-to-day operations of a physician office. On these CMS sponsored calls, the agency will oftentimes develop a downloadable slideshow presentation that providers and their staff can follow during the call. Once the presentation piece is finished, participants can ask questions of subject matter experts. This is especially helpful to clarify key issues in a proposed rule during rulemaking prior to comment submission deadlines. As a result, the Alliance believes that the CMS benefits from receiving more thoughtful comment letters.

Sometimes, these conference calls or "open door forums" are co-hosted with the professional medical societies, depending on the subject matter. For example, in August 2003, the American Society of Cataract and Refractive Surgery co-hosted a CMS Physician's Open Door Forum. The open door forum was intended to provide an update on the just released 2004 Medicare Physician Fee Schedule Proposed Rule. Transcripts from these calls are usually posted to CMS' web site so anyone may access the information from the call at a later time. These open door forum calls have served CMS very well and are one activity the agency has used to create a sense of community with health care providers and to allow for a meaningful dialogue to occur. In our opinion, they have aided in greatly increasing transparency.

Another vehicle that has been used by CMS for communicating with physicians and helping them understand complex rules, regulations, and program policies is the Medicare Learning Network (MLN). As explained by the agency, MLN "uses a variety of mechanisms, such as the Internet, national educational articles, brochures, fact sheets, web-based training courses, and videos, to deliver a planned and coordinated provider education program." The MLN Materials provide the health care provider community with timely, easy-to-understand educational materials to accompany the release of new or revised Medicare Program policies.

Another option for the FDA to perform outreach and education is through more regular communication and collaboration with medical specialty organizations. The American Academy of Orthopaedic Surgeons (AAOS) hosts three Orthopaedic Device Forum (Forum) meetings each year since its inception in 1996. Held as a model of cooperation between orthopaedic stakeholders, staff from CDRH and the Center for Biologics Evaluation and Research (CBER) attends each meeting. Forum members and government liaisons discuss items of mutual interest and plan educational sessions for FDA staff. Attendance at regular meetings with Agency staff has assisted in communication efforts and transparency about FDA initiatives.

COLLABORATION WITH MEDICAL SPECIALTY ORGANIZATIONS

The FDA should make it a routine practice to communicate with medical specialty associations, their leadership and staff, regarding physician and specialty specific issues. The medical societies represent and regularly communicate with the same physicians who prescribe drugs and employ devices approved by the FDA. Medical specialty organizations are well equipped to work with regulatory agencies, such as the FDA, on mutual issues of importance. Specialty societies are also well equipped to quickly disseminate information to their members and obtain important and timely feedback. Oftentimes, however, the medical societies are not informed when specialty specific issues arise within the Agency until after regulatory action has been taken. This lack of transparency and collaboration causes significant angst among physicians.

Many physicians, except those who regularly participate in clinical investigations, are unsure how the FDA has an impact on their day-to-day operations. The FDA should consider participating in national medical society meetings and engage in dialogue with providers about the relevance of FDA beyond just approving drugs/devices.

PANEL MEETINGS AND MEDICAL PRODUCT APPROVAL PROCESS

The Alliance is concerned by the lack of harmonization of different advisory panels, within the Agency. Alliance members aim to maximize the quality of care rendered to our patients, both from a technological and clinical standpoint. To help achieve this goal, we are interested in working collaboratively with the FDA to improve the process through which drugs, devices, and biologics are made available to our patients.

A number of organizations both within and outside of the Alliance have offered suggestions for improving the drug, device, and biologics approval process. Some organizations represented by the Alliance have convened discussions with its stakeholders to identify opportunities for improvements to the Panel meetings and approval process.

The Alliance is united in its support of the attached table of suggested improvements to the approval process and advisory committee meetings and believes it will aid in the transparency process. Prior to the FDA's Transparency Initiative, some of our individual organizations brought forward actionable solutions to the FDA and faced significant challenges when offering its suggestions for improving the process. The impression in the past was that FDA was unwilling to modify its processes, despite having the regulatory and statutory authority to make improvements. Under the new FDA leadership, we are hopeful that suggestions for improvement are more likely to be considered.

The Alliance has taken the opportunity to identify a few areas where we believe meaningful and substantive change is necessary, and we offer actionable solutions for the Agency to consider as it moves forward. We hope you will find our suggestions to be of value. We are confident that the implementation of our suggestions would greatly benefit the FDA, specialty medicine, industry, and most importantly, our patients.

INTERNET BROADCAST OF ADVISORY PANEL MEETINGS AND WORKSHOPS

The Alliance recommends that FDA resources be provided for free, internet broadcast of workshops, advisory panel meetings, and other FDA proceedings. It would be extremely helpful for physician and their medical society representatives if the FDA could utilize internet streaming video/webcast applications for its panel meetings, to afford any interested party the opportunity to watch and listen to the proceedings. Other government committees that operate under the same rules and regulations as the FDA's panel meetings are currently webcasting their public meetings; including the Health Information Technology (HIT) Policy Committee staffed by the Office of the National Coordinator (ONC) for HIT. Proprietary, fee-based internet broadcast systems should be banned from use.

In closing, the Alliance fully supports the FDA's Transparency Initiative and we look forward to working more closely with the Agency to improve public health. We hope that you will continue your outreach to medical societies and partner with us so that together we can advance patient care.

If you should have any questions or comments, please contact Jeanie Kennedy, Manager of Government Affairs at AAOS at 202/548-4148.

Sincerely,

American Association of Neurological Surgeons

American Academy of Orthopaedic Surgeons

American Gastroenterological Association

American Society of Cataract & Refractive Surgery

American Urological Association

Coalition of State Rheumatology Organizations

Congress of Neurological Surgeons

Heart Rhythm Society

North American Spine Society

Society for Cardiovascular Angiography and Interventions

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<td>Advisory Committee and Panel meetings</td>
<td>Limited education for new and current advisory committee and panel members, to include deputized consultants

Current 2 hour training is not sufficient to adequately educate advisory committee and panel members</td>
<td>- Suggest more comprehensive education of new and current advisory committee and panel members on the following:
1) Parliamentary process
2) How advisory committee and panel members should interact with one another, the FDA, sponsors, meeting attendees, and others
3) What advisory committee and panel members are supposed to review (i.e., <u>not</u> the protocol which has been approved by FDA already)
4) How to ask a question of FDA and/or sponsor before, during, and after an advisory committee and/or panel meeting
5) Current FDA laws/regulations (e.g., MDUFMA I & II)
6) 510K,IDE,PMA,IND,NDA,ANDA, BLA other relevant processes
7) How clinical trials are designed
8) How protocols are developed, and FDA's role in approving them
9) FDA Guidance Development Process
10) FDA's role in post-market activities, including off-label uses and physician/patient registries

- Suggest more extensive orientation for advisory committee and panel members.
Training could include:
1) Video review of an advisory committee/ panel meeting (e.g., show what to do and what not to do)
2) Web-based self-training tools
3) Requirement that new advisory committee and panel members are mentored by an experienced member
4) Requirement that new advisory committee and panel members attend an advisory committee or panel meeting before serving as a voting member

- Suggest including a "fact sheet" with information reiterating the role of the advisory committee or panel member in the mailed documents to the advisory committee or panel member

- Suggest more thorough review of "Guidance on Amended Procedures for Advisory Panel Meetings" with advisory committee and panel members during training</td>
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		- Suggest development of a process map and/or timeline with emphasis on where the advisory committee and panel meeting fits into the entire approval process - Suggest providing advisory committee and panel members with information related ANSI, ASTM, or other SDO materials used by FDA (i.e., provide the relevant titles, standards relevant to the advisory committee/panel meeting) - Suggest increasing panel member terms
Advisory Committee and Panel meetings	Current conflict of interest policy makes it difficult to identify panel members.	- Suggest working with medical societies to identify new advisory committee and panel members - Suggest creating a medical society seat (non-voting) on each advisory committee and panel (In cases where the advisory committee/panel represents more than one specialty [Ophthalmic and Anti-infective Drug Advisory Committee], more than one representative would be selected; however, only the relevant specialty representative would be asked to participate in the advisory committee or panel meeting) 1) Appointee to the medical society seat should be a practicing clinician 2) It is expected that the seat would be filled by a qualified representative from the relevant specialty society, or collective of relevant specialty societies in the case where there is more than one
Advisory Committee and Panel meetings	Limited ability of sponsor to interact with Panel	- Reinstitute policy which allowd sponsors to receive advisory committee and panel reviews at least two weeks prior to the meeting so comments may be prepared by the sponsor in advance - Suggest that primary reviewer comments be available to sponsor one month prior to Panel to allow sponsor an opportunity to respond within the

		2 weeks
Advisory Committee and Panel meetings	FDA Staff interaction with panel members during meeting	- Suggest FDA take a more proactive position and interact during advisory committee and panel meetings to further reinforce the member roles and responsibilities of members 1) Chair should review policies and procedures, to include a review of the parliamentary process, how advisory committee and panel members should interact with one another, FDA, and sponsor, how to ask a question, etc.
Advisory Committee and Panel meetings	Consultants who are deputized at the meeting	- Suggest the public be informed of who the consultants will be prior to advisory committee or panel meeting - Suggest consultants undergo mandatory training before sitting on an advisory committee or panel - Suggest consultants attend at least one panel or advisory committee meeting, preferably within the specialty realm they have expertise, prior to serving
Process Prior to Advisory Committee and Panel meetings	Studies/Protocols	- Suggest allowing specialty societies to serve as a resource for FDA reviewers when they have questions/concerns regarding sponsor-submitted protocols (e.g., questions about standard of care, clinical practice, etc.) as many FDA reviewers are not practicing clinicians