CHPA

founded 1881

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Re: Notice of Draft Guidance for Industry: Questions and Answers Regarding Adverse Event Reporting and Recordkeeping for Dietary Supplements as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act.
72 *Fed. Reg.* 58313-58315 (October 15, 2007). Docket No. 2007D-0388

Notice of Draft Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application.
72 *Fed. Reg.* 58316-58317 (October 15, 2007). Docket No. 2007D-0386

Dear Sir and Madam:

Members of the Consumer Healthcare Products Association (CHPA) appreciate the opportunity to provide comments on FDA's draft guidances for industry on adverse event reporting for dietary supplements and nonprescription human drug products marketed without an approved applications (*i.e.,* monograph OTC drug products) [72 *Fed. Reg.* 58313-58315 and 72 *Fed. Reg.* 58316-58317, respectively]. CHPA, founded in 1881, is a national trade association representing manufacturers and distributors of dietary supplements and over-the-counter medicines. Our comments focus on the areas of labeling and identifiable product, database issues, and other general points of concerns.

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I. Labeling and Identifiable Product

A. Electronic Submission of Labeling with Adverse Event Reports (AER)

FDA has stated that a copy of the label on or within the retail package must be provided with each case report for dietary supplements and monograph OTC drug products. This requirement causes some logistical concerns for our members. Some CHPA members voluntarily submit adverse event reports to the agency for their products and do so electronically when possible. We would appreciate the Agency's input on the following questions:

- It is unclear if FDA's electronic submission system will accept Adobe/pdf formatted documents. Is the FDA gateway compatible with pdf documents?
- If electronic submissions for monograph OTC drug products will accept pdf documents, will companies be allowed to submit copies of the label electronically in pdf format?
- Furthermore, it was noted in the dietary supplement guidance document that submissions must be made via mail. Will FDA accept an electronic format of the required information if it is sent via mail to the address provided in the guidance document?

We propose allowing electronic submission of the reported information for both dietary supplements and monograph OTC drug products in Word and/or Adobe pdf format as companies deem most appropriate.

B. Selection of Labeling

We note that the draft guidances require sponsors to submit "a copy of the label on or within the retail package" with serious adverse event reports. It is also noted that FDA is requesting all labeling (*i.e.,* inner, outer, and package insert) be submitted with the AER. It would be useful if FDA could provide the rationale for the label submission to help ensure that the Agency's goals are accomplished with the information that is submitted. CHPA has identified several areas where selection of the exact label may not be possible, and is seeking the Agency's concurrence with our recommendations.

- Lot Number
  It is unclear whether the Agency is requesting the exact label in order to obtain information on the lot number for the product that is the subject of the report. If this is the case, we feel it is important to point out that the lot number will *not* be provided on the sample label. Lot numbers are printed on the package at the time of manufacture, and would not normally be provided on a sample label. However, it is part of standard industry practice to provide the lot number of a suspect product (when known) on the MedWatch Form 3500A, so this information will accompany the report.

- Representative labeling
  In order to provide the exact label with an AER, the reporter must be able to provide the lot and/or SKU number from the package. However, there are circumstances under which the reporter is unable to identify the monograph OTC or dietary supplement product with the specificity required for a sponsor to provide the exact label. This generally occurs when the reporter does not have the original packaging for the product but is recalling their experience from memory. Even if the reporter can identify the specific product name, there are still potential hurdles to providing the exact label such as:

  - Label changes which can occur regularly with monograph OTC and dietary supplement products for a variety of reasons (*e.g.* reformulation, new marketing text, etc.). Without the lot and/or SKU number, a company may be unable to identify which version of the product label was on the product that is the subject of the report;
  - Products that are available in different package sizes or flavors; and
  - Products that are available in different strengths and/or formulations.

  Under these and similar circumstances, CHPA members recommend that FDA accept a representative current product label at the time the report is made as the best option to comply with the label submission requirement.

C. Identifiable Product

There may be occasions when a sponsor receives insufficient information to uniquely identify the product that is the subject of the AER. CHPA member companies are seeking the Agency's guidance on determination of an identifiable product for monograph OTC and dietary supplement adverse event reporting purposes in these instances. Monograph OTC and dietary supplement products are somewhat different from prescription products in that there can be many more variables which make identifying the exact product a challenge.

A reporter who no longer has the packaging for the suspect drug must rely on his or her memory when making a report. Many monograph OTC and dietary supplement products are sold as one of a family of products under a specific brand name. Our experience has shown that reporters sometimes do not remember which product within a brand they used, and they are able to provide only the brand family name. Since products within a family often have different active ingredients, this provides a challenge to satisfying the criteria for an "identifiable product."

CHPA member companies will use all due diligence to obtain sufficient information to identify a product so that a label can be provided whenever possible, but there will be circumstances in which this is not possible. However, after considering various options, it is

our recommendation that companies select a product from the family as a "default" product, and provide a representative label for that product.

CHPA members do have concerns that, depending on the criteria for the "default" label (*e.g.*, the most popular product or SKU, or the original product brand name), the reported data may not be for the actual product used and therefore inappropriately imply there is a safety concern for the "default" product, where one may not actually exist. When submitting "default" labels, companies could note on the MedWatch Form 3500A that the label is representative. We recommend the agency allow companies to note that a default label has been submitted and why (*e.g.*, unknown size, unknown formulation, unknown flavor, other).

II. Databases Issues

The guidance documents addressed how additional information and/or corrections should be handled after the initial serious AER is made. However, some databases may not permit changes to be made after the initial submission narrative has been transmitted. We recommend that FDA be flexible in the manner in which additional information is provided by a company. We propose allowing companies to add a new narrative outlining the changes or to write a synopsis illustrating the changes and/or additional information if their database system does not allow modification of the initial submission.

III. General Points

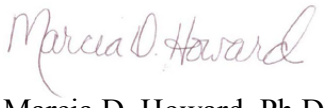
CHPA members request clarification regarding anonymous identifiable reporters who refuse to or do not provide sufficient contact information for follow-up. As noted in the guidance documents for dietary supplements and monograph OTC products, reports should *not* be submitted to FDA if there is no manner to reach the identifiable reporter. This criterion is inconsistent with reporting requirements for other FDA-regulated products. We recommend the agency provide consistent requirements for identifiable reporters across all drug product categories and for dietary supplements.

Dietary supplement and monograph OTC drug products may be discontinued yet still available for use by consumers. Therefore, it is plausible for a company to receive a serious AER on a discontinued product. We are requesting clarification on how reports on discontinued products should be handled. Is there a statute of limitations for submitting reports for products that are no longer marketed? If so, we suggest FDA provide criteria about how to handle this situation.

FDA has encouraged attachment of supporting documentation, such as hospital discharge summaries, lab results, and autopsy reports, as part of the serious AER. Our member companies intend to follow standard industry practices for supplying supporting documentation with AERs, using their judgment on when it is appropriate to submit the documentation, or to make it available upon request.

In summary, CHPA members appreciate FDA's consideration of questions and recommendations for the industry guidance documents for dietary supplement and monograph OTC product adverse event reporting presented in this submission. Please feel free to contact me should you have any questions.

Sincerely,



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