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Unified Agenda 0910-AG94

Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products

Unified Agenda current as of Spring 2014

Summary

This proposed rule would amend the regulations regarding new drug applications (NDAs), abbreviated new drug applications (ANDAs), and biologics license applications (BLAs) to revise and clarify procedures for changes to the labeling of an approved drug to reflect certain types of newly acquired information in advance of FDA's review of such change. The proposed rule would describe the process by which information regarding a "changes being effected" (CBE) labeling supplement submitted by an NDA or ANDA holder would be made publicly available during FDA's review of the labeling change. The proposed rule also would clarify requirements for the NDA holder for the reference listed drug and all ANDA holders to submit conforming labeling revisions after FDA has taken an action on the NDA and/or ANDA holder's CBE labeling supplement. These proposed revisions to FDA's regulations would create parity between NDA holders and ANDA holders with respect to submission of CBE labeling supplements.

Statement of need

In the current marketplace, approximately 80 percent of drugs dispensed are generic drugs approved in ANDAs. ANDA holders, like NDA holders and BLA holders, are required to promptly review all adverse drug experience information obtained or otherwise received, and comply with applicable reporting and recordkeeping requirements. However, under current FDA regulations, ANDA holders are not permitted to use the CBE supplement process in the same manner as NDA holders and BLA holders to independently update product labeling with certain newly acquired safety information. This regulatory difference recently has been determined to mean that an individual can bring a product liability action for "failure to warn" against an NDA holder, but generally not an ANDA holder. This may alter the incentives for generic drug manufacturers to comply with current requirements to conduct robust postmarketing surveillance, evaluation, and reporting, and to ensure that their product labeling is accurate and up-to-date. Accordingly, there is a need for ANDA holders to be able to independently update product labeling to reflect certain newly acquired safety information as part of the ANDA holder's independent responsibility to ensure that its product labeling is accurate and up-to-date. Allowing ANDA holders to update product labeling through CBE supplements in the same manner as NDA holders and BLA holders may improve communication of important, newly acquired drug safety information to prescribing healthcare providers and the public.

Legal Basis

The FD Act (**21 U.S.C. 301** et seq.) and the PHS Act (**42 U.S.C. 201** et seq.) provide FDA with authority over the labeling for drugs and biological products, and authorize the Agency to enact regulations to facilitate FDA's review and approval of applications regarding the labeling for those products. FDA's authority to extend the CBE supplement process for certain safety-related labeling changes to ANDA holders arises from the same authority under which FDA's regulations relating to NDA holders and BLA holders were issued.

Alternatives

FDA considered several alternatives that would allow certain requirements of the proposed rule to vary, such as proposing a new category of supplements for certain labeling changes being effected in 30 days.

Costs and Benefits

The economic benefits to the public health from adoption of the proposed rule are not quantified. By allowing all application holders to update labeling based on newly acquired information that meets the criteria for a CBE supplement, communication of important drug safety information to

prescribing health care providers and the public could be improved. The primary estimate of the costs of the proposed rule includes costs to ANDA and NDA holders for submitting and reviewing CBE supplements.

Risks

This proposed rule is intended to remove obstacles to the prompt communication of safety-related labeling changes that meet the regulatory criteria for a CBE supplement. The proposed rule may encourage generic drug companies to participate more actively with FDA in ensuring the timeliness, accuracy, and completeness of drug safety labeling in accordance with current regulatory requirements. FDA's posting of information on its website regarding the safety-related labeling changes proposed in pending CBE supplements would enhance transparency and facilitate access by health care providers and the public so that such information may be used to inform treatment decisions.

Timeline

3 actions from November 13th, 2013 to December 2014

- November 13th, 2013
  - NPRM
  - **78 FR 67985**
- January 13th, 2014
  - NPRM Comment Period End
- December 2014
  - Final Rule

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