- 1 fit any of the protocols. Those are the things
- 2 that raise all kinds of questions of
- 3 capriciousness, and as many people have pointed
- 4 out, there ought to be a plan for dealing with
- 5 those, but someone, somewhere wants to try this
- 6 drug in a different tumor, that doesn't seem to
- 7 raise too novel issues, that sort of in some ways
- 8 happens all the time. This is more like a case
- 9 where the company isn't directing it, but that's
- 10 okay, they are not all-knowing.
- DR. NERENSTONE: Ms. Linden.
- DR. LINDEN: I would like to respond to a
- 13 couple of comments that have been made around the
- 14 table and also mentioned this morning and also at
- 15 the December hearing.
- 16 First, I would like to respond to Ms.
- 17 Platner regarding equity and justice, and that this
- 18 is the time to move on from focusing on those
- 19 issues. I am afraid--or I am not afraid--I
- 20 actually view those issues differently as a
- 21 bioethicist.
- The way that I view them is that equity
- 23 and justice are ideals toward which we strive and
- 24 in any arena, whether it is experimental therapies
- or democracy or what have you, we never accomplish

- 1 fully our ideals. We use them as beacons toward
- 2 which we are guided.
- 3 I would also like to respond to a comment
- 4 that Mr. Erwin made, as well as Dr. Williams, in
- 5 part of the discussion last December that has
- 6 really stayed with me over these past five or so
- 7 months, and that is the issue of communication.
- 8 Dr. Williams this morning
- 9 proposed--perhaps "proposed" is too hard a
- 10 version--suggested the possibility of a consensus
- 11 conference at some point to lay a framework for the
- 12 issues of treatment INDs and expanded access. I
- 13 think that is a wonderful idea, but I do believe
- 14 that we are very far from a time when it would be
- 15 appropriate to hold such a conference.
- 16 Bob Erwin's comment about communication, I
- 17 think is extraordinarily important, and the sort of
- 18 communication that I am most concerned about is of
- 19 the sort that was mentioned at the hearing last
- 20 December, and that is communication between and
- 21 among industry, PhRMA and its constituent members,
- 22 large pharmaceutical companies, and small biotech
- 23 start-ups, community members, activists, consumers,
- 24 physicians, the FDA, the NCI, HMOs, which have a
- 25 rather significant role in those communities where

1 they are dominant providers and how clinical trials

- 2 are enrolled.
- I hope that the call for meetings where
- 4 these various stakeholders can get together and
- 5 begin to talk about their concerns, the fiscal
- 6 concerns that you mentioned, Dr. Taylor a few
- 7 moments ago, so that we can really begin to hear
- 8 each other and find out what our points of
- 9 agreement are, what our common ground is, and where
- 10 we have fundamental disagreements. That is not
- 11 going to happen at a consensus conference. A
- 12 consensus conference is for down the road in my
- 13 view.
- 14 Thank you.
- DR. NERENSTONE: Mr. Dixon.
- MR. DIXON: Yes. We have gone around and
- 17 around once again on this information and access,
- 18 and justice and equity point, and I would like to
- 19 remind everyone that we do have a statutory basis
- 20 for a clinical trials' database, which is largely
- 21 ignored by industry involved in FDA-related trials.
- I would hope that this group would suggest
- 23 strongly to the agency that it work more
- 24 aggressively with industry to assure that those
- 25 trials are available on a database, so that

- 1 patients can find out about them wherever they
- 2 live. I think this would go a long way towards
- 3 answering some of these access questions.
- 4 I also think that if all cancer trials at
- 5 the FDA were within one office, so there were
- 6 similar rules across the board, that that would
- 7 also be a big step forward.
- 8 Thank you.
- 9 DR. NERENSTONE: Dr. Albain.
- DR. ALBAIN: I do think, though, in
- 11 relation to the concept of a consensus conference
- 12 and national dialogue, that we are in a new era,
- 13 though, with our new agents, our molecular targeted
- 14 therapies, and, in fact, we are now seeing trials
- open and close in 6 to 8 months with expanded
- 16 access trials opening before the investigators know
- 17 even the toxicity profile of the agent.
- So, I think it is clearly necessary that
- 19 we rapidly reach some consensus about how at least
- 20 an expanded trial process should proceed
- 21 nationally.
- DR. NERENSTONE: Dr. Sledge.
- DR. SLEDGE: After hearing so many
- 24 wonderful discussions here, it is hard to add a
- 25 whole lot, but just three points, if I could.

- 1 First, the issue of justice. I mean in
- 2 essence in this very wonderful philosophical
- discussion, we are basically talking about two very
- 4 different concepts of justice.
- 5 One is sort of utilitarian justice of, you
- 6 know, the greatest good for the greatest number,
- 7 which would suggest that justice is best served by
- 8 getting a drug onto the market as quickly as
- 9 possible, and therefore doing the best trials as
- 10 quickly as possible, and anything that holds it up
- 11 will delay justice for the majority.
- 12 The other form of justice, of course, is
- individual justice, what can we do best for the
- 14 individual.
- These really are very different concepts
- 16 of justice, we have got to recognize that.
- 17 Second, from a scientific standpoint,
- 18 leaving aside the issue of expanded access, which I
- 19 don't think is what we are discussing here, but
- 20 rather the use of single patient use setting, can
- 21 we get anything scientific out of single use
- 22 indications? My bias is no. My bias is no
- 23 because, first, the physicians who are involved in
- 24 the system as a rule of thumb are not clinical
- 25 researchers, and they are not used to or very good

- 1 at collecting clinical research data.
- The patients, as a group, tend to be very
- 3 poorly characterized, and therefore, even the
- 4 adverse event data that you get out of these single
- 5 use indications I think is highly flawed and is
- 6 confounded by the patient's underlying disease in
- 7 most cases.
- 8 Is it possible that we might be able to
- 9 get some signal data from an efficacy standpoint in
- 10 terms of rare tumors? There, I suspect, yes, it is
- 11 possible. Certainly, if one looks at the history
- 12 of, say, a treatable cancer like testicular cancer,
- 13 where actually the initial signals did come out of
- 14 Phase I programs, and out of individual patients
- 15 responding remarkably well in a rare tumor, I think
- 16 it is at least possible that there may be at least
- 17 some potential for getting that sort of data.
- Third, is a toxicity issue. We have
- 19 talked a lot about informing patients, but the
- 20 truth of the matter is that for drugs in early
- 21 development, we really don't have much to tell
- 22 patients about the drugs.
- Talking about issues of informed consent
- 24 with patients with a drug that has only been
- 25 through a Phase I trial or very early Phase II

- 1 trial is pretty nonsensical, to tell the truth.
- 2 Most of the time we just simply don't know anything
- 3 about the range of activity of the drug, and we
- 4 truly don't know very much about the toxicity of
- 5 the drug. Most of the scary side effects that we
- 6 end up discussing with patients down the road, we
- 7 learn as a result of large Phase III trials rather
- 8 than Phase I and Phase II trials.
- 9 So, my bias is that a lot of the
- 10 bureaucracy that surrounds single use is pretty
- 11 much wasted bureaucracy. The sending of a protocol
- 12 to an Institutional Review Board, you know, the
- 13 informed consent discussions that go around this, I
- 14 think by and large really are done primarily for
- 15 lawyers rather than for patients. I am truly not
- 16 sure how much they benefit the average patient.
- DR. NERENSTONE: Again, I have a question,
- 18 a point of information. Somebody raised a question
- 19 about centralizing the database for patient access
- 20 to trials.
- 21 Would someone comment about PDO and
- 22 whether that has expanded access protocols listed
- 23 on that, does anyone know?
- MS. DELANEY: We request that the
- 25 companies list their expanded access protocols in

- 1 the PDQ. Compliance with PDQ, in general, though,
- 2 has been very poor, as Carl Dixon said. There are
- 3 currently 1,850 clinical trials in the PDQ
- 4 database, and the number of industry-sponsored
- 5 trials in that database, the highest it ever got
- 6 was 200, and it is now going down again in spite of
- 7 the law that was passed.
- 8 So, this is the single largest place that
- 9 a patient can find out about an ongoing trial or if
- 10 they are not eligible for an expanded access
- 11 protocol that may be in there, they certainly can
- 12 find out about another trial they might be eligible
- 13 for, the compliance with it has been poor to
- 14 miserable.
- DR. NERENSTONE: So, maybe one of the
- 16 suggestions can be that because the mechanism
- 17 exists, that drug companies should be encouraged--I
- 18 don't know if we can say required -- to comply with
- 19 that in terms of helping them with their accrual,
- 20 as well as patient information about existing
- 21 studies. Because the mechanism does exist, we
- 22 shouldn't have to reinvent the wheel.
- Other comments?
- MR. DIXON: If I could just supplement
- 25 that, the statute on that particular database says

- 1 that they shall comply, so it is not a question of
- 2 whether industry wants to do it or not, the
- 3 database is there. It is just that they are not
- 4 doing it.
- DR. NERENSTONE: Could you please
- 6 introduce yourself for the members of the
- 7 committee?
- 8 MS. TOIGO: I will. I am Terry Toigo.
- 9 Part of the law that Carl Dixon is referring to is
- 10 a section of the Food and Drug Modernization Act,
- 11 Section 113. FDA developed guidance and put out
- 12 guidance about a year ago. We will have another
- 13 quidance document available very shortly that will
- 14 tell sponsors how to get their trials into
- 15 clinicaltrials.gov, which is the database that the
- 16 government developed to respond to Section 113 of
- 17 FDAMA.
- So, that will clear up any--we have
- 19 already given guidance on which trials need to be
- 20 put in that database. This will tell industry how
- 21 to get the trials into the database. It is
- 22 required, it is a law.
- The reason they are not doing it--Dr.
- 24 Temple asked me how come companies are not doing
- 25 it--Congress passed a law, we are developing

- 1 guidance. We needed to get a mechanism in place
- 2 for companies to submit their trials, and that has
- 3 been now developed.
- 4 DR. NERENSTONE: Dr. Redman.
- DR. REDMAN: Again, I am probably just
- 6 going to reiterate what Dr. Sledge said, you know,
- 7 there seem to be two issues here. The one that I
- 8 came prepared to discuss, I guess was the access to
- 9 investigational agents, not therapies, outside the
- 10 context of a clinical trial.
- I think that process, that access does
- 12 co-opt the clinical trial, not that that person is
- 13 not being put on a clinical trial, but the fact is
- 14 you are making an assumption that the clinical
- 15 trial is through and you know the answer, and there
- 16 is some therapeutic benefit.
- I really think that is a fallacy, and I
- 18 tend to agree that the whole process of single
- 19 patient use or access to an investigational agent
- 20 is a lot of waste of time, both at the regulatory
- 21 level and at the physician level, and there is no
- 22 information that is gained from that.
- Some of the other comments, though, are
- 24 dealing with better access to clinical trials, and
- 25 I do agree, and there have been meetings at the

- 1 NCI, at CTEP, regarding this process. I think that
- 2 process definitely needs improvement, but I don't
- 3 think this committee is going to improve it.
- 4 DR. NERENSTONE: Dr. Linden.
- 5 DR. LINDEN: In response to the comment,
- 6 the clarification of the regs for the database, as
- 7 with any requirement, requirements don't hold a lot
- 8 of water unless there is enforcement, and I wonder
- 9 if there is or will be enforcement of entering
- 10 trials and updating information as it is
- 11 appropriate. That seems to me that it would be
- 12 quite essential.
- DR. NERENSTONE: Mr. Erwin.
- 14 MR. ERWIN: Leaving the broader questions
- 15 of clinical trial design and expanded access and
- 16 just going back to individual access for a moment,
- 17 I think there is an additional perspective to
- 18 consider, and that is the hope by a lot of
- 19 scientists, and certainly families and patients,
- 20 that newer technologies will lead to more
- 21 efficacious products and the sometimes very
- 22 reasonable hope that what an individual is trying
- 23 to get access will, in fact, turn out to be one of
- 24 those.
- 25 For example, had it been necessary,

- 1 although I guess in many cases it wasn't, for an
- 2 individual to attempt to get access to Gleevec,
- 3 there is a good chance it would have been
- 4 beneficial, at least with the data that is
- 5 currently available today.
- 6 So, as more and more targeted therapies,
- 7 as they have been called, come along, the
- 8 importance to an individual of individual access
- 9 might actually increase.
- 10 I think that the mechanism that is in
- 11 place now, which the FDA very infrequently blocks,
- 12 where an individual's physician and a company can
- 13 choose to voluntarily provide individual access,
- 14 certainly works sometimes, and what we are talking
- 15 about is how to, one, make it fairer, to make it
- 16 perhaps less complex, perhaps streamline it, but
- more importantly, to integrate it into the broader
- 18 context of the two forms of justice that Dr. Sledge
- 19 referred to.
- The additional perspective I think we
- 21 ought to keep in mind is that the drive by families
- 22 and individuals to survive a disease like cancer is
- 23 going to go on no matter what policy decisions we
- 24 make, and, in fact, if individual access were
- 25 completely blocked, there would still be consistent

- 1 persistent attempts at access to something.
- In fact, in the United States right now,
- 3 patients can get access through the legal clinical
- 4 trials mechanism, drugs that most of us in this
- 5 room probably believe do not work, and for which
- 6 those patients pay thousands of dollars in full
- 7 compliance with FDA regulations or at least close
- 8 to full compliance, and many of us consider those
- 9 particular kinds of trials to be fraud, but they
- 10 happen to fit within the legal framework that has
- 11 been set up.
- 12 Alternative therapies are another whole
- 13 category. People fly overseas for all sorts of
- 14 bizarre treatments. So, that demand and that drive
- 15 for a cure, as unreasonable as it may be, needs to
- 16 constantly be factored back into the decisions that
- 17 are made, particularly when there is an attempt to
- 18 provide quidance and education, because they are
- 19 not going to go away and in the face of advancing
- 20 technology, that hope will continually be fueled
- 21 whether it is false or not.
- DR. NERENSTONE: Dr. Spiegel.
- DR. SPIEGEL: Listening, I would concur
- 24 with some other speakers that there seem to be a
- 25 lot of issues on the table including general access

- 1 to clinical trials, participation in either the
- 2 government or there are many--I think there are
- 3 still some around that are trying to make public
- 4 databases and for-profit companies that have some
- 5 very clever ideas about how to overcome some of the
- 6 issues that have been raised with the government
- 7 databases and providing a third party who could
- 8 screen patients for companies who could post their
- 9 trials, but I think that is a different consensus
- 10 conference.
- 11 What I wanted to mention was I think both
- in the December meeting and on 60 Minutes, but what
- 13 we have heard is probably a very appropriate level
- 14 of frustration that it is hard for people to
- 15 penetrate both Big Pharma and little biotech
- 16 companies to understand what stage drugs are at and
- 17 whether any single patient exemption is available.
- 18 I am certainly taking home something that
- 19 we could all do is to just challenge our own public
- 20 relations departments to see if our web sites or
- 21 800 numbers could be more clear, so that people
- 22 could even get a fast answer, that we do not at
- 23 this time have a compassionate use or an expanded
- 24 access program for any indication for a drug if it
- is at a very early stage of development, just to

1 give people answers, so they don't feel they have

- 2 to keep knocking on doors.
- 3 I would like to raise a different issue,
- 4 though, and I guess I would ask Dr. George or
- 5 maybe, I know Dr. Temple has thought about this
- 6 often, is just to go to the concept of equipoise
- 7 that we apply when we do a clinical trial, we
- 8 convince ourselves that it is ethical to randomize
- 9 to standard therapy versus experimental because
- 10 nobody knows the answer, that one arm of the trial
- 11 is better than another.
- 12 But somehow when it comes to a
- 13 compassionate use, we seem to be saying if I am
- 14 doing a trial that has 25 inclusion and exclusion
- 15 criteria, and a patient is not eligible, but I am
- 16 doing the trial to find out if it works in that
- 17 disease, somehow I should be considering
- 18 compassionately that somebody whose creatinine is
- 19 too high or had too many prior therapies should
- 20 have access to compassionate use when there is
- 21 really no evidence, you know, by the usual criteria
- 22 of evidence, that it is likely to work. So, I
- 23 don't know if our statisticians or people who have
- 24 thought about clinical trial development would want
- 25 to comment in that.

- DR. GEORGE: A brief comment. There is
- 2 one issue that you brought up obliquely there is
- 3 the issue of eligibility criteria in clinical
- 4 trials, which is something else off the topic here,
- 5 but I guess it is relevant in some indirect ways,
- 6 that I think it is true in cancer particularly that
- 7 the eligibility criteria are often too rigid.
- 8 That is, there are too many eligibility
- 9 criteria. That, of course, then leads to the
- 10 situation of people saying, well, not many people
- 11 are entered on clinical trials in cancer, and one
- 12 of the reasons is they are not eligible for the
- 13 clinical trials that are available. I mean there
- 14 are trials that are there, but they can't get on
- 15 them because they have a long list of eligibility
- 16 criteria.
- But it is just the issue of whether, then,
- 18 not meeting the eligibility criteria, why people
- 19 seek these compassionate use or whatever we call
- them mechanisms is just a human one, I think.
- DR. NERENSTONE: Dr. Williams.
- DR. WILLIAMS: You may wonder why we
- 23 titled this single patient use. It was really to
- 24 try to focus on the questions we asked here, which
- 25 is the dilemma that we are often faced with, is

- 1 when should we say no, the FDA say no, you know,
- 2 according to following the guidelines and law that
- 3 there is there isn't adequate safety and efficacy
- 4 to allow this person to receive the drug. That is
- 5 our responsibility.
- 6 I think many of the questions we are
- 7 hearing addressed, but what we do need to address
- 8 in the future and may or may not be our
- 9 responsibility, but I would like to make sure we
- 10 have time to ask--I think we have good groundwork
- 11 for it--but the questions about when should we
- 12 absolutely say no, when is it basically, I would
- 13 say, unethical or unwise or unsafe for us to allow
- 14 use.
- The only reason we put single patient use
- 16 is because it avoids the likelihood it is going to
- 17 interfere with the trial or all these different
- 18 issues that industry might be concerned with, the
- 19 cost, et cetera, and more, in the time remaining,
- 20 perhaps focus on when should FDA say no, and then
- 21 in the future, we hope that there will be a process
- 22 where we can address some of these other issues.
- DR. TAYLOR: I would like to make a
- 24 comment to answer yours, but also about what was
- 25 said earlier about frustration. I think what I see

1 as much as frustration about not being able to get

- 2 an answer is frustration about dying. I think that
- 3 is the whole basis of a lot of this is frustration
- 4 about dying and the realities of medicine and what
- 5 man can do and what God can do.
- I do think that that is part of what I am
- 7 talking about in terms of patient education. I may
- 8 not know what the toxicity of that Phase I drug is,
- 9 but I do know the likelihood of response based upon
- 10 other Phase I trials, and I have to be frank and
- 11 honest about what man can do, and that is a very
- 12 important part of this whole thing.
- 13 A lot of this is dealing with the
- 14 frustration of dying and our inadequacies in
- 15 medical care.
- I would like to go back. I think that I
- 17 would agree, that I think that a patient whose
- 18 performance status is so poor that we don't
- 19 consider them able to tolerate or to respond to
- 20 standard curative therapy would be a very reason
- 21 not to agree to provide that type of drug.
- I also have a very hard time saying that
- 23 we are going to give Phase I agents out when we
- 24 have not even obtained a dose level that we know
- 25 could be used in a safe fashion. I think in that

- 1 setting that we do give, as you alluded to, with
- 2 your equipoise, we do give the implication that we
- 3 think this drug is better and before the trial is
- 4 done. We don't have the trial done, and we imply
- 5 by allowing that, that we know it is better.
- 6 We don't know it is better, we just don't
- 7 know, and it is a big zero in the column as opposed
- 8 to a 10 percent response or a 20 percent response
- 9 from the standard things.
- 10 DR. NERENSTONE: Why don't we then ask for
- 11 Dr. Williams, focus our discussion more
- 12 specifically on the questions, and we can further
- 13 have discussion under that framework that might be
- 14 more specific to what the FDA needs us to
- 15 accomplish this morning.
- I am going to just go to the Questions to
- 17 the Committee. I think that we have had extensive
- 18 discussion about just to very briefly the FDA is
- 19 seeking advice from us in its role of assessing the
- 20 risk-to-benefit ratio of treatment use with an
- 21 experimental drug in an individual patient, and
- 22 when determining the apparent risk-to-benefit
- 23 ratio, the following are important considerations:
- 24 How thoroughly has the drug been studied
- 25 in humans?

1 What do the preliminary results from these

- 2 studies suggest about the safety and efficacy (or
- 3 activity) of the drug?
- 4 What are the other therapeutic options
- 5 available to the patient?
- 6 They feel that those are questions that
- 7 need to be in the context of those kinds of issues.
- 8 I would like to go to our first Ouestions
- 9 to the Committee.
- 10 For each of the following clinical
- 11 scenarios describing standard therapy, please
- 12 discuss the following question:
- 13 The FDA receives a request from an
- 14 investigator to use Drug X under a single patient
- 15 IND. The commercial sponsor of Drug X has granted
- 16 permission for the investigator to use the drug and
- 17 also has provided written permission for FDA to
- 18 refer to the commercial IND, so that has all been
- 19 taken care of. The patient's medical history is
- 20 outlined in each of the scenarios below.
- 21 The investigator states that the patient
- 22 is aware of the benefits of standard therapy but
- 23 wants to receive investigational treatment with
- 24 Drug X instead. The patient is ineligible or
- 25 unable to participate in a clinical trial using

- 1 Drug X.
- When would single patient treatment with
- 3 Drug X be appropriate?
- 4 They would like us to discuss it in the
- 5 context of the drug's stage of development, the
- 6 level of efficacy and toxicity that would be
- 7 acceptable in the following standard therapy cases.
- 8 So, that is setting the scenario.
- 9 The first is there is no standard therapy
- 10 available, and essentially metastatic -- I guess you
- 11 mean extensive--non-small-cell lung cancer that has
- 12 received all available therapy.
- 13 I think that probably we need to talk
- 14 about what phase the drug is in, Phase I, Phase,
- 15 II, Phase III, as to when that would be
- 16 appropriate, so each of these.
- 17 The first would be Phase I. Would it be
- 18 appropriate for a patient to receive a Phase I drug
- 19 with non-small-cell lung cancer after all available
- 20 therapy has been exhausted?
- 21 Discussion from the committee?
- DR. WILLIAMS: Dr. Nerenstone, we are not
- 23 really asking for votes on these. We really would
- 24 just prefer to get discussion.
- DR. NERENSTONE: I will lead off. I would

- 1 say no. I think in any of these scenarios, a Phase
- 2 I drug is really not appropriate for widespread or
- 3 even limited single patient use. We have no idea
- 4 of the toxicity. How can you even do an informed
- 5 consent if you not only don't know the drug dose,
- 6 but have no idea of the toxicity.
- 7 So, I would say because of lack of data,
- 8 informed consent becomes meaningless and therefore,
- 9 the potential to do extraordinary harm remains
- 10 high, the benefit remains most likely very low.
- 11 So, I would say pretty much under no circumstances
- 12 do I think a Phase I drug should be given out for
- 13 single patient IND, single patient exemption.
- 14 Dr. Kelsen.
- DR. KELSEN: I agree. I was thinking
- 16 about this. If it is truly an experimental drug in
- 17 Phase I, it is not a combination of conventional
- 18 agents being used in a Phase I trial, which gets a
- 19 little tricky, so if I put that aside for a minute,
- 20 and it is really a new drug, you are at Level 2 or
- 21 Level 3, you have no idea of the toxicity, you have
- 22 only treated three or four patients, maybe up to
- 23 six, to provide that outside of a carefully,
- 24 carefully supervised trial would make me very
- 25 uneasy.

- DR. WILLIAMS: As a devil's advocate,
- 2 there is an informed consent in your Phase I trial,
- 3 and for that patient it is okay, but you are saying
- 4 since you don't have a controlled setting, that
- 5 would be another--
- 6 DR. KELSEN: Right, obviously. There is
- 7 two settings this happens in. You are the
- 8 investigator at the center doing the Phase I trial.
- 9 The patient is not eligible. The level is not
- 10 open, which is even more difficult, they are
- 11 eligible, but the level is not open.
- But you know very, very little about that
- 13 drug. That would make me very uneasy, make me
- 14 extremely uneasy. The patient is not at your
- 15 center. They read the PDQ. They understand there
- 16 is Drug X that is being studied in New York or
- 17 California or wherever, and they want to receive
- 18 that drug from a physician who is not even involved
- 19 in the study. I think that is really a bad idea.
- DR. NERENSTONE: Dr. Przepiorka.
- 21 DR. PRZEPIORKA: I would have to agree
- 22 that anything that has not been studied or is still
- 23 in Phase I or just completed Phase I and going to
- 24 Phase II, should not be used in a single individual
- 25 patient.

- I don't disagree with the terminology
- 2 "treatment IND." I think that pretty much says it
- 3 exactly the way we intend it to be. It is not a
- 4 single patient experiment. It is a single patient
- 5 treatment. So, in the interest of time, I would
- 6 actually suggest that we not even entertain Phase 0
- 7 or Phase I drugs in the rest of the scenarios.
- DR. NERENSTONE: Is that the feeling of
- 9 the committee? Mr. Erwin.
- 10 MR. ERWIN: I think it is useful to draw a
- 11 distinction between single patient exception and a
- 12 single patient IND, because that also addresses the
- 13 confidence of the investigator and the quality with
- 14 which that patient will be treated.
- DR. WILLIAMS: You are suggesting that it
- 16 might be acceptable at a Phase I center for someone
- 17 who didn't fit on the protocol, that they might
- 18 consider treating them off that protocol, is that
- 19 what you are suggesting?
- MR. ERWIN: Yes, that is my suggestion.
- DR. NERENSTONE: Why, I quess is my
- 22 question, why would you consider doing that?
- DR. KELSEN: We should be very careful
- 24 about that because the parameters for a Phase I
- 25 trial usually involve very small groups of people

- 1 at each level, and it is a very common scenario to
- 2 say, you know, you talked to me about Phase I
- 3 studies and you told me that you might be opening
- 4 another level, and it is not, but I did fit the
- 5 criteria and I want to go into that. I could
- 6 imagine that having a level of 20 people in no time
- 7 flat without really knowing all the side effects.
- 8 MR. ERWIN: I would agree that it requires
- 9 care, but in this case, a single patient exception
- 10 to the study, you have got the primary investigator
- 11 who is running the Phase I study, who may be the
- 12 physician involved. You have got the patient, you
- 13 have got the IRB. There are multiple levels of
- 14 decisionmaking in this case which have all gone
- 15 positive.
- 16 My suggestion is that you don't need
- 17 broader government involvement in that decision.
- 18 At that point, you have got enough competent people
- 19 who have said yes, I want to do it. It comes back
- 20 to that issue of patient autonomy.
- 21 DR. KELSEN: It implies that a patient can
- 22 say I understand that the study is not open, I
- 23 understand you don't know very much at all about
- 24 this drug, you have only treated the first few
- 25 patients, but I want you to treat me, and you could

- 1 have that situation, you could have a number of
- 2 patients who are requesting that therapy when you
- 3 know very little.
- 4 DR. TAYLOR: You don't have true informed
- 5 consent because your informed consent for the Phase
- 6 I trial says I am not doing this for a therapeutic
- 7 benefit, I am doing this to find the side effects,
- 8 and that is not the same as doing it for treatment.
- 9 The objectives of a Phase I trial are to
- 10 determine the MTD and the toxicity of that drug,
- 11 and by treating that patient off of the study, you
- 12 don't succeed in getting your objectives, and the
- 13 patient, in my opinion, is being treated with
- 14 something that therapeutically, has a very little
- 15 chance of responding, and they are not
- 16 understanding that.
- DR. SLEDGE: I can't accept that. You
- 18 have to differentiate between why we do Phase I
- 19 trials and why patients go on Phase I trials.
- DR. TAYLOR: I don't disagree, but I think
- 21 you still have to--
- 22 DR. SLEDGE: I mean the idea that a
- 23 patient goes on a Phase I trial without any hope of
- 24 therapeutic intent is ridiculous.
- DR. TAYLOR: And I don't do it without any

- 1 hope of therapeutic intent, but I think the
- 2 realities of it or the objectives of that trial are
- 3 not for therapeutic benefit at that point.
- 4 DR. SLEDGE: I am well aware that that is
- 5 your objective, it is not the patient's objective.
- DR. NERENSTONE: Dr. Redman.
- 7 DR. REDMAN: Basically, this is for Dr.
- 8 Kelsen with Mr. Erwin. Having reviewed off-site
- 9 Phase I trials, what you are suggesting, many
- 10 investigators have had their trials pulled for
- 11 doing that. It is inappropriate, it is unethical,
- 12 and not within the rights of the patient to demand
- 13 treatment on an investigational trial outside the
- 14 confines of that trial.
- We are talking about allowing Phase I. I
- 16 mean I can go all the way up to Phase III and say
- 17 no.
- DR. NERENSTONE: Dr. Albain.
- DR. ALBAIN: I think we have the real
- 20 potential of doing harm. That has been alluded to,
- 21 and we cannot allow patients in these early Phase I
- 22 trials that are designed very deliberately with
- 23 rigid eligibility criteria to protect the patient.
- We don't know the metabolism. You know,
- 25 the creatinine criteria may be very, very

- 1 appropriate, and you put someone on with a
- 2 creatinine of 2, you could kill them.
- 3 DR. NERENSTONE: I think that the FDA,
- 4 that the take-home message that I see is that there
- 5 may be a real division between the medical
- 6 community and the non-medical community over this
- 7 issue, and I do think that the medical community,
- 8 many of whom around this table have been involved
- 9 in Phase I research, is struck by how potentially
- 10 harmful this could be.
- 11 In our role as physician, someone pointed
- 12 out how research treating a group of people under
- 13 research and treating patients individually
- 14 sometimes come into conflict. Our fear is that in
- 15 this particular case, it is the physicians who are
- 16 worried about doing harm, and the non-physicians
- 17 who perhaps don't understand our fear of doing harm
- 18 to the extent that we are--I don't want to say
- 19 horrified at this idea--but certainly strongly
- 20 against Phase I drugs being released.
- 21 DR. WILLIAMS: I think that was a very
- 22 good discussion, and it will be useful.
- DR. NERENSTONE: Again, with the standard
- 24 patient with metastatic non-small-cell lung cancer,
- 25 what about a Phase II agent? Discussion.

- 1 DR. KELSEN: This is a little trickier
- 2 because this happens also a great deal where there
- 3 is an agent that is under study in a given disease
- 4 for which we now know perhaps a good bit about
- 5 toxicity. It may be a multicenter trial where
- 6 there is information from a number of
- 7 investigators, so that you have a better feel for
- 8 the dose and the schedule. You know it well enough
- 9 to go forward, and you are already beginning to see
- 10 preliminary activity.
- Now, you have made even maybe a
- 12 preliminary report in some meeting, not necessarily
- 13 an open meeting, which very rapidly begins to
- 14 disseminate, and you have a patient who has no
- options, would ordinarily be a candidate for the
- 16 study, but they have something that withholds from
- 17 the study, which is not felt to be a safety issue,
- 18 or the study, even worse, has now filled its
- 19 accrual in that particular center, and the patient
- 20 says, you know, I know that this drug is working in
- 21 22.5 percent of patients for Temple, and I would
- 22 like access to this agent in my disease for which
- 23 you have exhausted all the conventional options,
- 24 and we face that every day.
- DR. WILLIAMS: What about some patients

- 1 treated, but no activity, or just the first few
- 2 patients have been treated?
- 3 DR. KELSEN: I think that is very
- 4 important. So, even within Phase II, I guess the
- 5 suggestion is even within Phase II, there are
- 6 gradations as to when treating a patient with
- 7 single patient use, it becomes more reasonable and
- 8 less reasonable, and I agree with the implication
- 9 that I have treated three people, I haven't a clue.
- 10 DR. WILLIAMS: I would like to hear the
- 11 discussion. Is it just you need to know it is safe
- 12 based on Phase I, or is it that you have to show
- 13 some activity? Where do you find it reasonable or
- 14 not reasonable?
- DR. KELSEN: I am speaking personally for
- 16 myself. I have only treated a few patients, I have
- 17 no evidence of activity, what is the compelling
- 18 reason that we should use this agent in this
- 19 situation as opposed to the latter.
- 20 DR. WILLIAMS: It is a different question,
- 21 though. It is not whether you have compelling
- 22 reasons, you and FDA, you have come to work for us,
- 23 and you would say no if someone wanted to. When
- 24 should we say no, if there is no activity, should
- 25 we say no in Phase II, or should we say yes?

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DR. NERENSTONE: Dr. Redman.
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- 2 DR. REDMAN: I think if the FDA is willing
- 3 to approve a drug on Phase II data from 40
- 4 patients, I think the FDA should say fine, but if
- 5 you are not willing to approve the drug, I would
- 6 ask the medical members here how many agents that
- 7 have gone through Phase II trials or to Phase III
- 8 trials, have shown increased efficacy over and
- 9 above that in a Phase II trial?
- 10 I think it has always been the exact
- 11 opposite. It has always been in Phase III trials
- 12 where the efficacy has either maybe been
- 13 equivalent, but more likely has been less. So, I
- 14 think, again, even if we have an ASCO abstract from
- 15 the Phase II trial that suggests that there is a 25
- 16 percent response rate of an agent, that that still
- 17 does not require it to be given out on a
- 18 compassionate, single patient, however you want to
- 19 define it, unless the FDA is willing to say, gee,
- 20 based on that information, we will approve the
- 21 drug, we recommend approval of the drug.
- 22 DR. NERENSTONE: I see this as a little
- 23 bit more of a gray area, and I could see where
- 24 patient pressure and physician pressure could be
- 25 brought to bear after several, either one or

- 1 several encouraging Phase II studies are released.
- I agree, the likelihood that this patient
- 3 is going to benefit is indeed quite small, and I
- 4 think no matter what, that you still have to have
- 5 performance status criteria, and you probably have
- 6 to have end organ criteria, because treating
- 7 someone again with a bilirubin of 12 in a new drug
- 8 is very likely to be toxic, especially if we
- 9 haven't had a lot of experience with it, and you
- 10 can set up those end organ targets as to what would
- 11 be appropriate, but I think that later in Phase II,
- 12 when you actually have some published data, I would
- 13 make the argument that I could see at least the
- 14 potential of releasing that.
- 15 My feeling would be that you would try and
- 16 do it in open access because as soon as that kind
- 17 of data becomes available, especially for something
- 18 like small-cell lung cancer, it is not going to be
- 19 one or two patients who are interested in it, it is
- 20 going to be many patients who are interested in it.
- 21 Mr. Erwin.
- MR. ERWIN: I just wanted to add one
- 23 further perspective on that comment about
- 24 indications of effectiveness. The reality is that
- 25 a lot of times, particularly biotech companies,

- don't even go to Phase II unless they have some
- 2 indication of efficacy in Phase I.
- I know that that doesn't fit the
- 4 traditional and official criteria for Phase I, but
- 5 they use non-validated surrogates to get some
- 6 indication of efficacy before making that decision
- 7 to go forward. So, the Phase I, Phase II, Phase
- 8 III distinction in many respects is even less clear
- 9 when it is now possible for a Phase II trial to be
- 10 designed for and designated as pivotal.
- I think, again, my opinion comes back to
- 12 the individuals involved, the patient, the
- 13 physician, and particularly a clinical trial's
- 14 experienced physician making a decision about
- 15 possible benefit.
- DR. NERENSTONE: Dr. Spiegel.
- 17 DR. SPIEGEL: I would ask if Grant could
- 18 clarify the position the FDA is in. If we are
- 19 really talking about a drug that is in Phase II, I
- 20 would pose that nobody knows during that period
- 21 where you are.
- 22 If a company comes to the agency at an end
- 23 of Phase II meeting and lays out all of the single
- 24 study or all of multiple Phase II's, and then the
- 25 agency could say it has knowledge of a level of

- 1 activity, but if you are called about a drug by an
- 2 investigator, by a patient, who knows of one
- 3 anecdote that looked great, or I think the last
- 4 comment is very good, even if Phase I had a proof
- 5 of concept aspect to it and some biological
- 6 principle was confirmed in Phase I, into and end of
- 7 Phase II, you don't know what the true response
- 8 rate is.
- 9 So, I think you should be comfortable
- 10 saying we don't know where we are if someone
- 11 requests it during Phase II.
- DR. NERENSTONE: Dr. Temple.
- DR. TEMPLE: I guess I want to press you,
- 14 Stacy, on the practicalities here. What I heard
- 15 you suggesting is that until people are ready to
- 16 provide quite wide access, treatment IND or its
- 17 equivalent, then, it doesn't make much sense to
- 18 have individuals do it, but there are some
- 19 practical considerations.
- 20 Companies are not always ready to provide
- 21 wide access, but they like to use the, I don't
- 22 know, pressure-releasing ability of a few
- 23 individuals getting the drug in the situation where
- 24 conceivably, if asked, we might allow a treatment
- 25 protocol, but nobody has actually asked for one.

- 1 That raises all the questions of
- 2 unfairness and capriciousness and people being in
- 3 the know and all that. Do you have any further
- 4 thoughts? What you were suggesting I think was,
- 5 well, once you know enough to have anybody on these
- 6 things, you probably know enough to have a lot of
- 7 people on these things, but what about the
- 8 practicalities, should we be saying no until you
- 9 are ready to do it for everybody, it is not really
- 10 fair or equitable to do it for a couple of people?
- 11 What are your thoughts about that?
- DR. NERENSTONE: I think I was hoping in
- 13 the best of all situations, and I am very sensitive
- 14 to the fact that especially the smaller companies
- 15 are not going to have geared up and are not going
- 16 to be able to provide wide access, in the best of
- 17 all situations, especially with a lot of patients
- 18 with a disease like lung cancer, I just see this as
- 19 opening the flood gates, and you have to be
- 20 prepared for the flood gates to be opened.
- 21 Do I think we should absolutely prohibit
- 22 single patient treatment in later Phase II, if they
- 23 can't do that, no, I am not going to take that hard
- 24 a stance.
- DR. TEMPLE: Would you want it to be done

- 1 in some way that was fair even if limited? There
- 2 have been lotteries, for example, where a company
- 3 wasn't willing to do it for a million people.
- 4 DR. NERENSTONE: Absolutely, I think that
- 5 is exactly right. Then, you have to be prepared
- 6 for the flood gates to be opened, because I think
- 7 they will be, and I am not saying that that is
- 8 necessarily a good thing. I don't see it as a good
- 9 thing, but I think that is bowing to the realities.
- 10 Dr. Albain.
- 11 DR. ALBAIN: You actually just stated what
- 12 I was going to state, Stacy, that I we are in some
- 13 of these situations right now with some of the new
- 14 molecules and that the pivotal trials have
- 15 completed, and we don't have all the answers,
- 16 however, there have been abstracts presented in
- 17 national meetings, and the companies have come
- 18 forward with lotteries with expanded access
- 19 programs, and I think that is the place to refer
- 20 our patients to rather than going through the
- 21 cumbersome process of a single use situation.
- 22 Although we weren't asked specifically to
- 23 address that, that is why I said earlier that
- 24 having a rapid consensus nationally on how to mount
- 25 these trials, how to help some of these smaller

- 1 companies do these through perhaps a central
- 2 mechanism when they cannot mount them individually
- 3 would be very useful right now.
- 4 DR. NERENSTONE: Dr. Blayney.
- DR. BLAYNEY: I think I would support the
- 6 business of single patient exemptions, and I think
- 7 you ought to build that into your drug development
- 8 process. At the end of Phase I meetings, one of
- 9 the questions you might ask the sponsor is if this
- 10 really looks good, how do you propose a fair and
- 11 equal expanded access and at what point would you
- 12 feel comfortable doing that.
- 13 Some sponsors may have limited production
- 14 facilities, and that needs to be known in advance,
- 15 and I think it would give the agency, as well as
- 16 the sponsor, as well as the physicians and patients
- 17 who want access to these programs a better idea of
- 18 what the ground rules are going in.
- I think also, if I may say, there may be
- 20 some compelling biologic reasons that may emerge
- 21 that you may want to give expanded access if there
- 22 are peculiar molecular targets that either are
- 23 known in advance or known beforehand with
- 24 individual patients whose tumors demonstrate
- 25 potential susceptibility to these molecular

- 1 targets, you may want to build that into your
- 2 thinking, as well.
- 3 DR. WILLIAMS: Could I clarify the
- 4 rationale that several of you have expressed? I
- 5 very clearly understood during Phase I, it was a
- 6 patient safety issue, you didn't have the data on
- 7 patient safety, but in Phase II, we do have the
- 8 data on safety, and you are entering your patients
- 9 with the hope of seeing a response rate or
- 10 whatever, and now perhaps you have other patients
- 11 that don't fit on that.
- 12 A company comes to you and says we are
- 13 early in Phase II, but we have a patient here that
- 14 doesn't fit, we would like to treat him by special
- 15 exception use, and your rationale for not giving
- 16 that patient an investigation agent, if they want
- 17 to, if the company wants to, is what?
- DR. NERENSTONE: I think in early Phase
- 19 II, it is still a toxicity issue. You know, very
- 20 few patients have been treated on that, and so it
- 21 still could be much worse than placebo. So, the
- 22 idea of, well, doing no harm, I think is still an
- 23 issue here with early Phase II.
- Dr. George.
- DR. GEORGE: Actually, my comment is

- 1 related to that, and Dr. Williams' comment some,
- 2 and that is just to remind people that the
- 3 notorious unreliability of Phase I data, even with
- 4 respect to toxicity, these are very small studies
- 5 done with very restrictive eligibility criteria for
- 6 safety reasons, and then at the later stages, those
- 7 criteria change and just from a statistical point
- 8 of view, these studies are known to be very
- 9 reliable.
- 10 I have certainly been involved with a
- 11 number of Phase II and even Phase III studies where
- 12 we had to radically change dose and schedule
- 13 because of unexpected things.
- 14 So, you can't say that just because the
- 15 Phase I test is over, we know the toxicity, so
- 16 everything is okay about that, now, all we are
- 17 concerned about is efficacy.
- DR. NERENSTONE: Dr. Linden.
- DR. LINDEN: One argument I heard a little
- 20 while ago was that because Phase I--I am going back
- 21 to the Phase I question--because Phase I trials
- 22 have scientific objectives only, not treatment
- 23 objectives, under the scenario, treatment IND
- 24 requests should be denied, but Phase II or Phase
- 25 II/III trials also only have scientific objectives,

- 1 not treatment objectives.
- 2 So, there is a little bit of slippery
- 3 ground there in this group as to whether treatment
- 4 INDs should be permitted at all.
- 5 That is my comment.
- DR. NERENSTONE: I think most people would
- 7 say that Phase II studies where you are looking for
- 8 disease response is a surrogate endpoint for
- 9 patient benefit. You are perhaps right in that
- 10 that is an abstract concept that we have not yet
- 11 proven, but certainly the expectation is that tumor
- 12 response, which is what we are measuring, is going
- 13 to be correlated with symptom relief and more.
- So, I think that most of us who do
- 15 clinical trials would say that Phase II and Phase
- 16 III studies really do have patient benefit as a
- 17 goal of the treatment.
- DR. NERENSTONE: Dr. Przepiorka.
- 19 DR. PRZEPIORKA: I just wanted to address
- 20 two issues regarding the Phase II studies, and that
- 21 is if we go back to the terminology treatment IND,
- 22 if we are really going to treat the patient, then,
- 23 we really do need to know not only safety, but
- 24 efficacy, there is no question about that.
- 25 I just want to broaden something that Dr

- 1 Nerenstone said about having performance status
- 2 requirements for those sorts of treatment INDs and
- 3 that even when we pick up the journal and read
- 4 about a new drug that has come out, we have to read
- 5 the Method section to see who was the patient
- 6 population that was studied.
- 7 When we sit down with the patient, we have
- 8 to tell them the results based on whether or not
- 9 they fit those eligibility criteria, so I would
- 10 even suggest that for a treatment IND, the patient
- 11 has to actually fulfill the eligibility criteria
- 12 for the study from which the activity was shown.
- 13 Anything else is going to be a new study,
- 14 and as was pointed out, even in Phase I studies,
- 15 and Phase II studies, eligibility criteria have had
- 16 to be changed because of that, and if you come to
- 17 the single patient exemption question, you know, it
- 18 would be valuable data to find out whether or not
- 19 the safety of that drug in such a patient would be
- 20 of value, but it has to be done in a controlled
- 21 setting. That means another study. It has to be
- 22 done with more than one patient.
- DR. NERENSTONE: So, Donna, you are making
- 24 the safety argument that even Phase II data may not
- 25 be reliable enough to translate into a patient

- 1 treatment.
- DR. PRZEPIORKA: If the Phase II study is
- 3 completed, and we know the activity, we know the
- 4 safety, and we know the patient population, then, I
- 5 would say yes, that would be somebody who you would
- 6 give a treatment IND to while you are waiting for
- 7 Phase III or other progress and development, but if
- 8 you are still within the Phase II and you don't
- 9 have the results yet, then, no, there is no
- 10 indications to treat someone with that drug.
- 11 DR. NERENSTONE: Dr. Kelsen.
- 12 DR. KELSEN: I agree, the issues for Phase
- 13 I, first of all, all studies have scientific aims,
- 14 they have primary objectives and secondary
- 15 objectives. Most Phase I's or at least many Phase
- 16 I's, the secondary objective is to look the
- 17 therapeutic efficacy, but it is not the primary
- 18 objective, it is the secondary objective.
- 19 The primary objective of Phase II and III
- 20 is an efficacy objective. It is not a scientific
- 21 reason you are not treating people on Phase I for
- 22 the single patient use, it is really just safety.
- 23 You just don't know the right dosing schedule, and
- 24 you put the patient at risk.
- DR. NERENSTONE: Dr. Averbuch.

- DR. AVERBUCH: Mostly to respond to Dr.
- 2 Blayney's comments, and I think to echo some of the
- 3 last speaker's comments about it is only going to
- 4 be at the end of Phase II where we begin to have a
- 5 level of confidence about benefit-risk, and it will
- 6 depend on the drug, on the patient population, on
- 7 the trial design, but I think it is only at that
- 8 point by which you can begin to make judgments
- 9 about expanded access and whatever setting you
- 10 provide.
- 11 The other point I want to make, I think I
- 12 want to throw out a very extreme caution about
- 13 trying to have different rules for these
- 14 molecularly targeted, defined agents. I mean those
- 15 are still hypotheses, and I think we still are
- 16 bound by the principles of good clinical trials to
- 17 either satisfy or refute those hypotheses based on
- 18 clinical outcomes.
- 19 I mean the hypothesis existed that
- 20 specific antiarrhythmics would lead to improved
- 21 mortality in cardiovascular disease, and we know
- 22 the outcome of some of those trials. So, I think
- 23 we have to be very cautious about changing the
- 24 rules for those molecularly defined agents.
- DR. NERENSTONE: Dr. Temple.

DR. TEMPLE: I just want to observe that

- 2 what you are all saying is entirely consistent with
- 3 the rules of treatment IND. There has to be
- 4 reasonable evidence of effectiveness, obviously not
- 5 quite enough to get the drug marketed, but
- 6 something less than that, but still some, and there
- 7 is actually a slightly different expectation when
- 8 the disease being treated is fatal, which I guess
- 9 is the case here, and the rules suggest that it
- 10 will be very unusual to do that until the end of
- 11 Phase II or thereabouts where you have some
- 12 evidence, so what you are saying is quite
- 13 consistent with the current definitions.
- 14 DR. WILLIAMS: But not necessarily the
- 15 same as what has been done in, say, single patient
- 16 use.
- DR. TEMPLE: Well, no, that is right. I
- 18 thought what Dr. Nerenstone said earlier is that
- 19 one should think of single patient uses that aren't
- 20 to learn something, but to provide access as
- 21 roughly similar to being ready to allow for almost
- 22 everybody. That is what I heard before, which is
- 23 an interesting formulation.
- DR. NERENSTONE: Ms. Delaney.
- 25 MS. DELANEY: I would just like to say

- 1 something as a practical matter from the experience
- 2 that we have in our office, that while the focus of
- 3 our discussion is clearly advice to FDA and how we
- 4 should handle single patient INDs, our practical
- 5 roll up the sleeve experience with this is that
- 6 companies usually start by saying yes to single
- 7 patient INDs, and their entire, let's call it
- 8 compassionate use until we change it, the
- 9 compassionate use plan is unanticipated.
- 10 It is sort of like tumbleweed and it
- 11 starts to roll, and then panic sets in, and many
- 12 times also I think these are always good people
- 13 caught in a bad situation, but nobody wants to say
- 14 no to the patient, and so oftentimes companies will
- 15 refer patients even today inappropriately to us,
- 16 knowing that the answer is no, but we have to turn
- 17 them right back to the company and say this is a
- 18 decision of the company.
- 19 My request is that sponsors anticipate
- 20 this ahead of time. Think ahead what will the
- 21 triggers be to when they might consider a treatment
- 22 IND, when will they consider an expanded access
- 23 protocol, under what circumstances will you allow
- 24 single patient INDs, and not get the patients and
- 25 family members caught up in the phone calls back

1 and forth to FDA saying no, it is not our job, it's

- 2 the company's job. It is really very distressing
- 3 for people who are, for the most part, at the end
- 4 stage of their life.
- DR. NERENSTONE: Dr. Santana.
- 6 DR. SANTANA: One of the problems I have
- 7 with this whole discussion is--and I think it was
- 8 presented by one of the patient representatives
- 9 earlier in a letter--was that we are really talking
- 10 without having much data in front of us and we are
- 11 trying to make these rules, if that is what the FDA
- 12 wants us to advise them on, on how to put patients
- in these categories to allow this or not to happen
- 14 without really knowing what the real world is all
- 15 about.
- 16 It was triggered by Donna's comment in the
- 17 sense that for a patient to get one of these drugs
- 18 under the mantra that it is non-research, but it is
- 19 still investigational blah-blah, that they
- 20 have to meet some eligibility requirements that are
- 21 very similar to the patients that otherwise would
- 22 go on the Phase II study, but the reality is that I
- 23 bet you that a lot of these requests are because
- 24 patients do not meet the eligibility requirements
- 25 as stated in the protocol or for many other

- 1 reasons, that they may not have access, they live a
- 2 long distance, so we are dealing with a whole
- 3 heterogeneous set of reasons of what initiates the
- 4 process to request a practitioner or a patient or a
- 5 family to request these products, and now we are
- 6 setting a brand-new set of rules that, in essence,
- 7 will impede that process, if that is the goal of
- 8 the process.
- 9 So, one of the questions that I have--it
- 10 sounds like a little bit of a circular
- 11 argument--but one of the questions I have for the
- 12 FDA is when people request this, why are they
- 13 requesting it, what are the reasons, is it because
- 14 they are not meeting the eligibility criteria for
- 15 studies or because it is their last chance hope,
- 16 and they want to get a hand on anything, or is it
- 17 because they don't have access to the trial. I
- 18 mean what are the real reasons?
- 19 DR. WILLIAMS: I think all of those and
- 20 more, and we may not even be supplied with it in
- 21 that way.
- 22 DR. SANTANA: If that is true, then, we
- 23 have got to be very, very careful that we don't set
- 24 a set of rules to allow these special exemptions to
- 25 be approved.

DR. WILLIAMS: Actually, you have not been

- 2 asked to allow them. We are mostly interested in
- 3 when we would say no, because we do have that
- 4 responsibility, and clearly we do say no sometimes,
- 5 not that often, but we are interested in your
- 6 comments about not necessarily would you in various
- 7 circumstances, but what is the basis for why you
- 8 would say no, and I think it was pretty clear about
- 9 Phase I, the reason behind it.
- DR. SANTANA: Yes, for safety, I think
- 11 that is very true.
- DR. WILLIAMS: I would worry too much
- 13 about we are not going to take these and set rigid
- 14 rules based on a majority vote. That is why we are
- 15 not even having voting, but we would like to
- 16 understand your reasons and get your input, because
- 17 we have to make these decisions on basically a
- 18 daily basis, and we would like to have some input
- 19 from the committee.
- DR. NERENSTONE: Dr. Przepiorka, would you
- 21 like to respond to Dr. Santana?
- 22 DR. PRZEPIORKA: Yes. I would actually
- 23 not disagree totally with he said. I think there
- does have to be a mechanism available for patients
- 25 who do not fit eligibility criteria and therefore

- 1 would not be considered, quote, unquote,
- 2 "treatment," that is responding to the standard
- 3 regimen and the eligibility criteria that was used
- 4 to demonstrate activity.
- 5 This is where I think safety protocols in
- 6 the expanded access setting have to be set up
- 7 early, because most of the patients who will be
- 8 treated, will be treated outside the eligibility
- 9 criteria, and it is really important to get some of
- 10 that information available.
- I also want to address one comment that
- 12 Dr. Williams said earlier, which was that he
- doesn't believe that some of the things that we
- 14 were discussing earlier today were actually within
- 15 the purview of the FDA, and one of the things that
- 16 I am really concerned about is there is probably a
- 17 lot of data from expanded access protocols and
- 18 safety data, and information that we could possibly
- 19 draw some conclusions about who should or should
- 20 not be treated under these circumstances.
- 21 It is unfortunate that it is largely
- 22 probably all on archaic medium, so we can't really
- 23 access it very well, but I would hope that the FDA
- 24 would have a plan to actually get that formalized
- in the future, so that we could use that data to

- 1 make more reasonable conclusions.
- 2 DR. NERENSTONE: Dr. Linden.
- 3 DR. LINDEN: The discussion so far has
- 4 focused on the risk-benefit ratio and the toxicity
- 5 factor and the activity-benefit ratio, and we have
- 6 heard a lot today about the problematic use of the
- 7 word "compassion," and yet it is my understanding
- 8 that compassion is yet another element that needs
- 9 to be figured, that does need or may not need
- 10 depending on where you stand, to be figured into
- 11 this pot of elements that need to be taken into
- 12 account.
- 13 If that is so, if there is an element of
- 14 compassion in this mechanism, then, number one, I
- 15 would suggest that we not throw that term out of
- 16 our lexicon, but that that needs to be wed in some
- 17 way to these other factors because it is a
- 18 significant factor.
- DR. PAZDUR: Just to answer this question,
- 20 and Dr. Santana's question, when we looked at this
- 21 issue, the vast majority of reasons why people are
- 22 looking to go onto the single patient is because of
- 23 too many therapies. Basically, they are third,
- 24 fourth, fifth, sixth line therapies, and they are
- 25 looking for a treatment option here.

To answer Donna's question, one of the big

- 2 problems that we have is just the uncontrolled
- 3 nature of many of these expanded access, which
- 4 makes really scientific conclusions very difficult
- 5 to make. I assume she is referring to toxicity
- 6 considerations in this aspect.
- 7 Because of the uncontrolled nature here
- 8 and also the reporting many times of the
- 9 information, it is difficult to make a really
- 10 scientific conclusion.
- 11 DR. SANTANA: I hate to be simplistic, but
- 12 if the majority of the patients fit in this
- 13 category, then, maybe the clinical study should
- 14 have a strata of patients that defines that
- 15 subgroup. That may not be used in terms of the
- 16 analysis of the approval process, but certainly
- 17 would offer the clinical investigation to go
- 18 forward.
- 19 If that is a big part of the pie, I hate
- 20 to be simplistic, there may be a solution to that.
- DR. NERENSTONE: Dr. Temple.
- 22 DR. TEMPLE: I just want to totally agree
- 23 with that. There is no reason why the primary
- 24 efficacy analysis couldn't be done in the subset of
- 25 people who do have good performance status while

- 1 you maintain the other groups. I mean they are
- 2 already in the institution, it should be little
- 3 burden to include them, and you will get
- 4 information on what the drug is like in those, and
- 5 that is really an excellent idea.
- 6 DR. NERENSTONE: Dr. Spiegel.
- 7 DR. SPIEGEL: I wanted to respond to some
- 8 of the comments that particularly the FDA members
- 9 have contributed today, although I would resist Dr.
- 10 Temple's provocative question should the FDA demand
- 11 justice, I think we have enough trouble writing
- 12 guidances and rules for things that are better
- 13 understood than that. But I think it would be very
- 14 appropriate for the FDA either at the end of Phase
- 15 II, although usually we have a very limited time to
- 16 talk about other issues about how we are developing
- 17 the drug, but either in the context of that meeting
- 18 or when the first request comes in and an important
- 19 senator or somebody else has requested it, I think
- 20 it is appropriate for the FDA to ask us what are we
- 21 going to do with the next request.
- The other thing I would say is the FDA is
- 23 a wonderful source of good and bad experience to
- 24 share with sponsors. You can't divulge proprietary
- 25 information about other companies' products, but if

- 1 you have seen a very good ECAP program run, there
- 2 is no reason why you couldn't challenge either a
- 3 Big Pharma company that may have done things pretty
- 4 well, but could do them better or might have done
- 5 things lousy, or small companies that are here for
- 6 the first time, to say have you considered, instead
- 7 of an individual patient exemption, doing an
- 8 expanded access for 20 patients and see what
- 9 happens, or if you want to treat 200 patients, why
- 10 don't you do it under these types of mechanisms
- 11 that might help us all learn more about it.
- So, I would encourage the agency to feel
- 13 that it has the authority to have these discussions
- 14 with big or small companies, although I don't want
- 15 any rules.
- DR. NERENSTONE: Dr. Carpenter.
- 17 DR. CARPENTER: I think I wanted to
- 18 comment on compassion. It may be under-rated, but
- 19 I think a number of the physicians in the field
- 20 also feel a certain amount of compassion toward
- 21 this group of patients, but feel very much on the
- 22 spot when they get requests in people whose organ
- 23 performance is bad or performance is bad where you
- 24 wouldn't give more standard treatment because there
- 25 is almost no real chance of benefit, then being

- 1 asked to give an experimental drug with a lot less
- 2 knowledge and a lot more uncertainty to the same
- 3 person.
- 4 So, the idea of some very general
- 5 guidelines about organ performance and performance
- 6 status, to give a person a realistic idea about the
- 7 chance of improving on anything, much less the
- 8 experimental drug, could well be part of the
- 9 process at some point, and I don't know whether the
- 10 FDA would want to say that for certain people this
- 11 could be done, but really don't feel it's in usual
- 12 guidelines of good practice. There is that person,
- 13 and there are some who simply exhausted the usual
- 14 things, does have good organ function and
- 15 performance, for whom a promising new drug that is
- 16 not yet widely available might be a very reasonable
- 17 option. It is getting some balance in that, that I
- 18 think that we are chasing issues.
- DR. NERENSTONE: Mr. Erwin.
- 20 MR. ERWIN: I think these last few
- 21 comments have been extremely good, and one in
- 22 particular regarding inclusion of nontraditional
- 23 patient groups in clinical trials, all of those
- 24 patients for which people legitimately express
- 25 concern about safety will ultimately be treated

- 1 once the drug is approved for marketing.
- 2 The more insight that can be gained into
- 3 those populations early, the better, I would say,
- 4 and it gets back to the whole question of what
- 5 quality information do we have in this discussion,
- 6 how many patients, if any, have ever actually
- 7 received a survival benefit from individual access
- 8 to a Phase II, Phase I, Phase III drug, how many
- 9 patients, if any, have ever actually been harmed by
- 10 that access, how does that compare to what happens
- 11 after marketing approval is granted.
- 12 You know, there is a lot of information
- 13 that is probably out there that we haven't compiled
- 14 into a systematic way to help in these sorts of
- 15 debates, and it keeps coming up over and over
- 16 again, you know, access to god quality information,
- 17 a retrospective analysis that could be very helpful
- 18 through some mechanism.
- 19 DR. NERENSTONE: I suspect that that data
- 20 does not currently exist, nor is it retrievable on
- 21 the basis of discussions with FDA with single
- 22 patient exemptions as it now operates.
- DR. PAZDUR: Plus many of these trials are
- 24 single arm, so it is going to be hard to determine
- 25 any survival benefit from any single-arm study.

- DR. TAYLOR: Right, and the reason we are
- 2 doing the trials, and the reason that they have
- 3 strict criteria is to try to get good data and to
- 4 get good scientific answers, and I guess I am going
- 5 to show my age, but many years ago there weren't
- 6 the restrictions on treatment that there currently
- 7 are when we put people on investigational trials,
- 8 and what we have learned were those patients who
- 9 had had multiple treatments didn't respond. In
- 10 fact, the statistic I was taught was that after
- 11 each treatment, your chance of responding drops by
- 12 20 percent.
- 13 So, we have done that before. I am not
- 14 opposed to it. I have a lot less problem giving
- 15 Phase II agents out in this individual basis, but I
- 16 think that to criticize our trials, the reason they
- 17 have been developed that way was to try to give a
- 18 fair answer about a particular drug or a particular
- 19 treatment, so that a patient would know it.
- I don't also agree that I would
- 21 necessarily, if that drug were on the market, give
- 22 it to a patient, because I think part of compassion
- 23 is to tell them when they are wasting their time
- 24 and their money.
- 25 If you have had four treatments for

- 1 non-small-cell carcinoma of the lung, you are
- 2 wasting your time and your money to do another one,
- 3 and if you can say that there is a benefit to
- 4 society because I am going to be on a Phase I trial
- 5 or there is a benefit in some other way, that's
- 6 fine, but I am not sure it is compassionate when I
- 7 have people coming back and forth for blood counts
- 8 and CT's and spending that time for something that
- 9 I have pretty good evidence it is not going to work
- 10 because they have had four prior treatments.
- 11 DR. NERENSTONE: Dr. Linden.
- DR. LINDEN: Hypothetically, what if a
- 13 study were commenced today to look at outcome
- 14 measures for patients who are granted treatment
- 15 INDs, and a second study on expanded access, and
- 16 what if it were learned that the outcomes are
- 17 virtually, unilaterally poor for both kinds of
- 18 studies, and there is anecdotal evidence and more
- 19 than anecdotal evidence, as Dr. Taylor just
- 20 suggested, that people do rather poorly on
- 21 treatment INDs because they come to them so late,
- 22 because they have received so much pretreatment, et
- 23 cetera?
- If we are talking about safety, that is
- 25 one matter, but if we are talking about activity

- 1 and efficacy, if there is no efficacy, is that a
- 2 basis for--and I am speaking in late Phase II
- 3 trials, for drugs that are in late Phase II
- 4 trials--is that a basis for eliminating this
- 5 mechanism? I am just asking this as question to
- 6 try to help us focus on what our justifications or
- 7 criteria are.
- DR. NERENSTONE: I guess you are asking if
- 9 we already know that the response rate is zero, do
- 10 we as physicians, who are trained ostensibly as
- 11 scientists, have the right to refuse treatment to a
- 12 patient, and I would say yes. I would say I don't
- 13 like including the word "compassion," because I
- 14 don't think that that is appropriate for us to be
- 15 talking about.
- 16 I think the compassion that we show our
- 17 patients is at the individual level. I think we
- 18 have to set quidelines, and oncology likes to think
- 19 itself as being a part of evidence-based medicine,
- 20 and just as physicians have too long given
- 21 antibiotics for patients who walk in the door with
- 22 a viral infection and said, oh, the patient wants
- 23 it, and therefore they should get it, I think it is
- 24 asking us to throw out all of our medical training
- 25 to say we should be giving patients, and as I said,

- 1 it is not placebo, it is worse than placebo,
- 2 because these are toxic medications, but even if it
- 3 weren't toxic, should we be giving them medications
- 4 that we know don't work because the patients are
- 5 demanding it.
- I would say no, as a licensed physician,
- 7 that is irresponsible and unethical because I know
- 8 from a science-based point of view that it is not
- 9 going to work. So, I would say yes, we have a
- 10 responsibility to tell patients no, that you should
- 11 not be getting this drug.
- 12 DR. TEMPLE: Some of the suggestions that
- 13 we might learn more from this experience are I
- 14 think unlikely to be fruitful because they are
- 15 uniformly uncontrolled in a population that is
- 16 typically not terribly well defined, so that
- 17 getting survival data, I think is going to be very
- 18 difficult.
- 19 This sort of violates Grant's law, but I
- 20 just want to throw out one thought that hasn't come
- 21 up much, which is the possibility that some forms
- 22 of expanded access could actually be done in the
- 23 form of large, simple trials--that was on Grant's
- 24 slide--especially if the likelihood of benefit is
- 25 modest, that is, you are talking about people who

- 1 have failed multiple therapies, then, you really
- 2 have to wonder what you are going to accomplish.
- 3 There is no requirement that treatment
- 4 INDs and their like not provide useful data, it is
- 5 just works out that way. So, there is the
- 6 possibility of actually randomizing. There is at
- 7 least one AIDS trial that randomized between two
- 8 doses. There are very few similar examples, but
- 9 that is another possibility, that the right form
- 10 for wider access to take in people might be one
- 11 that actually provides information of a somewhat
- 12 different kind from what we are used to, not
- 13 focusing so much on tumor size and things like
- 14 that, but on things like survival outcomes, which
- 15 would need large numbers and might support wider
- 16 access, and might actually be economically feasible
- 17 for companies, as well.
- 18 It is worth throwing into the mix although
- 19 it doesn't get to Grant's main problem, which is
- 20 single patient.
- DR. NERENSTONE: Grant, do you want us to
- 22 go back to the questions?
- DR. WILLIAMS: Let's see, how many more do
- 24 we have? Fifteen minutes.
- DR. NERENSTONE: We are still on A. There

- 1 is no standard therapy. How about Phase III
- 2 trials? The drug is already in Phase III trials.
- 3 Should the patient be able to have a single patient
- 4 exemption? Have we beaten that to death? I think
- 5 the general consensus is that would be okay.
- 6 DR. REDMAN: I disagree for the record.
- 7 DR. NERENSTONE: B. Available treatment
- 8 shows a marginal survival benefit. Non-metastatic
- 9 lung cancer, 1 to 2-month median survival, produces
- 10 moderate toxicity. Should they be able to
- 11 get--Phase I, we have sort of talked about, Phase
- 12 II or Phase III? I don't think it is really a big
- 13 different discussion actually than we have already
- 14 had.
- 15 DR. WILLIAMS: It is because we are no
- 16 longer talking about whether they have used all
- 17 available therapies. Here, we are saying available
- 18 therapy has 1 to 2 month survival benefit. What
- 19 would you have to see in a drug to allow you to
- 20 substitute it for that, or does it even play into
- 21 your consideration?
- DR. NERENSTONE: Dr. Albain.
- DR. ALBAIN: I guess I would ask you,
- 24 Grant, at least we have numerous in untreated
- 25 metastatic non-small-cell trials that have shown an

- 1 improved survival benefit, not just measured in
- 2 median, but we are talking about significant 1- and
- 3 2-year survival benefit, and quality of life
- 4 benefit versus best supportive care.
- 5 These trials have been conducted in
- 6 Canada, the United States, and Europe, so that I
- 7 would personally have a problem making a broad
- 8 statement that one could allow someone to go off
- 9 onto experimental therapy when you had standard
- 10 therapies that not only improve survival, but
- 11 improve quality of life, and that is where the
- 12 education of the patient comes back in, and the
- 13 public, on what can be achieved in this disease.
- 14 DR. WILLIAMS: That is this agent is
- 15 nontoxic, it seems to be relatively nontoxic, let's
- 16 say, and has a response rate. Would you allow it
- 17 or not?
- 18 DR. ALBAIN: Right now I thought we were
- 19 talking about Phase I.
- DR. NERENSTONE: No, we are moving to end
- 21 of Phase II.
- DR. WILLIAMS: Where would you draw the
- 23 line, what amount of efficacy or proven efficacy or
- 24 toxicity of this drug, in what setting would you
- 25 allow it, or would you never allow it?

- 1 DR. ALBAIN: I think I would work very
- 2 hard first to educate the patient and the family
- 3 about what we can achieve with standard therapy in
- 4 this scenario where not only do we know that we
- 5 have an improved statistical survival benefit, but
- 6 we have quality of life data over and over now that
- 7 is compelling, that it is better with treatment.
- DR. NERENSTONE: Dr. Taylor.
- 9 DR. TAYLOR: I would disagree a little
- 10 bit. I would say that in this setting, I would not
- 11 be opposed to giving them a Phase II agent because
- 12 I don't have a curative treatment, and it is a very
- 13 small group of patients that gain that benefit. I
- 14 don't disagree that because there is something
- 15 standard available, that that shouldn't be brought
- 16 up to them as one way of doing it, but I have no
- 17 problem with giving Phase II agents to patients
- 18 with non-small-cell lung cancer.
- DR. NERENSTONE: But remember off study.
- Dr. Sledge.
- 21 DR. SLEDGE: This actually is an area
- 22 where we have a little data, actually from your
- 23 group, Kathy, in breast cancer, where there was
- 24 several years ago a randomized trial in breast
- 25 cancer between novel Phase II agents--

DR. ALBAIN: It was not my group, it was

- 2 the CALGB.
- 3 DR. SLEDGE: --CALGB--between novel Phase
- 4 II agents and standard therapy.
- 5 That trial was done with very strict
- 6 criteria, which is if you progressed after a couple
- 7 of cycles of therapy on the nonstandard regimen,
- 8 you went to the standard regimen, but there was
- 9 identical survival between the two groups.
- 10 It is hard for me to imagine that if you
- 11 had it under that sort of carefully controlled sort
- of setting, that it would be a danger. The real
- 13 danger, of course, comes up due to the fact that
- 14 most of these settings are not carefully
- 15 controlled.
- DR. WILLIAMS: George, that was with
- 17 progression, going off study if you did not
- 18 respond?
- DR. SLEDGE: Correct. My recollection of
- 20 the trial was if you got two cycles, six weeks, 10
- 21 weeks of therapy, and had evidence of progressive
- 22 disease, you immediately crossed over to the
- 23 standard therapy.
- 24 There was identical survival between the
- 25 two arms.

DR. WILLIAMS: How large was the trial, do

- 2 you know?
- 3 DR. SLEDGE: It was actually a set of
- 4 rotating Phase II trials compared to a standard
- 5 arm. It was a fairly large database.
- DR. ALBAIN: I was not disagreeing, Sarah,
- 7 with offering this end of Phase II investigational
- 8 drug, but my concern would be if that was a broad
- 9 policy, that some patients would not derive the
- 10 benefit of quality survival for 1 to 2 years with
- 11 extensive small-cell, and to go back to Dr.
- 12 Sledge's point, we don't have that data from that
- 13 breast trial available in extensive non-small-cell
- 14 lung cancer now that we have therapies that can
- 15 improve quality of life in the standard setting,
- 16 although one could argue the breast standard agents
- 17 did do that, so it's a good point.
- 18 But I think it is education. I would be
- 19 very nervous about letting a message get out that
- 20 this is an appropriate setting when we have worked
- 21 so hard to educate the lay community about what we
- 22 can achieve for lung cancer survivorship.
- DR. NERENSTONE: I think that is a very
- 24 important point because I think all of these
- 25 scenarios are when the FDA is approached with this

- 1 problem. That is not to say this is something that
- 2 we advocate as treatment at all, and I think that
- 3 is a very important tenet, to make sure everybody
- 4 understands, because this is going to be
- 5 disseminated widely and this is for the patient who
- 6 has decided after a lot of counseling with their
- 7 private physician why this is probably not a great
- 8 idea and insists on it anyway.
- 9 DR. NERENSTONE: Dr. Carpenter, did you
- 10 want to add anything?
- DR. CARPENTER: No.
- DR. NERENSTONE: Dr. Blayney.
- 13 DR. BLAYNEY: I would be reluctant to
- 14 advise the FDA to allow a single patient exemption
- 15 at the end of a Phase II, I think in this setting,
- 16 because I think it may jeopardize further drug
- 17 development both because of accrual to clinical
- 18 trials and it may uncover some toxicity that would
- 19 take some time to explain and impede the timely
- 20 development of a potentially rational and useful
- 21 therapy.
- DR. NERENSTONE: If we can go on then to
- 23 the third scenario. Standard therapy provides a
- 24 substantial prolongation of median survival. That
- 25 is a patient with advanced ovarian cancer, 1 to 2

- 1 year median survival benefit, but is generally not
- 2 curative.
- I would be happy to start this
- 4 conversation. I would find it very difficult to
- 5 approve someone who is not going to take standard
- 6 treatment, which in general is not
- 7 life-threatening, does not have prolonged severe
- 8 permanent side effects, and instead, wants to use a
- 9 single patient exemption for a drug that is in
- 10 Phase II where we have no idea of its activity and
- 11 its survival benefit or even duration of median
- 12 response benefit as a single agent.
- 13 So, I would be hard pressed to think that
- 14 this is a good idea.
- MR. ERWIN: I agree with you this time.
- [Laughter.]
- DR. ALBAIN: Stacy, what do you say if it
- is in Phase III, though, what is your reply?
- 19 DR. NERENSTONE: Single agent treatment is
- 20 not a standard in the United States, and I would be
- 21 hard pressed to think that a single agent is going
- 22 to be better or even the same as our current
- 23 upfront treatments.
- So, usually, when you are talking about
- 25 Phase III, it is in combination with something else

- 1 by the time it gets to Phase III, so as a single
- 2 agent, I don't see the scenario where that would be
- 3 appropriate.
- 4 DR. WILLIAMS: So, you would like to see
- 5 results from the randomized trial showing a similar
- 6 sort of outcome.
- 7 DR. ALBAIN: The reason I jumped to that,
- 8 as we all know, the new agents, the small molecules
- 9 are going from Stage 1, quasi-Phase II, and
- 10 oftentimes not a true Phase II trial, into Phase
- 11 III, leapfrogging, so that I don't know that we
- 12 want to give the message that we are all saying
- 13 that Phase III trials, if it is out there, that we
- 14 could go ahead and justify, so I wouldn't in this
- 15 situation.
- 16 DR. KELSEN: It does get a little muddier
- 17 when you have a study--I will disagree with you on
- 18 that--when we have a Phase III or a Phase II trial,
- 19 we have an experimental drug plus conventional
- 20 therapy in some of these settings, so what they are
- 21 saying is, oh, well, I have this small molecule,
- 22 monoclonal antibody, and it is being used in
- 23 combination with proven, approved, approved for
- 24 that indication chemotherapy, but I don't fit
- 25 entrance criteria into the study, and I would like

- 1 to get that drug. That makes it a harder decision.
- The easier decision for me is the patient
- 3 perfectly fits criteria for the trial, but says I
- 4 don't want to be randomized to that arm. As soon
- 5 as you do that, then, it would be very hard to do
- 6 Phase III trials.
- 7 DR. NERENSTONE: I think, though, that
- 8 that is the problem. When you start allowing that
- 9 drug to be given out as the adjunct, you will
- 10 completely shut down your clinical trials, and
- 11 again, these are molecules not without very high
- 12 cost, some toxicity, and you are going to get into
- 13 the same problem you had with the bone marrow
- 14 transplant situation, which is everybody got it, no
- one went on to study, and you never knew what the
- 16 real answer was to your question.
- DR. KELSEN: I agree with you. I am just
- 18 saying it's an even trickier situation.
- DR. NERENSTONE: Dr. Przepiorka.
- DR. PRZEPIORKA: Just to underscore that,
- 21 I think if you are writing rules for yourself, one
- 22 rule to say no is patient is eligible for a study.
- 23 Then, they should not be under treatment IND.
- DR. NERENSTONE: Dr. Linden.
- DR. LINDEN: And that is precisely part of

- 1 the regs, that is written in stone. If the person
- 2 is eligible for a trial, they are not eligible for
- 3 treatment IND or expanded access.
- 4 DR. WILLIAMS: It may or may not say that
- 5 for treatment IND, but it doesn't even cover
- 6 expanded access. I mean some of these practices,
- 7 there really aren't regs for at this time.
- 8 DR. LINDEN: Well, treatment IND.
- 9 DR. WILLIAMS: Right.
- DR. TEMPLE: Actually, it says that we can
- 11 stop a trial that is interfering with the
- 12 randomized trials. It doesn't actually say that
- 13 they can't both coexist. Maybe it could, but it
- 14 doesn't.
- DR. BLAYNEY: I think, Grant, you also
- 16 raised the issue if the drug is nontoxic or very
- 17 close to being nontoxic, I think the response to
- 18 that is we don't, if it's nontoxic, it is likely
- 19 that the pivotal trial or the licensing trial will
- 20 move along and accrue very quickly, and you can, by
- 21 granting a single patient exemption, you can
- 22 perhaps impede that, and you don't want to impede
- 23 the completion of the pivotal trial, so I think you
- 24 also have an easy answer even if the drug has zero
- 25 toxicity.

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DR. NERENSTONE: Moving on to the next
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- 2 question, then. The standard therapy provides a
- 3 substantial rate of cure. The example is a patient
- 4 with acute leukemia who does not want to receive
- 5 chemotherapy that is associated with a 40 percent
- 6 rate of cure with substantial acute toxicity, but
- 7 that produces few lasting toxic effects.
- 8 Would some of our leukemia doctors like to
- 9 comment?
- 10 DR. SLEDGE: How about if the leukemia was
- 11 CML?
- 12 [Laughter.]
- DR. WILLIAMS: George, you have been
- 14 wanting to say something.
- DR. SLEDGE: What I am asking is the
- 16 obvious question. I mean we have a drug that
- 17 basically was approved on a Phase I and early Phase
- 18 II trial basis. We have a disease where we have a
- 19 proven long-term cure rate with albeit a very toxic
- 20 therapy. The ethical considerations must have
- 21 entered into your approval process.
- DR. WILLIAMS: It wasn't approved for
- 23 initial therapy.
- DR. SLEDGE: But you know darn well what
- 25 it is going to be used for.

1 DR. NERENSTONE: Other comments from the

- 2 committee?
- 3 DR. WILLIAMS: George is unhappy we didn't
- 4 bring it to the committee.
- DR. BLAYNEY: What I said three minutes
- 6 ago applied to that, and that is approved for
- 7 principle. If it is a relatively nontoxic drug,
- 8 the trial was done very quickly, and you didn't
- 9 need this individual, a single agent exemption, and
- 10 fortunately, the company was responsive and had an
- 11 expanded access program in place, so that is
- 12 exactly what is approved for principle, that is why
- 13 you don't need the single patient exemption for
- 14 such a home run, a nontoxic home run.
- DR. NERENSTONE: Dr. Przepiorka.
- 16 DR. PRZEPIORKA: I think perhaps a more
- 17 germane example would be the alternative drug for a
- 18 treatment IND is one that has no cure rate, but a
- 19 lot less toxicity and perhaps can just keep things
- 20 under control for an extended period of time.
- 21 I think there you have to start weighing
- 22 the risk and the benefit if the patient really and
- 23 truly says no, I don't want toxic therapy, period,
- 24 which patients can do especially elderly patients.
- 25 Then, the question is what do we benefit from the

- 1 investigational drug, and if the investigational
- 2 drug has shown efficacy or rather has not shown any
- 3 safety problems and does keep things under control
- 4 for a period of time, then, this may be something
- 5 that we are going towards palliative care.
- 6 So, it may be appropriate for a treatment
- 7 IND for a palliative care setting, but if this is
- 8 another drug that doesn't have a good cure rate,
- 9 and we are really not too sure whether it has any
- 10 efficacy at all, then, I would say no, there is no
- 11 reason to give something to the patient that
- doesn't harm him, but we really don't know if it is
- 13 going to help him either.
- 14 DR. NERENSTONE: So, you are saying there
- 15 has to be some clue of efficacy even in this
- 16 situation.
- 17 DR. PRZEPIORKA: Yes.
- DR. SPIEGEL: I am just curious on that
- 19 last comment, what you are accepting as evidence of
- 20 efficacy. At the end of Phase II, we have
- 21 activity. We sometimes call it efficacy, but we
- 22 usually think only at the end of Phase III, where
- 23 you have compared it to a standard therapy and
- 24 showed long-term benefit of some type, it could be
- 25 quality of life benefit, not just survival.

But at the end of Phase II, you know you

- 2 have activity unless you have CML with Philadelphia
- 3 chromosome disappearing, you usually don't really
- 4 have that much confidence that whatever you saw as
- 5 a response is sustainable and better than standard
- 6 therapy.
- 7 DR. PRZEPIORKA: That is a very good
- 8 guestion, and I would actually like to turf that to
- 9 Dr. Taylor. If you have a patient, an elderly
- 10 patient with leukemia who really doesn't want to
- 11 undergo toxic therapy, how much activity would you
- 12 look for to give him something palliative?
- DR. TAYLOR: I don't know that I think I
- 14 have to give him some anti-cancer treatment to
- 15 palliate him, and I think you have to decide that
- 16 with the patient whether it is going to be
- 17 palliation with symptom management, pain control,
- 18 nausea control, or whether you are truly going to
- 19 try to palliate in terms of lowering white counts
- 20 and lowering the complications of that disease. I
- 21 think palliation can be done either way, and it is
- 22 going to be dependent upon that patient and what
- 23 their goals are. I think they have to determine
- their own goals, and some of them choose, their
- 25 goals are just to be comfortable, and others want

- 1 to try some less than aggressive treatment.
- In that setting, I don't know that I have
- 3 to have great response for efficacy data if I have
- 4 good toxicity profile and which I am not going to
- 5 aggravate my palliation.
- 6 DR. NERENSTONE: I guess the question is,
- 7 if you don't need any efficacy data, and it is a
- 8 drug that hasn't been studied in the leukemia, but
- 9 it has very low toxicity, is it reasonable to have
- 10 that patient call up and say I want that drug, and
- 11 essentially tell you what to give them, because it
- 12 is not toxic?
- 13 DR. TAYLOR: Well, I quess the practical
- 14 part says I rarely have that happen, that when
- 15 someone has chosen that they don't want to be
- 16 aggressive, I don't have them asking for new
- 17 agents.
- 18 DR. NERENSTONE: But they do, the FDA
- 19 does.
- DR. TAYLOR: But is it in the setting
- 21 where they have really chosen to not be aggressive?
- 22 DR. WILLIAMS: This specific question was
- 23 set up. We have a few examples where people have
- 24 very good curative treatment, we are not talking
- that person who really doesn't have good option,

- 1 really do have curative treatment, they don't want
- 2 it. They want investigational drug, and we have
- 3 felt that going along with that was not in the
- 4 patient's best interest, and there has been
- 5 autonomy issues.
- DR. TAYLOR: I agree with you on the
- 7 autonomy, but I guess what I was hearing is I have
- 8 an elderly patient, I am sorry, I don't like the
- 9 response to acute leukemia treatment in elderly
- 10 patients, they don't do well, so that is a little
- 11 bit different.
- 12 DR. WILLIAMS: But that is a different
- 13 value judgment, a little farther on down the line
- 14 toward the lung cancer, I would say, or even before
- 15 that. The answer to this is probably pretty
- 16 obvious, even what you said with ovarian cancer, I
- 17 mean this is even higher level of benefit that
- 18 someone might be deciding they don't want, because
- 19 they want this new treatment.
- DR. NERENSTONE: What I would say is that
- 21 somebody who has a treatable pneumonia, but they
- 22 want echinacea, and they want you to prescribe it,
- 23 and I would say no, I am a doctor, I prescribe
- 24 antibiotics, that is the appropriate treatment.
- 25 You can't get echinacea from me.

DR. TAYLOR: Right, and if this is a young

- 2 person who has no reason for avoiding his acute
- 3 leukemia treatment, then, I agree, I would not want
- 4 to go with any.
- DR. NERENSTONE: Dr. Blayney.
- 6 DR. BLAYNEY: There are plenty of other
- 7 nonexperimental alternatives for that person,
- 8 prednisone, or whatever fits into their value
- 9 system, but I was also going to go the CML one step
- 10 further, that if hidrea was the experimental agent,
- 11 it is nontoxic, it is largely palliative, I think
- 12 that is a reasonable palliative maneuver.
- But anyway, to your specific example,
- 14 there are plenty of non-IND requiring agents to
- 15 mistreat acute leukemia.
- [Laughter.]
- DR. NERENSTONE: Do we need to go to E?
- DR. WILLIAMS: No.
- DR. NERENSTONE: You get the general
- 20 sentiment.
- 21 Question 2. As noted above, the FDA
- 22 strongly endorses participation in clinical trials.
- 23 Patients should first consider entering a clinical
- 24 trial before pursuing treatment under a single
- 25 patient IND. If a patient is eligible and able to

- 1 receive Drug X as part of a clinical trial, but is
- 2 unwilling to do so, should that patient be allowed
- 3 to receive Drug X under a single patient IND?
- 4 Again, we have answered that. No is the
- 5 sentiment I think of the committee.
- 6 Mr. Erwin?
- 7 MR. ERWIN: I definitely agree the answer
- 8 should be no, but as a separate topic, I think
- 9 there needs to be consideration of how and when to
- 10 use crossover provisions in clinical trials. I
- 11 think that that can definitely accelerate accrual
- 12 and for the right agents and the right clinical
- 13 trial design. It doesn't have to interfere with
- 14 getting efficacy data.
- DR. NERENSTONE: Question 3. If FDA has
- 16 sufficient evidence to conclude that a drug is
- 17 ineffective for treatment of a particular cancer,
- 18 discuss under what circumstances, if any, single
- 19 patient treatment use should be permitted.
- 20 You know how I feel about this, though. I
- 21 will open it up to the committee.
- 22 DR. TAYLOR: I agree, it should not be
- 23 used.
- DR. NERENSTONE: Any other comments?
- Do you feel that you have gotten what you

- 1 need?
- 2 DR. WILLIAMS: Yes, very much. Let me
- 3 just ask one question. There was a lot of
- 4 discussion about whether we should have a consensus
- 5 conference, who should be involved, et cetera. I
- 6 would just like to hear a little discussion about
- 7 where should we go in trying to move forward the
- 8 discussions about the justice of how to do these
- 9 programs.
- 10 We have talked about when you shouldn't,
- 11 when FDA should say no, but is there maybe a
- 12 different level for the industry and the community
- 13 when should it be provided, and how should it be
- 14 provided.
- What do you think about how we should go
- 16 forward, who should be involved?
- 17 DR. NERENSTONE: Dr. Albain.
- 18 DR. ALBAIN: Grant, I just want to make
- 19 clear that we have been saying a lot of no's for
- 20 the single patient query to you, but I don't think
- 21 we have been saying no's to proper design of
- 22 expanded access programs or treatment IND programs,
- 23 that the companies can start planning very early in
- 24 their process of drug development as we are into
- 25 this exciting era of small molecules.

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1 I think the time is ripe to have dialogue
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- 2 about that issue at a national level.
- 3 MR. DIXON: I think, by and large, the
- 4 advocacy community would very much welcome a
- 5 consensus conference on this. The community itself
- 6 does not speak with one voice, and even more reason
- 7 why a consensus conference would be beneficial for
- 8 all of us.
- 9 DR. PAZDUR: We had entertained, and we
- 10 will be talking to people from the NCI, ASCO,
- 11 advocacy in general, and industry, PhRMA, to bring
- 12 this together, because we really think that this
- 13 needs further really voicing and looking at where
- 14 we would go with this whole topic.
- DR. NERENSTONE: If there are no further
- 16 comments, thank you, everybody, for that discussion
- 17 and we will re-adjourn at 1 o'clock. This is a
- 18 closed session only, so it is just the committee
- 19 members and FDA.
- Thank you.
- 21 [Whereupon, at 12:10 p.m., the Open
- 22 Session adjourned.]
- 23 - -

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