99N-1174

THE AMERICAN DIETETIC ASSOCIATION
216 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60606-6995
312/899-0040

DIVISION OF GOVERNMENT AFFAIRS
1225 EYE STREET, NW #1250
WASHINGTON, DC 20005
202/371-0500

Public Meeting
Center for Food Safety and Applied Nutrition
The Food and Drug Administration
Regulation of Dietary Supplements
Statement of the American Dietetic Association
June 8, 1999

Provided by
Tracy A. Fox, MPH, RD
Senior Federal Regulatory Manager
Division of Government Affairs
Washington, DC

Good morning. My name is Tracy Fox and I am the Senior Federal Regulatory Manager with the Government Affairs Office of The American Dietetic Association. With over 70,000 members, ADA's mission is to serve the public through the promotion of optimal nutrition, health and well-being. ADA supports the need for consumers to have access to dietary supplements as long as their opportunity to choose is made in the context of a fully informed choice and assured public safety measures. To this end, ADA continues to stand behind the need for stricter regulation and oversight of dietary supplements and applauds the efforts of the Food and Drug Administration (FDA). ADA has testified on numerous occasions, including the hearings surrounding the passage of the Dietary Supplement Health and Education Act (DSHEA) and more recently at various meetings held by the Presidential Commission on Dietary Supplement Labels.

We congratulate the FDA for holding this open meeting and soliciting input from various organizations on the complex issues surrounding the regulation of dietary supplements. ADA urges FDA to closely review the recommendations made by the Presidential Commission on Dietary Supplement Labels to ensure that these recommendations are incorporated into FDA's overall strategy. This Presidentially appointed Commission of dietary supplement experts examined many of the issues we are discussing today and developed detailed guidance and recommendations that warrant close consideration by FDA. My comments below reflect in part previous statements submitted to the Commission both as testimony and as comments prior to the issuance of the Commissions Final Report (Report of the Commission on Dietary Supplement Labels, November, 1997).

Dietary Supplement Strategy

FDA has asked whether there are other objectives, in addition to ensuring consumers' access to safe dietary supplements that are truthful and not misleadingly labeled, that should be addressed in an overall dietary supplement strategy. Frankly, if FDA accomplishes this and this alone, given the relative limited authority it has under DSHEA, then the strategy could be considered an

enormous success. However, ADA recommends that the statement "Ensuring consumer access to safe dietary supplements that are truthful and not misleadingly labeled" should be the overarching goal of FDA's dietary supplement strategy. This goal would then drive the development of more specific and measurable objectives to coincide with elements that the Center for Food Safety and Applied Nutrition (CFSAN) has already identified in the 1999 Program Priorities document as well as recommendations that were made by the Presidential Commission on Dietary Supplement Labels. ADA also urges FDA to consider establishing an advisory committee on dietary supplements comprised of multidisciplinary, well-respected experts to provide ongoing counsel and guidance.

Defining Boundaries

ADA agrees with the need to define boundaries between the various categories of products in order to provide industry with a more structured approach to marketing and labeling and to provide consumers with accurate information. As it stands now, there are no boundaries; traditional foods with dietary supplements added are making structure and function claims and foods that are normally considered to be traditional are now categorized as dietary supplements. The proliferation of claims on a variety of products has created an environment of confusion and distrust among health professionals and consumers.

In addition to defining boundaries, ADA urges FDA to consider establishing categories for dietary supplements. The current broad definition under DSHEA for dietary supplements has major shortcomings. FDA may want to consider an approach that delineates those supplements that occur naturally in commonly eaten foods, and those that do not. Under this approach, vitamins and minerals, which are relatively safe, have some form of requirements or formulation standards established by the Institute of Medicine or the United States Pharmacopoeia (USP), and about which there is a considerable research base, would be in one category along with components such as fiber, carotenoids and creatine, that are either known nutrients or components of body function. Botanicals like St. John's Wort and Echinacea, as well as hormones like DHEA and melatonin, of which less is known and therefore present unknown or potentially greater risks, would be in a different category. The components in the latter category would require more scrutiny or limits. This approach would also assist CFSAN in allocating resources more appropriately by focusing on supplements that could present the greatest risk. We also urge FDA to seriously consider the recommendation made by the Presidential Commission on Dietary Supplement Labels to establish a review panel for over the counter claims for botanical products for which drug uses have been proposed (page 57, November 1997 final report).

Significant Scientific Agreement

We believe that health and nutrient content claims, as well as structure and function claims on foods and dietary supplements should be based on the totality of the publicly available scientific evidence, including results from well-designed studies conducted in a manner that is consistent with generally recognized scientific procedures and principles. DSHEA as well as the Food and Drug Administration Modernization Act (FDAMA) did not change this overarching public health need.

To this end, ADA urges FDA to expeditiously outline criteria or characteristics of significant scientific agreement (SSA). The need for these characteristics cannot be overstated. Defining a set of characteristics of SSA that can be widely understood and applied will only be beneficial -- to the scientific bodies, the private sector, health professionals, the public, and the food and supplement industry. Even if the characteristics are by necessity imprecise, such information, which could be refined over time, is a necessary step that would assist both the private sector and government agencies in implementing DSHEA and FDAMA provisions.

To initiate the process in outlining the characteristics of SSA, we urge FDA to convene a multidisciplinary group representing the designated scientific bodies as well as external experts to examine the issue and outline characteristics of SSA, with the expectation of providing guidance to industry, researchers, health care professionals, and consumers. Areas of expertise represented should include -- but not be limited to -- nutrition epidemiology, clinical nutrition research, basic research, public health, and ethics. An example of a committee structure to provide such guidance would the FDA Food Advisory Committee. This process should build upon the earlier efforts undertaken on this issue by the Keystone Dialogue on Food, Nutrition and Health.

SSA must incorporate the totality of the publicly available evidence published in well-respected, peer-reviewed journals. Specifically,

- Consideration must be given to randomized, controlled clinical trials, epidemiological studies, meta-analyses, and appropriate experimental studies/basic research, along with an evaluation of the strength and consistency/reproducibility of the findings.
- An objective, systematic and balanced evaluation must be made, which includes both supportive and non-supportive evidence.
- Scientific justification must be provided for exclusion of studies from a given analysis.
- Where applicable, the analysis must consider factors such as sample size, representativeness of the population or study sample, dosages administered, duration of the study, appropriate use of statistics and adjustment of possible confounders.

In short, an assessment of the overall quality and quantity of the collective evidence must be considered.

ADA recognizes that the characteristics for SSA may not necessarily require absolute consensus. Instead, if a group of representative scientists with pertinent expertise were presented with a given claim, they would generally agree that it is supportable by the available scientific evidence and is truthful and not is leading. When establishing characteristics of SSA, FDA should consider various models, like that recently published by the NHLBI/NIDDK Expert Panel on the Identification, Evaluation, and Treatment of Overweight in Adults, which classified scientific evidence into four "evidence categories" to facilitate evaluation of the totality of the data (*Am J Clin Nutr*. 1998;68:899-917).

When SSA cannot be agreed upon, the private sector may find it helpful to have some guidance on what types of information and studies do not constitute "significant scientific agreement." We have seen the inappropriate application of a single, poorly designed study conducted with a small number of subjects used to promote products. In ADA's view, the following are examples

of published data and other types of information that do not meet the criteria for SSA:

- a single study of any kind
- descriptive/observational epidemiological evidence alone (i.e., without supporting evidence from other studies)
- a single clinical trial animal data without supporting evidence from human clinical trials poorly designed or biased studies
- preliminary or inconclusive data
- an unpublished abstract
- a case report, self-reports, or anecdotal information
- an article in a non-peer-reviewed journal
- unpublished information disseminated through the internet
- inappropriate conclusions (e.g., inappropriate generalization to the entire population from a small study in a specialized subpopulation; or the assumption of long-term benefit from a short-term study
- proprietary data not available to the public
- "testimonials" from consumers or health professionals

Substantiation Files

ADA supports the need for the contents of manufacturers' substantiation files to be more readily available to FDA as well as health care professionals, researchers and consumers. How can consumers make informed choices, or health care professionals be knowledgeable about products, if the only information available is what's contained on the supplement label – equivalent in size to a three inch by five inch index card? In addition, when claims are made for supplements, and the research base includes a particular formulation of a supplement, then the product making a claim must use the same formulation as that tested in the research. Critical information including formulation of supplements used in research and the formulation of a marketed product should be a required component of a manufacturer's substantiation file.

Communicating to Consumers

ADA believes that the more health professionals know about dietary supplements including the benefits and adverse effects, the better able we can communicate such information effectively to consumers. In this light, ADA is committed to educating our members and the public on the benefits and appropriateness of dietary supplements, as long as these benefits have been substantiated by significant scientific agreement. Qualified health professionals, including registered dietitians, are unlikely to promote the benefits of supplements when the evidence is inconclusive, non-existent, or inaccessible. Our members need access to information that is reliable and valid. They also need to know the strengths of the data as well as the benefits and risks of using an individual supplement by patients who may have a number of health problems and are taking numerous drugs.

There needs to be a more effective system for distributing/disseminating information to health professionals and consumers about the status of research on dietary supplements. We applaud the efforts by the NIH Office of Dietary Supplements in developing the International

Bibliographic Information on Dietary Supplements Database and the forthcoming dietary supplement fact sheets. Such efforts must continue and be coordinated among NIH, FDA, other government agencies, and associations of health professionals and consumers like ADA, American Medical Association, American Academy of Family Physicians, American Nurses Association, American Heart Association, American Cancer Society, and the Consumer Federation of America. Effective coordination and dissemination from reliable sources will go a long way in ensuring that health professionals and consumers have access to sound research and education on dietary supplements.

While we support the *supplement facts panel,* additional information regarding maximum dosage, appropriate use, and contraindications must be included on the supplement label for consumers to make educated choices.

Research Needs

ADA is concerned with the dearth of sound scientific evidence in the emerging field of dietary supplements. Multiple research priorities abound. Additional well-designed, properly controlled clinical trials of sufficient size are needed to adequately evaluate the efficacy and safety of dietary supplements at various stages across the lifecycle. A top priority for investigation are the "newer" products such as botanicals and ergogenic aids - products for which marketing efforts often seem to outpace research. Accordingly, ADA urges the Federal Government and the dietary supplement industry to invest in enhanced funding for research on a wide array of such products in the marketplace. There is an urgent need for more research in the following areas:

- Identification of bioactive compounds, to enable the wider availability of standardized compounds for use in research and as appropriate in products.
- Herb-herb, herb-nutrient, and herb-drug interactions.
- Basic experimental research that examines underlying mechanisms of action and physiological impact of bioactive compounds.

Comprehensive consumer research is also crucial to understand consumers' attitudes, purchase decisions (e.g., structure/function and health claims), usage behaviors, and sources for information on supplements. Focus group data from the International Food Information Council suggests that consumers mistakenly believe that dietary supplements are "approved" by FDA and regulated similarly to drugs. Additional qualitative and quantitative consumer research is needed to examine this issue and its implications more closely. Consumer research on dosing behaviors is necessary to determine whether consumers typically follow the manufacturers' recommendations, or tend to take more in the erroneous belief that "natural" equates with "safe" and if a little is good, more is better. For example, a recent study of collegiate athletes taking creatine (most on the advice of their coaches) found that the majority of the athletes routinely exceeded the manufacturers' dosage recommendations (*J Am Diet Assoc.* 1999;99:593-595).

Research is also needed in identifying the main sources for dietary supplement information (e.g. health professionals by specific discipline, television news reports, print/radio/television advertisements, word of mouth, FDA). We must have this information to better understand how to reach consumers with credible and unbiased information that will enable them to make informed choices.

Good Manufacturing Practices

ADA strongly supports the need for regulations that specify Current Good Manufacturing Practices for the manufacturing, packing, and holding of dietary supplements. The proliferation of dietary supplements available to the public in numerous outlets (including grocery stores, health care/food stores, the internet, and mail-order catalogs), and the unique nature of these products, justify the need for close examination of regulatory standards and procedures. The public should, at a minimum, have access to dietary supplements produced under conditions comparable to those required for food. Recent efforts underway by the dietary supplement industry to self-regulate in the area of GMPs should provide useful information to FDA in developing a proposed rule and completing this DSHEA mandate soon.

Adverse Event Reporting

ADA is concerned that current post-market surveillance is not effectively communicated and utilized by supplement manufacturers, health care providers, and consumers. The current procedure for reporting adverse events for dietary supplements is not "user-friendly". Recent efforts to access the FDA web page to review the process for reporting an adverse dietary supplement event revealed that it was very confusing and convoluted. In examining FDA's main web page, it is not clear to consumers or health care professionals not familiar with **MedWatch**, the FDA Medical Products Reporting Program, how to report an adverse event. There is no *Dietary Supplement* icon on FDA's main web page, or a clear Adverse Event Reporting heading. Users are expected to know that dietary supplements are addressed under the *Food* icon. This icon takes you to the CFSAN web page, where again, it is unclear how to report an adverse event. One has to scroll down to the second to the last heading titled: Interacting with the Center. Once that is selected, there is an option called How to Report Problems to FDA that will finally allow an adverse event to be reported. Only the most diligent consumer or health care provider with some knowledge of FDA would be able to report such an event. The proliferation of dietary supplement use by consumers, coupled with the relative lack of regulation, highlight the need for FDA's adverse event reporting system to be updated and effectively communicated to all parties. The recent hearing, held by the House Committee on Government Reform, on FDA's adverse event reporting system should provide further insight and guidance in this area.

Summary

ADA urges FDA to consider consumers, first and foremost, in implementing a regulatory strategy for dietary supplements. The recommendations made in the Report of the Commission on Dietary Supplement Labels (November, 1997) should serve as the foundation for a comprehensive strategy that is consumer-focused. ADA firmly believes that consumers MUST BE PROTECTED from misleading or scientifically unproven information about dietary supplements. Health care professionals and consumers must also be provided with accurate information about appropriate and inappropriate uses. We look forward to working with FDA, other government agencies, healthcare professionals, consumers and industry in this important area.