December 1, 2003
DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration
[Docket No. 2003D-0478]

Draft Guidance on Marketed Unapproved Drugs; Compliance Policy Guide; Availability
AGENCY Food and Drug Administration, HHS.
ACTION Notice.
To Whom This May Concern,
Response to: 2003D-0478; Draft Guidance on Marketed Unapproved Drugs Compliance Policy Guide; Availability 10/20/03 12/22/03
Speaking on behalf of the International Guai-Support Group Network (http://www.psha-inc.com/guai-support/) comprising, at the time of this writing, 1,705 consumers, we protest the FDA's enforcement of very old legislation that fails to protect the public's access to drugs that have been on the market longer than the FDA has been in existence. This is especially true concerning single ingredient, sustained-release guaifenesin. This drug is a mainstay in medical treatment, and has been so for hundreds of years. There are no reports of any safety problems of any kind. It is used in the treatment of acute respiratory disease, bronchitis, cystic fibrosis, asthma, infertility and A.I.D.S. It has also found successful, off-label use, in recent years, in the treatment of Fibromyalgia.
Guai-Support members, along with many of our fellow fibromyalgia sufferers, are dependent on access to a range of guaifenesin products for successful, personalized treatment under a guaifenesin protocol for the reversal of Fibromyalgia. Our protest of the FDA's actions is, however, not limited to the use of guaifenesin for this protocol.

Most of these diseases (named above) including A.I.D.S., affect children. Children with chronic lung disease can not tolerate sugar/alcohol based guaifenesin syrup on a daily basis. They require pure sustained-release guaifenesin. This is especially true for those children who suffer from diabetes. Children with cystic fibrosis are also frequently diabetic. Children with asthma are a major health problem in this country. Children with Fibromyalgia require a non-sugar based product to prevent the aggravation of blood sugar problems so common in this disease. Children with Fibromyalgia, an inherited condition, are diagnosed as young as age four. Guaifenesin controls this disease, but does not cure it. Guai-Support's members, and their affected children, have had no success with any other Fibromyalgia treatment available at this time. They have found that all other treatments mask symptoms while allowing the disease to progress to disability, providing only symptomatic relief. The burden on Social Security grows every year due to this disease.
When FDA removed pediatric Humibid from the market last October, they left a very vulnerable section of the population with no access to a very necessary drug. There is no sugar free, single ingredient, sustained-release guaifenesin, suitable for children, left on the market. Pediatric Humibid sprinkles were the drug of choice. Now there is NO CHOICE. Our children deserve better treatment. The medical community, the pharmaceutical industry, the drug manufacturing industry and the American public do NOT agree with removing this drug from the market.
It is many years too late to be demanding millions of dollars in fees to "approve" these old, safe drugs, and hundreds of others. All that this will accomplish is the financial destruction of many small drug companies which provide the competition that keeps prices down. It may also remove some of these drugs from the market entirely. This will leave the poor with a lot fewer choices of affordable medication. In the case of guaifenesin, there is no other choice to be made. If Adams Labs fails financially, Mucinex will disappear, leaving the consumer with no form of sustained-release guaifenesin. They would have a difficult time trying to sell the manufacturing rights, as their patent is under litigation at this time.
FDA enforcement of this old legislation could also have a devastating effect on the elderly. They stand to lose access to the affordable, older, yet still effective drugs that will soon fall under FDA's attack for failing to have FDA approval. Many of these drugs were grand-fathered in when the FDA was organized. This decision was made based, in part, on years of safe and effective use. This FDA requirement WILL increase damage to public health. The uninsured and underinsured

consumer can not pay for high priced medication. They do without life saving drugs all too often. Untreated disease usually worsens. Some people could literally die due to FDA action on unapproved old medications. This will never improve public health.

Guaifenesin is also used to treat the common lung infections that occur from the development of A.I.D.S. Pneumonia and other lung disorders affect MOST people with A.I.D.S., and many die from the complications thereof. This is common knowledge. By removing this drug from the market of every country in the world we fail humanity in the worst way. These world citizens can not speak for themselves on this issue. We, as concerned human beings, presume to speak for them.

Guaifenesin is valuable in treating respiratory irritation from extremely dry desert air. Our military members no longer have any access to sustained release guaifenesin tablets. DOD has declined to stock Mucinex due to excessive cost. They also do not stock immediate release guaifenesin in tablet form. Our troops in Afghanistan and Iraq will suffer. There are no corner drug stores in these countries to stop in and buy a bottle of Robitussin.

Many women have used extended release guaifenesin tablets to treat overly thick cervical mucus that hinders reproduction. Using a product that contains an alcohol base is risking fetal damage when a pregnancy occurs that is not detected immediately. Few women know the precise moment life begins. It is an unacceptable risk. Guaifenesin has shown no proven ability to damage a developing fetus. Alcohol can seriously damage the brain of the unborn.

The FDA has justified removing all sustained-release guaifenesin products, other than Mucinex, from the market by stating the drug is readily accessible to consumers in immediate release formulation. In fact, pure guaifenesin is NOT generally available on drug store shelves in any form but SYRUP. Most pure guaifenesin is imported from Canada as Robitussin Cough Syrup. There are a few sugar free varieties, but none for pediatric use; the adult versions are so foul tasting, they are worthless. They are not an acceptable substitute for pure sustained-release, single ingredient, guaifenesin tablets.

Your statement that public access to immediate-release guaifenesin is guaranteed because it is widely available has another flaw. Pure immediate-release guaifenesin tablets are available on a few internet sites, but they are NOT on the shelves of stores where sick people shop. You are again comparing sugar/alcohol based syrup with pure immediate-release, guaifenesin tablets. This comparison is invalid. Guaifenesin syrup has no place in the treatment of chronic disease. It is not for long term use by label and monograph definition.

By approving Mucinex as the ONLY FDA approved, sustained-release guaifenesin, FDA seriously harmed the health of many thousands of patients using it to successfully treat Fibromyalgia. These patients require a pure, powder based, long-acting, guaifenesin tablet. Many patients require a dose that is less than 600 mg, or more than 600 mg but less than 1200 mg. They can not use Mucinex, as it can not be broken without loss of dose, and destruction of sustained-release properties.

Our membership has demonstrated, many over a period of more than 6 years, that we do not all respond in the same way to the same medication. Indeed, this is well known in medicine. It is one reason why doctors often prescribe different brands and types of a medication before their patient responds as necessary.

The wide variety of responsiveness, to different types and brands of guaifenesin, makes it imperative that choices are available. When Mucinex is the only available option, consumers are forced either to use immediate-release products or do without. This ensures their health will regress, and the Social Security Disability roles will increase. This endangers our Social Security System.

We dispute FDA designating Mucinex as an sustained-release product. Mucinex is NOT a pure, sustained-release guaifenesin, due to its composition. The immediate-release layer, which has no legal numerical definition for some strange reason, comprises as much as fifty percent of the total dosage. This layer provides a "dose dump" that can leave as little as 300 mg available for the next 12 hours. Previous versions of sustained-release guaifenesin provided 600mg available over a 12 hour period. There was no "dose dump" as stated by FDA. Now there is, and FDA used this term to justify removing sustained-release guaifenesin from the market. In other words, FDA approved a drug WITH a known dose dump to replace an old drug with no proven dose dump. This appears hypocritical.

Our members fail to see HOW Mucinex was ever deemed worthy of an NDA for sustained-release, single ingredient guaifenesin. No product that has as much as fifty percent of its total dosage assigned to a non-sustained-release drug formulation is an sustained-release drug. The label on Mucinex contains no information on the layer of immediate-release guaifenesin. This is false and misleading advertising. Based on documentation contained on FDA website, this label deception was approved by FDA agents long before the drug received FDA approval. A sustained-release drug should provide a consistent amount of medication throughout the activity period. Mucinex does not do this. All other brands of sustained-release guaifenesin did do this. Therefore, Mucinex is not an sustained-release drug.

According to industry reports, the research provided to justify an NDA on Mucinex was seriously flawed, and the FDA should have known this. Independent laboratory research is finding this drug does NOT perform as advertised. These researchers can not reproduce the same results Adams Labs submitted to FDA. They are finding Mucinex has a "dose dump" that is very high. This is logical as the immediate-release layer dissolves immediately, and the first secretion from the sustained-release layer releases soon after. This action consumes the MAJORITY of the total dose, leaving a smaller amount available for the rest of the twelve hours of drug activity. Too little is just as bad as none at all.

Why was sustained-release guaifenesin taken to OTC status without any warning to the public or the drug manufacturing industry? OTC drug reviews are public discussions that have a defined FDA procedure. Why was the approval process on Mucinex not stopped while the FDA informed the public of the change in status? This is a violation of your own rules. There was never an FDA site to allow public input on this action. There still isn't. The document now provided on the FDA website is after the fact. It does not even address the change in status from prescription to OTC. Mucinex was used as justification for the change in status to OTC for sustained-release guaifenesin. Sustained-release guaifenesin has not been properly assigned to OTC status due to the fact that Mucinex is not pure sustained-release guaifenesin. Mucinex was NEVER a previously marketed prescription drug. Assigning it OTC status should have been based on its immediate-release action NOT its sustained-release action. As an alternative action, the NDA could have been issued on the basis of the bi-layered, duel-release composition of Mucinex as a new category. Approving it as anything else is a misapplication of regulation that has no logical validity. Shutting down all production of sustained-release guaifenesin, based on this misapplication of definition, is also without validity.

It has been said by many that the FDA has NO interest in the affordability of drugs; that this is not an FDA problem. Is this the message you want to send to Congress? Is this the message you want to send to the citizenry of this country and the world? FDA's sole responsibility is protecting public health.

As there are no indications of safety hazards with guaifenesin, admitted to in FDA documents released to the public a year ago, the real issue is financial. Cost is a major issue in adequate health care. Failure to address the issue of cost constitutes a public health risk. Affordability always affects public health. When people can not pay for their medications, they don't take them. Does this not harm people's health?

By issuing an NDA to Adams Labs, you were granting them a WORLDWIDE monopoly, whether or not this was the intent. This was the result of NDA approval of Mucinex. No other country produces single ingredient, sustained-release guaifenesin in any delivery system. Consequently, your actions have also removed access to this drug from all other nations. Surely this is not in keeping with our legal and moral obligations to the rest of the world?

Creating a worldwide monopoly in the sustained-release guaifenesin market has led to an enormous increase in cost, and a loss of insurance coverage to pay for it. The possible financial collapse of Adams Laboratories will result in a total loss of this useful drug to consumers. It is only a matter of time. Consumer and industry resistance to Mucinex is intense. Consumers won t buy it. Pharmacists can t promote its sale without risking litigation for violation of NIPPA regulations that demand ABSOLUTE privacy of their customer s prescription history. Major pharmacies are now searching their customer's prescription history to mail advertising, written and paid for by Adams Labs, for Mucinex. These advertisements are being forwarded to an

attorney for further legal action. Formal charges will be filed to protect these consumers from invasion of privacy if it continues.

Adams Labs had a total monopoly on sustained release guaifenesin for many years. The patent on Humibid expired a few years ago. Due to recent law changes, they could not extend it. So they created a NEW guaifenesin tablet, using old bi-layer technology, which is the legal property of others, gave their product a new name and created a whole new way to EXTEND A PATENT THAT HAD RUN OUT without having to seek a law change. This action violates all intent of law as it pertains to the deliberate prevention or hindrance of generic forms of a patented drug being made available to the consumer in a timely manner.

Adams Labs sought to once again monopolize this drug market for a disease that is very different from the one on the label of Mucinex. The proof of this intent is contained in a document located in the Mucinex application papers on FDA s website. It contains a statement that guaifenesin has a uricosuric effect. This statement has NO application to respiratory disease, and no other brand of guaifenesin, in any form, contains any warning to this effect. It has EVERYTHING to do with the use of guaifenesin to treat Fibromyalgia according to Dr. R. Paul St. Amand. The uricosuric effect of guaifenesin was tested in the year 1974 for the treatment of gout. (Uricosuric effect of glyceryl guaiacolate. J Rheumatol. 1974 Mar; 1(1)114-6. Ramsdell CM, Postlethwaite AE, Kelley WN). The inclusion of this statement in Adams Labs application papers indicates they already knew about the successful use of guaifenesin in the treatment of Fibromyalgia, and intended to ensure their company held an exclusive patent on it while they provided the necessary research. The recent change in management at Adams Labs has led to a cancellation of this research.

THIS is an entirely different situation from one where a company has spent millions of dollars on research and development, thus there is no justification for a 'compensatory' monopoly. Mucinex is just old sustained/immediate release, generic and non-patentable Guaifenesin. Adams Labs sought a way to regain total control of the market that they had enjoyed for many years without competition. By using legal loopholes, and deception, they succeeded. Guaifenesin is not a new drug. It has existed in medical use for many hundreds of years. It is beyond all patentability. Creating a sustained-release version of guaifenesin put this drug under FDA control in 1962. According to PDR manual data from that same year, it was already in production, and was grandfathered into the system. The information in the PDR is a year older than the date of publication. FDA requirement for NDA approval is without merit.

In conclusion, we believe all action against the single ingredient, sustained-release guaifenesin industry needs to be reversed. At the very least (and only if the first option is demonstrably not viable) a time extension should be granted, sufficient to allow for the entire manufacturing industry to provide the FDA with documentation of bio-availability and bio-equivalence of their sustained-release guaifenesin product, with a full return to production and sale in the interim. Pediatric Humibid, in prescription form, should immediately be returned to the public due to the seriousness of the illnesses it treats. No patient can safely self-treat diabetes, cystic fibrosis, asthma, A.I.D.S or chronic bronchitis! These are very serious diseases that affect our children. As sustained release guaifenesin has never been subjected to OTC Drug Review, its status needs to revert to prescription only until it does. FDA should begin this process without delay and rule according to consumer, medical and industry input.

The public does not want Mucinex as their only choice of extended release guaifenesin. They want the pure sustained release guaifenesin they used before the FDA shut this industry down using invalid comparisons between Mucinex and long acting guaifenesin. They do not care about FDA "regulations". They care about their health. That should be the principal issue for the FDA too. IS IT?

Yours sincerely,

The International Guai-Support Group Network

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cc: Senator Rick Santorum, Senator Arlen Specter, Rep. Curt Weldon

Sally Burgess 5 December 2003