DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

MAY 14 2003

The Weinberg Group Inc.
Attention: Nicholas M. Fleischer, Ph.D.
1220 Nineteenth Street, NW, Suite 300
Washington, D.C. 20036-2400

Docket No. 02P-0499/CP1

Dear Dr. Fleischer:

This is in response to your petition filed on November 27, 2002, requesting permission to file an Abbreviated New Drug Application (ANDA) for the following drug products: Metformin Hydrochloride Tablets for Oral Solution, 500 mg, 850 mg, and 1000 mg. The listed drug products to which you refer in your petition are Glucophage® (Metformin Hydrochloride) Tablets, 500 mg, 850 mg and 1000 mg, approved under NDA 20-357 held by Bristol-Myers Squibb Co.

Your request involves changes in dosage form from that of the listed drug products (i.e., from tablets to tablets for oral solution). The changes you request are the type of changes that are authorized under the Federal Food, Drug, and Cosmetic Act (Act).

We have reviewed your petition under Section 505(j)(2)(C) of the Act and have determined that it is approved. This letter represents the Food and Drug Administration's (FDA) determination that an ANDA may be submitted for the above-referenced drug products.

On October 17, 2002, the United States District Court for the District of Columbia ruled that the Food and Drug Administration (FDA) did not have the authority to issue the Pediatric Rule and enjoined FDA from enforcing it. (Civil Action 00-02898(HHK).[1] The government has decided not to appeal the decision; however, intervenors in the case have appealed. Because FDA is currently enjoined from enforcing the Pediatric Rule, you are under no obligation to conduct pediatric studies on your petitioned drug products at this time. Please be aware that if the decision to invalidate the Pediatric Rule is not upheld on appeal, an Abbreviated New Drug Application (ANDA), submitted under an ANDA suitability petition[2], may be subject to the requirements of the Pediatric Rule in the future.[3] If the Pediatric Rule is reinstated and pediatric

1 The Pediatric Rule (rule) is codified at 21 CFR 314.55/21 CFR 601.27.

2 An ANDA suitability petition is a petition submitted pursuant to Section 505(j)(2)(C) of the Federal Food, Drug, and Cosmetic Act requesting permission to submit an ANDA for a new drug which has a different active ingredient, or whose route of administration, dosage form, or strength differ from that of the listed drug. Also see 21 C.F.R.§ 314.93.

3 While it was in effect, the Pediatric Rule required that all applications for new active ingredients, new dosage forms, new indications, new routes of administration, and new dosing regimens must contain an assessment of the safety and effectiveness of the product in pediatric patients unless this requirement is waived or deferred (21 CFR 314.55).

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clinical studies are required for these products in the future, you will be notified as soon as possible. Under those circumstances, the petitioned products may not be eligible for approval under the ANDA approval authorities.

Under Section 505(j)(2)(C)(i) of the Act, the FDA must approve a petition seeking a dosage form that differs from the dosage form of the listed drug product unless it finds that investigations must be conducted to show the safety and effectiveness of the differing dosage form.

The FDA finds that the change in dosage form for the specific proposed drug products does not pose questions of safety or effectiveness because the uses, dose, and route of administration of the proposed drug products are the same as that of the listed drug products. The FDA concludes, therefore, that investigations are not necessary in this instance. In addition, if shown to meet bioavailability requirements, the proposed drug products can be expected to have the same therapeutic effect as the listed reference drug products.

The approval of this petition to allow an ANDA to be submitted for the above-referenced drug products does not mean that the FDA has determined that an ANDA will be approved for the drug products. The determination of whether an ANDA will be approved is not made until the ANDA itself is submitted and reviewed by the FDA.

For your information, the listed drug products to which you refer are covered by several periods of exclusivity which appear in the Approved Drug Products With Therapeutic Equivalence Evaluations, 23rd Edition, published by the FDA. The existence of such exclusivity will require a statement pursuant to 21 CFR 314.94(a)(3)(ii) upon submission of an ANDA for your proposed drug products and may also affect the approval date of any ANDA.

To permit review of your ANDA submission, you must submit all information required under Sections 505(j)(2)(A) and (B) of the Act. To be approved, the drug products will, among other things, be required to meet current bioavailability requirements under Section 505(j)(2)(A)(iv) of the Act. We suggest that you submit your protocol for these drug products to the Office of Generic Drugs, Division of Bioequivalence, prior to the submission of your ANDA. During the review of your application, the FDA may require the submission of additional information.

The listed drug products to which you refer in your ANDA must be the drug products upon which you based this petition. In addition, you should refer in your ANDA to the appropriate petition docket number cited above, and include a copy of this letter in the ANDA submission.

A copy of this letter approving your petition will be placed on public display in the Dockets Management Branch, Room 1061, Mail Stop HFA-305, 5630 Fishers Lane, Rockville, MD 20852.

Sincerely yours,

Gary J. Buehler
Director
Office of Generic Drugs
Center for Drug Evaluation and Research