Transcript of FDA Stakeholder Briefing on New Policies for Managing FDA Advisory Committees
Moderator: Lawrence Bachorik
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10:00 am CT

Coordinator: Welcome and thank you for standing by. At this time all participants are in a listen-only mode. After the presentation we will conduct our question and answer session.

To ask a question at this time, please press star 1 on your touchtone phone. Today's conference is being recorded. If you have any objections you may disconnect at this time.

Now I will turn the meeting over to Mr. Lawrence Bachorik.

Lawrence Bachorik: Thank you (Bradley). Good morning and welcome to today's stakeholder teleconference sponsored by the Food and Drug Administration to discuss improvements in the FDA's advisory committee process.

I'm Larry Bachorik, Assistant Commissioner for External Relations, and I'll be leading today's call. I'm joined by Dr. Randall Lutter, Deputy Commissioner for Policy at FDA. He will make some opening remarks and we will then take questions.

For the question and answer session, we are joined by three additional experts: Jill Hartzler-Warner, J.D., Senior Policy Advisor and Counselor in FDA's Office of Integrity and Accountability; William McConagha, J.D., Assistant Commissioner for Accountability and Integrity; and Michael Ortwerth, PhD, Director of FDA's Advisory Committee Oversight and Management Staff.

Our discussion topic this morning focuses on changes we are making to strengthen and improve the workings of FDA advisory committees. In keeping with our commitment to provide stakeholders with useful information in real time, we're holding this stakeholder call before the general media announcement. We're doing this to make sure that you have information about how we're improving the advisory committee process at FDA, and to give you the opportunity to ask questions.

Our FDA's news release is scheduled to be posted on our Web site right about now. Dr. Lutter will now make a brief presentation, and then we'll have time for questions and answers. Dr. Lutter.

Randall Lutter: Thank you very much, Larry. It's a pleasure to have a chance to talk to you all today. FDA's advisory committees provide independent, expert, scientific and technical advice in public to FDA on important regulatory decisions.

The advisors are experts recognized for their scientific and professional credentials. So for example, let's say we're deciding whether to approve or how to label a new drug for diabetes. We want to get expert opinion from clinicians and statisticians about the efficacy and safety data, as well as specific labeling language. We'll convene a meeting of the Endrocrinologic and Metabolic Drugs Advisory Committee to help us make those decisions.

While FDA will make the final decision, advisory committee meetings assure that we're getting the best available expert advice on important decisions that affect the health and safety of the public.

As part of FDA's mission to protect and promote public health, we continually improve the way we make regulatory decisions and communicate them to the public. Today we're announcing a package of improvements to FDA advisory committees and these are designed to enhance decision making, increase transparency, and strengthen public confidence and trust.

The first announcements are new policies on how we will address potential conflicts of interest - financial ties that advisors may have to certain companies. First, we're finalizing, today, guidance that puts a general cap of $50,000 as the maximum amount of personal financial interest an advisor, or his spouse and minor children, may have in all companies affected by a particular meeting.

Over $50,000, the advisor will not be allowed to serve on that meeting. If less than $50,000, we may grant a waiver provided we determine the waiver is necessary to afford the advisory committee essential expertise. These policies go well beyond the legal requirements enacted recently by Congress.

Secondly, the guidance specifies four scenarios where the conflict is significant and we will not issue a waiver even if the potential conflict is below $50,000. For example, if the advisor is a principal investigator of a clinical trial of a product about which the committee will be providing advice, the investigator will not be allowed to participate in that meeting.

Third, we're finalizing guidance that will ensure that when FDA grants such a waiver, the circumstances of that waiver will be made clear and fully

transparent to the public. All waivers and advisors' disclosures of potentially conflicting interests will be posted to the FDA Web site. New templates for waivers and financial interest disclosure will make them clear and more consistent. These changes will make facts in the decision-making process surrounding the decision to grant a waiver clearer to the public.

The next several parts of our announcement also involve transparency and enhancing communication with the public. We're finalizing guidance that establishes our policy to post all meeting briefing materials on our Web site no later than 48 hours prior to the meeting.

We're simplifying our Web site to make it easier to access news on advisory committee meeting dates, agendas, financial disclosures and briefing materials. So in this regard we'll provide opportunities for consumers to provide feedback on our advisory committees and we'll post summaries of that feedback.

Also, you'll find briefing materials in two clicks from FDA's advisory committee Web site, as opposed to the eight clicks that you used to need. And you can suggest, through our Web site, how we can make further improvements.

We're also improving the way advisory committees vote by finalizing guidance to implement simultaneous voting - all committee members voting at the same time - to avoid any perception that they may influence each others' votes.

Finally, we're proposing guidance on when to convene advisory committee meetings. In some instances, FDA is required by law to refer an issue to an

advisory committee. In others, it has discretion to consider whether to refer a matter to an advisory committee.

The guidance proposes that FDA consider three factors when deciding whether to voluntarily refer a matter to an advisory committee. It proposes that when one of these factors is met, FDA should refer the matter to an advisory committee. Conversely, if none of the factors is met, FDA should not refer the matter.

The guidance also proposes that for all first-of-a-kind or first-in-class products for human use, FDA either refer the product to an advisory committee or provide an action letter for that product - a summary of the reasons why it did not refer the product to an advisory committee before approval.

These improvements I've discussed will help ensure that FDA is getting the highest quality scientific advice, while at the same time preserving public confidence and trust in our regulatory decisions.

So at this point I think we'd welcome comments and questions from the audience and Larry I turn it over to you.

Lawrence Bachorik: Thank you Dr. Lutter. So at this point let's do open the call up to your questions. To ask a question please press star 1 on your keypad. And, because we have many people on this call I'd like to ask you to make your questions concise and to limit yourself to one question and one follow-up.

And with that, let's open it up. Just remember, press star 1 on your keypad. Operator, could we open the call up for questions, please?

Coordinator: Certainly. Our first question comes from (David Fakar). Your line is open.

(David Fakar): ...what the three factors are - any one of which would result in referral to an advisory committee?

William McConagha: Hi, this is Bill McConagha with the Office of Accountability and Integrity. I'm happy to address that. The guidance that we put out today with respect to when to convene a meeting, I want to be clear, is a draft guidance. And what we're doing is soliciting public feedback - we're especially interested in your feedback - on our approach here.

But let me list for you the three factors that you referenced, and I will also just remind all of you that these materials are now posted on our web, and so you - at www.fda.gov - so you're certainly welcome to look at the document there as well.

The first factor is, "Is the matter at issue of such significant public interest that it would be highly beneficial to obtain the advice of advisory committee as part of the agency's regulatory decision-making process?"

The second factor that we would consider, “Is the matter at issue so controversial that it would be highly beneficial to obtain the advice of advisory committee as part of the agency's regulatory decision-making process?"

And the third question we would ask, "Is there a special type of expertise that an advisory committee could provide that is needed for the agency to fully consider the matter?"

(David Fakar): That's very helpful. I'd like to take advantage of my one follow-up.

William McConagha: Please.

(David Fakar): Having noticed that so many decisions on the GI drugs, where I chaired the committee, were made by staff without advisory committee, I'm wondering if you predict that the introduction of this new guidance will increase, leave about the same, or decrease the proportion of applications that come to advisory committees?

William McConagha: That's a great question. I think it's hard to speculate in terms of absolute numbers. What we can say is that it is our hope that once this guidance is finalized, we will ensure that the most complicated and most serious questions - the very types of issues that would most benefit from the advice of outside experts - are in fact brought to advisory committees for their full review and advice.

(David Fakar): Thank you.

Lawrence Bachorik: Next question please.

Coordinator: Our next question is from Frank Burroughs. Your line is open.

Frank Burroughs: Yes, hi everybody. This is Frank Burroughs, President of the Abigail Alliance. My question has to do with transparency. Can you go over the improvements you have regarding transparency?

Jill Hartzler-Warner: Sure. Many of the...

((Crosstalk))

Randall Lutter: Jill let me take that for a moment.

Lawrence Bachorik: This is Dr. Lutter.

Randall Lutter: Good morning Frank

Frank Burroughs: Hi Randy. How are you?

Randall Lutter: We have a collection of improvements. The first one deals with our criteria for granting waivers of conflicts of interest, and Jill Warner can talk about - further on the specifics of that - but we are establishing a more stringent cap than we've previously been using in that regard.

Secondly is a question of disclosure. We are finalizing guidance on more consistent and full disclosure of all waivers of conflicts of interest to the public. We think that also improves transparency.

We have a new policy with respect to disclosure of briefing materials. We're committing to post these at least 48 hours prior to a meeting. This gives more opportunity for the public also to review material just before the meetings that are so important to all of us.

We also think the Web site improvements are significant. I know that Web sites are frustrating to people who can't use them. But in this instance there's not only a significant reduction in the number of clicks to find useful information, but also there's an opportunity for the outsiders - anyone who uses our web - to tell us how to make further improvements to the advisory committee management. We think these all are steps toward transparency.

Frank Burroughs: Thanks Randy.

Lawrence Bachorik: Next question please.

Coordinator: Our next question is from Diane Dorman. Your line is open.

Diane Dorman: Thank you very much. This is Diane Dorman with the National Organization for Rare Disorders. It appears that the qualifications to participate in an advisory committee are quite stringent and this is something I have had some concerns about.

Specifically there was a product, an orphan drug, for a very rare disease that kills babies. They were unable to have an advisory committee meeting simply because they could not find the experts available to sit on the advisory committee, given the fact that the patient population is so small, and the number of investigators are minimal at best. And I'd like to know how the FDA plans on addressing some of these situations.

Jill Hartzler-Warner: Thank you. This is Jill Hartzler-Warner. The new guidance that we are finalizing on conflicts of interest and eligibility to participate in FDA advisory committee meetings takes very close account of this delicate concern about providing the necessary expertise for the scientific - the kind of first-class scientific advice that FDA needs - and also assuring the public trust in that advice that we get, by minimizing any potential for financial conflicts of interest.

We believe that we've struck the right balance. We are requiring, in all cases, that waivers have a - that there be a (unintelligible) that the advisor is needed to provide the committee with essential expertise. And we are looking at a cut-off in terms of personal financial interest.

We think that that strikes the right balance and we achieved these conclusions after carefully looking at the public comments, and also accounting for the new law that was passed by Congress in the Food and Drug Act Amendment of 2007.

Diane Dorman: Thank you.

Jill Hartzler-Warner: Thanks.

Lawrence Bachorik: Next question please.

Coordinator: Our next question is from (Adrienne Hahn). Your line is open.

(Adrienne Hahn): Hi. My question is regarding the materials you said were going to be on the Web site at www.fda.gov. And I'm on it right now and I'm looking at the "In the Spotlight" and in the "News and Events" and the materials aren't up here.

Michael Ortwerth: Hello. This is Michael Ortwerth. Thank you very much for bringing that to the attention of everyone. We are actually in contact with the Web staff right now online. I'm in touch with them and we're working to see that these get up as soon as possible.

(Adrienne Hahn): Okay. Thank you.

Lawrence Bachorik: Thank you. I will take the next question please.

Coordinator: Our next question is from (Richard Carnivol). Your line is open.

(Richard Carnivol): Yes. The question I had is do these roles apply to all advisory committees of all centers in FDA? Or is it just limited to the advisory committees in the Center For Drug Evaluation?

William McConagha: That's a good question. This is Bill McConagha once again. They apply equally to all advisory committees throughout the agency, regardless of the center or whether it's in the Office of the Commissioner. Part of what we're trying to achieve today is consistency throughout the agency in terms of its overall advisory committee program.

(Richard Carnivol): Thank you.

Lawrence Bachorik: Thank you. We'll take the next question and, if I could, can I ask - when you ask your question please identify your affiliation as well. Thank you.

Coordinator: Our next question is from Michael Lincoff.

Michael Lincoff: Yes. This is Michael Lincoff. I'm with the Cardiovascular and Renal Drugs Advisory Committee and I'm from the Cleveland Clinic. I wanted to clarify a bit on the conflict of interest issues with regard to research that is not personal compensation. Because I think no one can disagree that that's appropriate or even stricter.

But many of us, not necessarily as Principal Investigator, but are involved in an institution or in a department that is involved in multiple clinical trials. In fact, that's where the expertise comes from to be able to judge much of this clinical data. Many of these trials are with companies that have competing drugs or have a drug that may be up but not necessarily the drug - the specific drug.

So is there going to be a clear distinction to allow or to not rule out people who have research contracts but nevertheless not personal compensation and not direct investigatorship in the drug under consideration?

Jill Hartzler-Warner: This is Jill Hartzler-Warner. Thank you for your question. Yes, we are drawing a distinction between those personal interests that an advisor has - for example, stock in a company or a spouse's or minor children's interest - and those imputed interests - for example, grants that come to a university that employs the advisor. We do realize that grants to an institution, you know, can be quite large and they can be quite distinct, really, from the issues that are involved in the decision making at the committee.

So, for example, if there's a grant to an institution that the advisor works for and it is on a different, you know - it's from a company that - but the actual study is from a different drug than is going to be discussed at the advisory committee, that would be handled differently than a personal kind of interest.

Michael Lincoff: May I ask a follow-up to that?

Jill Hartzler-Warner: Sure.

Michael Lincoff: For those of us who are actually supervising a research program - so, actually - and the (unintelligible) forms actually ask are you - "anything under your direct supervision." Again, if it's not the drug - specifically the drug - will that be an issue?

Jill Hartzler-Warner: FDA takes into account a number of issues when it's deciding whether a waiver should be issued. There are a number of things that we're required to look at under the law. This guidance will take a step-wise approach and ask a number of questions.

So it's very difficult to answer that question outside of the specific circumstances of the specific advisory committee meeting topic - the thought where the discussion's going to go and the possible outcomes of that discussion. That might depend on the particulars of the meeting.

Lawrence Bachorik: Thank you Jill. We'll take the next question please.

Coordinator: The next question is from Wilson DeCamp of Parkinson Pipeliners.

Wilson DeCamp: Hello. My question concerns when the agency goes contrary to the recommendations of an advisory committee. It seems that this is becoming more and more common, that the advisory committee recommends approval of a drug and the next thing you hear is that the Agency has issued a non-approval letter.

In the spirit of openness, if the advisory committee recommendation is done with public input, should not there be a requirement for the Agency to make some sort of statement a little bit more specific than, "Yes we had the advisory committee meeting and we decided against it," as to the reasons for overturning - or going against the advisory committee recommendation?

William McConagha: Yes, I'm happy to answer. This is Bill McConagha again. I - there are certainly instances in which the Agency makes a decision that is not entirely consistent with the advice rendered by an advisory committee.

And let me just begin by saying that the Agency takes very seriously the advice that is offered by an advisory committee. The Agency would not convene these meetings and go to the enormous expense and trouble and work

of putting them together if it weren't materially interested in the advice that's rendered.

Sometimes there are issues internally that we're aware of about an application, about a decision with respect to some sort of article that are in addition to the issues being discussed in an advisory committee. And that of course would influence the Agency's ultimate decision with respect to whether to approve or not approve a produce. I can tell you that we do not take lightly those decisions.

We certainly understand that if an advisory committee were to vote, say, unanimously to approve a product or not approve a product, and the Agency went in another direction, that people would rightfully and understandably ask questions about that.

With respect to the amount of information we disclose, often we are bound by our legal obligation not to reveal the confidential commercial information that is the sponsor's. And so we are constrained to some degree in what we can say.

Nevertheless, I think you raised an important point and it's an interesting suggestion about whether or not there is more we can say in such instances. And we're - I at least pledge to take that back and we can discuss that internally and see if there is something more we can do to accommodate in those situations.

Wilson DeCamp: Thank you.

Lawrence Bachorik: Thank you Bill. Operator could we have the next question please.

Coordinator: The next question is from (Arnold Cusmak) of the FDA. Your line is open.

(Arnold Cusmak): This is (Arnold Cusmak). I'm not of the FDA. I'm an FDA patient representative. I was wondering whether there's anything in this package that deals with the role of patient representatives on advisory committees.

Jill Hartzler-Warner: This is Jill Hartzler-Warner. The guidances apply to all advisory committee members and of course the public's interest in disclosure and (unintelligible) we've talked about.

So there isn't anything that I'm aware of that's specific to patient representatives but certainly all the guidance documents are of interest to patient representatives and we'll of course guide the selections in terms of conflict of interest and so forth to determined eligibility to participate.

(Arnold Cusmak): Thank you.

Jill Hartzler-Warner: Thank you.

Lawrence Bachorik: Thank you Jill. Operator if there's another question we'll take one last question.

Coordinator: At this time I have no questions in queue.

Lawrence Bachorik: We'll wait a few more seconds just in case anyone comes up with the final question.

Coordinator: Certainly. If you'd like to ask a question you may dial star 1 on your touchtone phone.

Our next question is from Richard Hubbard.

Richard Hubbard: I'm an industry representative from Pfizer. And I just want to clarify that your conflict of interest requirements do not apply to members of the industry who are non-voting members of the committee. Is that correct?

Jill Hartzler-Warner: This is Jill Hartzler-Warner. Yes that is correct. Industry non-voting members are not subject to the conflict of interest requirements in our laws. Because they are assumed to have, obviously, an interest in representing industry.

Richard Hubbard: Thank you.

Jill Hartzler-Warner: Thank you.

Coordinator: Our next question is from Frank Burroughs.

Lawrence Bachorik: Please go ahead, and this is the last question.

Frank Burroughs: Okay. Can you go over how the - just briefly make a comment on how the changes you've proposed will help prevent what happened with the vaccine Provenge?

William McConagha: To respond - this is Bill McConagha. To respond to that, Frank, how would you characterize "what happened?" I'm not sure how to respond to your question.

Frank Burroughs: Okay. There was certainly the issue of the advisory committee's recommended approval, and then there was some what appeared to be, or if

not in fact, internal shenanigans between Dr. Pazdur and one of the advisors on the committee. Right?

William McConagha: Certainly there were allegations made to that end. You know, I guess what I would say Frank is that, you know, we have looked at the Provenge matter and that advisory committee in the aftermath very closely. And it was kind of (unintelligible). What we have talked about today are kind of systemic changes intended to help improve the management and transparency and utility of our advisory committee program.

Obviously this is an ongoing effort and we are always trying to improve the way that we do business and enhance the integrity of the process. And so if you have specific thoughts on something that you feel that needs to be addressed with respect to Provenge, you know, we welcome your suggestions as part of our ongoing effort to improve our program.

Frank Burroughs: Thanks so much.

Lawrence Bachorik: Thank you Bill. Well this will conclude the question and answer portion of the call. But before we end it, Dr. Lutter do you have any closing remarks that you'd like to make before we conclude?

Randall Lutter Thank you Larry. I'd like first to express my appreciation for all of our - everyone on the line for taking the trouble to listen to our message today.

I think we've developed, as part of an ongoing process of improvement, some specific and important improvements that will help ensure the FDA's getting the highest quality scientific advise while at the same time preserving public confidence and trust in our regulatory decisions - to ensure we make the best

possible decisions to protect and to promote the health of patients and consumers.

So thank you very much for taking the trouble to listen to us today.

Lawrence Bachorik: Thank you Dr. Randall Lutter. I'd encourage those of you who are continuing to be interested in this to check out the Web site at the fda.gov for more information on this initiative. And Michael Ortwerth assures me that the site is now up. So you should be able to go there and see our news release and related documents.

For those of you who are interested in hearing a replay of this session, the call has been recorded and it will be replayed for a week starting about an hour from now. The number to call for that replay is 800-583-8095.

With that, let me just thank you once more for joining us today. We'll see you next time. Thank you very much.

Coordinator: Thank you for participating in today's conference call. At this time all parties may disconnect.

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