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Dockets Management Staff (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

RE: Docket No. FDA-2018-D-1067 — Evaluation of Bulk Drug Substances Nominated for Use in Compounding Under Section 503B of the Federal Food, Drug, and Cosmetic Act; Draft Guidance for Industry.

ASHP is pleased to submit comments to the U.S. Food and Drug Administration (FDA) regarding the draft guidance on evaluating bulk drug substances for inclusion on the 503B bulks list. ASHP represents pharmacists who serve as patient care providers in acute and ambulatory settings. The organization's 45,000 members include pharmacists, student pharmacists, and pharmacy technicians. For more than 75 years, ASHP has been at the forefront of efforts to improve medication use and enhance patient safety.

ASHP advocates for a strong compounding framework. We believe that a robust 503B outsourcing facility program is essential to realizing the goals of the Drug Quality and Security Act (DQSA). For many of our members, 503Bs are a vital link in their compounding supply chain. ASHP appreciates FDA's efforts to clarify the types of products 503B outsourcing facilities can permissibly compound under 503B. The introduction of a 503B bulks list should reduce confusion about permissible compounding and assist with compliance.

Overall, ASHP supports the process for evaluating bulk substances outlined in the guidance. In particular, we were pleased that the agency intends to invite stakeholder feedback throughout the consideration process and that the agency will publish the rationale for its determinations. This level of transparency ensures a fair and deliberative process. Although ASHP is supportive of FDA's work, our review of the draft guidance, as well as discussions with our members, identified two areas of concern. To assist FDA in refining the guidance document, ASHP offers the following recommendations:

- **Defining Clinical Need**: In the guidance, FDA notes that "supply issues, such as backorders" are not considered clinical need.[1] As we have noted in previous comments to the agency, we remain concerned that a narrow focus on the FDA Shortage List will not adequately address the potential impact of shortages on care. Thus, ASHP recommends a broader scope for the clinical need definition in the draft guidance as it relates to product availability. Specifically, in cases where patients cannot obtain a drug, and it does not appear on the FDA Shortage List, we encourage the agency to consider other sources of shortage information, including the ASHP Drug Shortages List.[2] Because FDA's shortage determinations are based on national drug production and utilization data, they do not always accurately reflect real-time, point-of-care shortage status. In particular, the FDA Shortage List may not reflect low allocation of shortage drugs by distributors to entities with limited buying power, contractual obligations prohibiting

[1] FDA, *Evaluation of Bulk Drug Substances Nominated for Use in Compounding Under Section 503B of the Federal Food, Drug, and Cosmetic Act*, p. 8.
[2] ASHP, Drug Shortage List, https://www.ashp.org/drug-shortages/current-shortages/drug-shortages-list?page=CurrentShortages.

or strictly limiting off-contract purchasing or selling, limited distribution systems, and/or geographic areas with only one distributor or wholesaler. Thus, a comprehensive picture of shortages requires the use of multiple lists. If the FDA's intent is that 503Bs should help address all shortages, the additional information offered by other sources such as the ASHP Drug Shortages List will be essential to mitigating shortages throughout the country.

To further ensure that the shortage provisions adequately protect patient access, ASHP recommends that the FDA also institute a brief grace period before a drug appears on the FDA Shortage List. As FDA is aware, a drug shortage may not be national in scope but may already be adversely impacting patient access and hospitals, and health systems may need to rely on compounded medications to ensure patient access. Thus, a grace period before a product appears on the shortage list would ameliorate the impact of shortages on patient care. To safeguard against abusive copying during grace periods, FDA could require alternative documentation of shortage, such as appearance of the drug on the ASHP Shortage List (or another authoritative shortage list) or a history of unsuccessful attempts to obtain the approved drug (e.g., purchase orders marked "backordered"). Outsourcing facilities can play a critical role in mitigating shortages, but they must be appropriately incentivized to manufacture products that are in shortage.

- **Preventing 503B Market Disruption**: As noted above, ASHP is generally supportive of the process FDA has outlined for considering drugs for inclusion on the 503B bulks list. We intend to remain fully engaged throughout the development of the bulks lists, and we anticipate that it will not be finalized for some time. However, our understanding is that parts of the guidance — namely, the FDA's prohibition of compounding from bulk where compounding from an approved product is a clinically acceptable alternative — can be implemented immediately. We urge FDA to use caution in immediately implementing this provision. Based on feedback from our members, ASHP is concerned that a precipitous change to 503B compounding rules could unnecessarily disrupt the 503B market. As FDA is aware, some hospitals and health systems have struggled to find 503Bs that can meet their needs due to lack of capacity. Should 503Bs stop manufacturing or cease operation, it could severely impact patient care. Thus, ASHP urges the FDA to create an implementation plan for this provision that helps ensure patient access during the transition.

ASHP appreciates the opportunity to provide FDA with feedback on the draft guidance. We look forward to continuing to work with FDA to develop a workable and effective compounding regulatory framework. Please contact me at jschulte@ashp.org or (301)-664-8698 if you have any questions or wish to discuss our comments further.

Sincerely,

Jillanne Schulte Wall

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