pharmacists advancing healthcare®
7272 Wisconsin Avenue
Bethesda, Maryland 20814
301-657-3000
Fax: 301-664-8877
www.ashp.org

December 30, 2013
Division of Dockets Management (HFA-305)
Food and Drug Administration
Department of Health and Human Services
5630 Fishers Lane
Room 1061
Rockville, MD 20852

Re: FDA-2011-N-0898: Permanent Discontinuance or Interruption in Manufacturing of Certain Drug or Biological Products

Dear Sir/Madam:

The American Society of Health-System Pharmacists (ASHP) is pleased to submit comments to the Food and Drug Administration (FDA) on the proposed rule that would amend regulations to implement Title of the Food and Drug Administration Safety and Innovation Act (FDASIA) [P.L. 112-144] as published in the November 4, 2013 Federal Register.[i] ASHP is the national professional organization whose 40,000 members include pharmacists, pharmacy technicians, and pharmacy students who provide patient care services in acute and ambulatory care settings, including hospitals, health systems, and clinics. For 70 years, the Society has been on the forefront of efforts to improve medication use and enhance patient safety.

Shortages of primarily generic injectable drugs have dramatically escalated in recent years, increasing from 70 in 2006 to over 260 in 2013.[ii] These drugs, which are fundamental and essential to care, affect this nation's hospitalized and most vulnerable patients. Without access to the preferred or most clinically appropriate drug treatment, healthcare professionals must use alternatives, which may be less effective or associated with increased risk of adverse outcomes. While the number of new drug shortages has declined significantly since 2012, drug shortages still present continued challenges for healthcare professionals and patients and often result in delay of critical treatments or the use of less effective or higher risk second-line treatment regimens.

ASHP has been a leader in efforts to address drug shortages for well over a decade and has worked closely with the FDA, patient groups, pharmacy organizations, other healthcare professional organizations, and other relevant stakeholders to address the root causes of drug

shortages and to identify solutions to prevent or mitigate shortages in critical drugs used to treat cancer, to provide parenteral nutrition, or drugs used in other serious conditions.

Specifically, the proposed rule would require all applicants of certain approved drugs or biological products, including applicants of blood or blood components for transfusion that manufacture a significant percentage of the U.S. blood supply, and all manufacturers of certain drugs marketed without an approved application, to notify FDA electronically of a permanent discontinuance or an interruption in manufacturing of the product that is likely to lead to a meaningful disruption in supply of the product in the United States. Applicants would be required to notify FDA at least six months in advance of a permanent discontinuance or an interruption in supply if the drug or biological product, except a radiopharmaceutical, is a prescription product that is life supporting, life sustaining, or intended for use in the prevention or treatment of a debilitating disease or condition, including any such drug used in emergency medical care or during surgery. If the manufacturer is unable to provide six months advance notification, they should alert the FDA as soon as possible, but no later than five business days after the permanent discontinuance or interruption in manufacturing occurs. Those who do not comply with these provisions will be subject to issuance of a public noncompliance letter to an applicant for failure to notify FDA under the proposed rule.

ASHP fully supports the notification requirements of FDASIA and the provisions of the proposed rule implementing these requirements. The Society believes that the FDA's ability to prevent new shortages and mitigate existing shortages is significantly improved when manufacturers notify the Agency in advance of an impending disruption in production of a drug or biological.

When manufacturers report production issues to the FDA, the Agency has demonstrated that it is able to work with the producers to prevent a shortage, if possible. ASHP continues to work with FDA, other health care provider groups and members of the supply chain to address the issue. According to FDA, in 2012 the Agency was able to avoid 280 shortages when they were made aware of production interruptions ahead of time. [iii]

The FDA makes note that notification of temporary suspension in production is not required if the shut-down is expected, planned for, and/or will not result in a product shortage. For example, a planned maintenance period would not necessarily be reported to the FDA if it is not expected to impact production and does not exceed scheduled down-time. Additionally, an unexpected suspension in production, such as a power outage or other unplanned event would not need to be reported to the FDA should it too, not be expected to impact available product. ASHP strongly supports the Agency's clarification of this definition as it should increase the number of instances in which manufacturers are required to notify the FDA of product discontinuance, both permanent and temporary in nature, without being overly burdensome.

The proposed rule also requires the FDA to define the terms, ''drug shortage,'' ''biological product shortage,'' ''meaningful disruption,'' ''significant disruption,'' ''life supporting or life

sustaining,'' and ''intended for use in the prevention or treatment of a debilitating disease or condition.''

ASHP is pleased that the FDA has chosen to define these terms consistent with the drug shortages Interim Final Rule [76 FR 78530 – 78540 (December 19, 2011)] and section 506C of the Food Drug and Cosmetic Act [72 FR 58993 to 58994 (October 18 2007)] and are consistent with the Society's understanding of what these terms mean. We do not believe that these definitions are overly broad, nor do we believe that their adoption will result in inappropriate reporting. ASHP urges FDA to adopt these definitions in the Final Rule.

Finally, ASHP supports the FDA in exercising its statutory authority under Title X to include all biological products, including recombinant therapeutic proteins, monoclonal antibodies, vaccines, allergenic products, plasma-derived products and their recombinant analogs, blood and blood components, and cellular and gene therapy products into the definition of products subject to notification under the proposed rule. While FDASIA requires that manufacturers of certain prescription drugs be subject to Title X, it left the aforementioned products up to the discretion of the Secretary. The Society believes that the FDA's decision to exercise this authority is appropriate and correct given the critical need for these types of products.

The Society appreciates the opportunity to comment on the FDA's proposed rule. Please contact me if you have any questions or wish to discuss our comments further. I can be reached by telephone at 301-664-8806, or by e-mail at ctopoleski@ashp.org.

Sincerely,

Christopher J. Topoleski
Director, Federal Regulatory Affairs

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[i] Federal Register, Volume 78, No. 213. Pages 65904 - 65923

[ii] ASHP Drug Shortages Resource Center (http://www.ashp.org/menu/DrugShortages)

[iii] Federal Register, Volume 78, No. 213 Page 65905