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Food & Drug

E-ALERT August 11, 2008

SUMMARY OF DDMAC AND APLB ENFORCEMENT CORRESPONDENCE

July 2008

In July 2008, the Advertising and Promotional Labeling Branch (APLB) in FDA's Center for Biologics Evaluation and Research (CBER) posted two untitled letters on its website.[1] The letters addressed the issues below. This summary describes only APLB's allegations. It does not reflect the recipient's response or analysis by Covington & Burling.

Unsubstantiated Superiority Safety Claims

A flashcard for BeneFIX®, Coagulation Factor IX (Recombinant), was misleading because it suggested that BeneFIX, a recombinant product, is safer than Mononine, a plasma-derived product, a claim that was not supported by substantial evidence or substantial clinical experience. Specifically, the front of the flashcard included a comparison table that misleadingly suggested that BeneFIX and Original BeneFIX are safer than Mononine. This superior safety claim was further emphasized by statements on the back of the flashcard, under the headline "Get ready for BeneFIX-Convenience with recombinant confidence." These statements included "Proven viral safety" and "Produced through state-of-the-art recombinant DNA technology and not derived from animal or human sources." The overall presentation suggested that there is no viral risk associated with BeneFIX and that plasma-derived products such as Mononine are virally unsafe. Yet, properly processed plasma-derived products are considered virally safe, and cell-bank derived recombinant products may carry viral risks related to the use of non-human sources in their manufacturing. None of the references cited in the flashcard adequately supported the superiority claims of safety over Mononine. (Wyeth Pharmaceuticals, Inc., June 30, 2008)

Misleading Efficacy Claims

A "Clinical Thank You Email" for FEIBA VH (Anti-Inhibitor Coagulant Complex, Vapor Heated) contained the following claim: "Controlled 78% of bleeds with 3 or fewer infusions—60% of

[1] APLB did not post any letters in June. The Wyeth letter was issued on June 30, 2008, but it was not posted until July 17, 2008. The Division of Drug Marketing, Advertising, and Communications (DDMAC) in FDA's Center for Drug Evaluation and Research (CDER) did not post any letters in June or July.

which were controlled with 1 infusion within 12 hours." The claim was misleading because it overstated the efficacy of FEIBA and because the claimed efficacy rate of 60% with one infusion is inconsistent with the FEIBA package insert. Additionally, the claim was false or misleading because it stated that FEIBA "controlled 78% of bleeds with 3 or fewer infusions" but omitted important contextual information that the bleeds were controlled "within 36 hours." By omitting this information, the overall presentation of the claim misleadingly suggested that 60% of the bleeds were controlled within 12 hours, which is false. (Baxter Healthcare Corporation, July 7, 2008)

Misleading Safety Claims

A "Clinical Thank You Email" for FEIBA VH (Anti-Inhibitor Coagulant Complex, Vapor Heated) contained the following safety claim: "FEIBA is well tolerated in 96%–100% of infusions with a low thrombotic event incidence (0.008%)." This claim was misleading because it minimized the fact that serious thrombotic events can occur with FEIBA, as described in the product's package insert. The email similarly minimized the risk of thrombotic events by using the phrase "in rare instances" to describe the frequency of these adverse events. In addition, the studies referenced in the email describe a number of other adverse events associated with FEIBA, including, among others, minor chest pain, drowsiness, discomfort in breathing, and liver dysfunction. These adverse events are inconsistent with the email's description of FEIBA as "well-tolerated." (Baxter Healthcare Corporation, July 7, 2008)

If you have any questions concerning the material discussed in this client alert, please contact the following members of our food & drug practice group:

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