

Committee on Energy and Commerce Subcommittee
on Health

Hearing on: “Examining Medical Product
Manufacturer Communications”

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Statement for the Record
Submitted by ASHP



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ASHP (American Society of Health-System Pharmacists) respectfully submits the following statement for the record to the Committee on Energy and Commerce Subcommittee on Health hearing on “Examining Medical Product Manufacturer Communications.”

ASHP represents pharmacists who serve as patient care providers in acute and ambulatory settings. The organization’s more than 44,000 members include pharmacists, student pharmacists, and pharmacy technicians. For 75 years, ASHP has been at the forefront of efforts to improve medication use and enhance patient safety. For more information about the wide array of ASHP activities and the many ways in which pharmacists advance healthcare, visit ASHP’s website, www.ashp.org, or its consumer website, www.SafeMedication.com.

ASHP appreciates the opportunity to provide comments to the Committee on how manufacturers of prescription drugs and medical devices can provide information about unapproved or unlabeled uses (off-label use). ASHP believes that, consistent with current law, off-label use may be promoted only when supported by “unbiased, truthful, and scientifically accurate information based on peer-reviewed literature not included in

the New Drug approval process.”¹ For purposes of patient safety and the responsible stewardship of healthcare dollars, we urge Congress not to dilute this standard.

ASHP supports the fundamental precept that healthcare professionals have the freedom and responsibility to make evidence-based drug therapy decisions consistent with patient-care needs.² This includes the prescribing, dispensing, and administration of FDA-approved drugs for use, treatment regimens, or patient populations that are not reflected in FDA-approved labeling, but represent a therapeutic approach that has been studied and reported in medical literature.

Currently, the prevailing standard of practice requires that clinicians prescribe and dispense legally available drugs, biologics, and devices according to their best knowledge and judgment. If clinicians use a product for an indication not in the approved labeling, they have the responsibility to be well-informed about the product

¹ ASHP’s full policy on the promotion of off-label use is as follows: ASHP’s policy on the promotion of off-label uses is: (1) To advocate for authority for the FDA to regulate the promotion and dissemination of information about off-label uses of medications and medication-containing devices by manufacturers and their representatives; (2) further, to advocate that such off-label promotion and marketing be limited to the FDA-regulated dissemination of unbiased, truthful, and scientifically accurate information based on peer-reviewed literature not included in the New Drug Approval process.

² The ASHP Statement on the Use of Medications for Unlabeled Uses states: “The prescribing, dispensing, and administration of FDA-approved drugs for uses, treatment regimens, or patient populations that are not reflected in FDA-approved product labeling often represent a therapeutic approach that has been extensively studied and reported in medical literature. Such uses are *not* indicative of inappropriate usage. Health care professionals should appreciate the critical need for freedom in making drug therapy decisions and understand the implications of unlabeled uses.”

and to base its use on firm scientific rationale and sound medical evidence.³ Federal legislation recognizes peer-reviewed primary literature as the most appropriate source for clinicians seeking information to underpin their decisions regarding off-label use of a product. Under Medicare Part B (Section 1861(t)(2)(B)(ii)(II) of the Social Security Act), the term “medically accepted indication” includes a use of a drug other than the use for which it has been approved by the FDA if the use is supported by one of the listed compendia *or* “the carrier involved determines ... that such use is medically accepted based on supportive clinical evidence in peer-reviewed medical literature appearing in publications which have been identified for purposes of this sub clause by the Secretary.”

Consequences of Widespread, Inappropriate Off-Label Uses

Loosening the standard for off-label promotion carries serious consequences for patients as well as healthcare resources. Although ASHP recognizes the need for and supports medically appropriate off-label use of approved medical products, the dissemination of materials by pharmaceutical industry representatives is not the most effective and appropriate means of educating healthcare providers regarding off-label uses of drugs and biologics.

³ FDA Information Sheet for Institutional Review Boards (IRBs): Off-label and investigational use of marketed drugs, biologics, and medical devices. Guidance for Institutional Review Boards and Clinical Investigators. 1998 Update.

Specifically, allowing off-label use to be driven by industry-distributed promotional materials may create significant risks to patients. As stated previously, ASHP recognizes that it is acceptable medical practice to prescribe drugs for off-label uses. In many cases, this practice is considered low-risk, especially when used for a single patient after thoughtful consideration of risk/benefit concerns.

However, the off-label use of a drug may be systematically expanded into a broader group of patients, including the use of alternative regimens not supported by a clinical trial, and without the lack of oversight by an authoritative body (e.g., an Institutional Review Board or the FDA). This practice may be considered high-risk due to the potential exposure of a large number of patients who may be at greater risk for side effects, drug-drug interactions, or ineffective therapy.

ASHP is also concerned that, if an off-label use becomes widely accepted or endorsed by the medical community, manufacturers may be less inclined to conduct formal, controlled comparative trials, and, therefore, important information about toxicity and efficacy in other patient populations may not be fully established.

Further, although ASHP acknowledges that the distribution of pharmaceutical industry materials may help to increase awareness of important, well-conducted clinical trials, we remain concerned that such materials may be geared more toward promotion than

objective provider education regarding a product's use. This could drive up costs associated with inappropriate or unnecessary off-label prescribing.

ASHP believes that the optimal method for educating healthcare providers about off-label uses of drugs and biologics is the publication of information contained in a well-designed, controlled, balanced, and unbiased clinical trial, published in a credible *peer-reviewed* biomedical journal. Accredited continuing education programs provided by professional organizations, in which the clinical content is not influenced by a for-profit company, provide the best educational opportunity for healthcare providers to learn about an off-label use. Through these education programs, proper patient selection criteria and patient safety issues can be presented in a well-balanced and clinically relevant manner without concerns about the integrity of the clinical information or the perception of bias or promotion.

It has been the position of the FDA that firms can respond to unsolicited requests for information about FDA-regulated medical products by providing truthful, balanced, non-misleading and non-promotional scientific or medical information that is responsive to the specific request. If responses to unsolicited requests fall within these parameters, FDA has not expected those responses to meet regulatory requirements for promotional labeling or advertising and has not considered these responses as evidence of intended use.

ASHP believes that a firm's promotion of off-label use should be limited by the following:

1. Provide a response to an unsolicited inquiry only to the individual requesting the information as a one-to-one communication.
2. Focus the response to an unsolicited response to answer only the specific question asked.
3. Provide truthful, unbiased, non-misleading information that is comprehensive to the specific question asked.
4. Base the response in scientific evidence from a credible peer-reviewed journal or study.
5. Generate the response from the medical affairs or other scientific department and not the sales and marketing staff.
6. Provide all labeling information, including any boxed warning or safety information, and a prominent statement of the indications for which the product is approved as well as indications for which it has not received approval.
7. Keep comprehensive records about the communication.

The emergence of electronic media has increasingly become a source of information for health professionals and consumers alike to search for information about medical conditions and treatments. As a result, firms may receive public requests for information on off-label use from a multitude of forums. These requests can come to sponsors from the manufacturer's product website, social media, chat rooms, third-party websites, or other public forums. ASHP believes that a standard set of protocols, like those outlined above, provides for consistency in how to handle and document

requests for unlabeled usage. We further believe that any request made in a public fashion be taken “offline” and made a private one-to-one communication, following the rules as if the request was initially made in private correspondence with the manufacturer.

ASHP also recommends that any legislation directs the FDA to take steps to remove information to the extent possible from online sources regarding off-label information that is inappropriate or inconsistent with any other position or guidance the agency develops.

ASHP thanks the Committee for holding this important hearing. Additionally, ASHP remains committed to working with Congress and industry stakeholders to ensure that patients have access to lifesaving and life-sustaining medications, including appropriate off-label usage of these drugs.

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