



Charles N. Kahn III
President and CEO

January 11, 2019

The Honorable Scott Gottlieb, M.D.
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Re: Identifying the Root Causes of Drug Shortages and Finding Enduring Solutions; Public Meeting; Request for Comments [FDA-2018-N-3272]

Dear Commissioner Gottlieb,

The Federation of American Hospitals (FAH) is the national representative of more than 1,000 investor-owned or managed community hospitals and health systems throughout the United States. Our members include teaching and non-teaching hospitals in urban and rural parts of the United States, as well as inpatient rehabilitation, psychiatric, long-term acute care, and cancer hospitals. We appreciate your continued focus on and commitment to finding solutions to the persistent drug shortages that are impacting hospital and health systems and our patients.

We appreciate the openness with which the Food and Drug Administration (FDA) has approached this issue. FAH staff and our member companies have had a number of opportunities to directly interact with FDA staff during listening sessions and meetings on this issue. During those interactions, we have described the impact persistent shortages are having on our patients, why we believe the shortages are occurring, the implications of those shortages and the time consuming and costly measures our hospitals are taking to continue to provide world class care despite them. We appreciate the opportunity here to both reiterate some of those concerns while also providing a number of potential solutions to the problem.

Hospitals Working to Manage the Problem

Managing drug shortages has become an all-consuming effort for our hospitals, impacting patient care, hospital financial health, staffing, and information technology requirements. Our hospitals report that drugs in short supply are commonly prescribed, essential products, such as opioid injectables, saline, sodium bicarbonate, sterile water, epinephrine, and dextrose.

Patient Care

Our hospitals are taking multiple measures to ensure the ongoing quality of patient care. Pharmacy, nursing and medical staff are in close contact to ensure patient safety due to drug or packaging changes brought about due to shortages. We are substituting more expensive drugs or therapies where available while repackaging larger package sizes into smaller formats to ensure patient access to drugs. We are adjusting our electronic health record documentation and management to ensure accuracy of patient records.

Hospital Financial Health

The work being done to manage these shortages comes at a steep cost for hospitals. Finding available source of products in shortage often means acquiring those products at a higher cost than otherwise. Where product cannot be replaced, finding alternate therapies or larger package sizes requires additional time and resources to ensure proper administration of the alternative product. Because the timing, frequency and duration of shortages are too often unknown, planning through the shortage is burdensome and requires additional expense. These efforts, while essential, divert needed energy and time away from more important and necessary initiatives.

Staffing Burden

Shortages require increased staff time focused on planning and implementing solutions to effectively address new and existing shortages. From procurement to pharmacy to nursing, almost all hospital staff are impacted in some way by these shortages. Pharmacy staff are required to identify alternate therapies, employ compounding where appropriate, manage electronic dispensing systems and repackage product into usable amounts. Procurement staff spend countless hours identifying sources of product, acquiring, sometimes on a week to week basis, alternate product and working with distributors to ensure the availability of product. Medical staff spend additional time understanding the product available and the correct administration of that product – all which can change week to week.

Action Should be Taken to Mitigate Current Shortages and Prevent Future Shortages

The FAH is a participant in a drug shortage working group comprising leading healthcare provider organizations – including representatives of hospitals, health-system pharmacists, physicians, group purchasing organizations (GPOs), and other supply chain stakeholders – that convened a series of meetings to develop recommendations and policy proposals to help prevent and address drug shortages. The full list of proposals is attached.

Below, we highlight a number of the proposals from that working group as well as a number of other proposals that we support:

1. **Encourage Early Drug Shortage Alerts and Ongoing Multi-Stakeholder Communications:** All stakeholders in the market, including providers, manufacturers, wholesalers, GPOs, and others should communicate with the FDA as soon as a potential shortage situation is identified, and continue to share information as available. FDA and others should continue working to improve inter-agency communication and cross-agency coordination in shortage situations like the

injectable narcotic shortage that occurred earlier this year, which required involvement of both the FDA and Drug Enforcement Agency. Encouraging early and ongoing communication is critical for mitigating risk and reducing the likelihood of shortage situations.

2. **Enhance Transparency Requirements for Drug Shortage Information:** FDA should require the reporting of accurate and timely information regarding shortages, including anticipated duration, supplier information about what drugs are manufactured at which plants and where those plants are located, and other disclosures, are critical to ensure that all stakeholders take the most effective steps toward addressing drug shortages and ensuring uninterrupted, quality care for patients. The goal for policy solutions should be to ensure that all parties operate under good, complete and timely information.
3. **Strengthen Drug Shortage Disclosures:** Title X of the Food and Drug Administration Safety and Innovation Act should be strengthened to require these notifications to include disclosure of the problem causing the interruption, the extent of the shortage, and the expected duration of the shortage. Failure to provide timely notice of a drug shortage should result in a monetary penalty for the manufacturer. Also, manufacturers should be required to report current or anticipated supply concerns, including issues pertaining to the production/acquisition of raw materials. The information provided should be collated and organized by the FDA into a source on its website and easily accessible by the public.
4. **Preventing Manufacturing Shutdowns:** FDA should improve the regulatory violation process for current good manufacturing practices (cGMP) by shortening turnaround times and improving and standardizing processes of FDA reviews to identify problems prior to shutting down facilities. More rapid review of corrective actions taken by manufacturers would help moderate fluctuations.
5. **Develop Manufacturer Drug Shortage Action Plans:** Manufacturers should develop current drug shortage action plans that would help prevent, identify, and actively respond to drug shortage situations. These remediation plans should be completed annually.
6. **Better Integrate FDA Drug Shortages List:** The FDA should expand its list of drug shortages to incorporate shortages included on other lists – such as the drug shortage list maintained by American Society of Health-System Pharmacists (ASHP) – to ensure a comprehensive and current list of drug shortages is being used. A more complete list can be used to help determine appropriate prioritization and will include more information that is needed to mitigate shortages – e.g., information on 503B compounders. The FDA’s list fails to take into account drugs that are in shortage based on their administration form and dosage, and does not include drugs that are

experiencing significant regional shortages. An expanded list would enable feedback from providers that are on the front line.

7. **Evaluate Drug Shortage National Security Implications:** The disruption to the drug supply chain for critical and life-saving medications should be evaluated for potential impacts on national security and our ability to respond appropriately in an emergency. The Department of Health and Human Services and the Department of Homeland Security should identify ways in which they can support manufacturers and the healthcare provider community and help them better prepare and respond to future disasters and other supply disruptions from a public health perspective.

We appreciate FDA's effort to address this issue and its openness to meet with stakeholders. We look forward to working with you in the future. Please feel free to contact me should you have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to be "Andrew M. ...". The signature is fluid and cursive, with a large initial letter 'A' and a long horizontal stroke at the end.

Drug Shortage Working Group: Proposals to Address Drug Shortages

Despite progress in reducing the number of new drug shortages, ongoing shortages of critical prescription drugs continue to represent a threat to America's healthcare providers and the patients they serve. Healthcare providers are on the front lines of patient care and have unique perspective on the impact of drug shortages on patients, as well as on potential causes and solutions to shortages. Recently, a drug shortage working group comprising leading healthcare provider organizations – including representatives of hospitals, health-system pharmacists, physicians, group purchasing organizations (GPOs), and other supply chain stakeholders – convened a series of meetings to develop recommendations and policy proposals to help prevent and address drug shortages. The group has also directly engaged with senior U.S. Food and Drug Administration (FDA) officials to share information and assess potential solutions

The FDA has shown great leadership in the fight to address critical drug shortages and has made important progress, including the creation of a Drug Shortage Task Force, prioritization of Abbreviated New Drug Applications (ANDAs) for drugs where there are fewer than three generic alternatives, improved regulatory harmonization across global supply chains to facilitate expedited importation alternatives, and a reduction in the backlog of new ANDAs. While these FDA initiatives are an important step forward to address critical drug shortages, a broader, holistic, multi-stakeholder, and multi-agency approach is necessary to truly address drug shortages.

The following are 6 priority recommendations that expand on the important work that FDA is already doing, and provide FDA the necessary authority, resources, and flexibility to comprehensively address drug shortages:

- 1. Encourage Early Drug Shortage Alerts and Ongoing Multi-Stakeholder Communications:** All stakeholders in the market, including providers, manufacturers, wholesalers, GPOs, and others should communicate with the FDA as soon as a potential shortage situation is identified, and continue to share information as available. FDA and others should continue working to improve inter-agency communication and cross-agency coordination in shortage situations like the injectable narcotic shortage that occurred earlier this year, which required involvement of both the FDA and DEA. Encouraging early and ongoing communication is critical for mitigating risk and reducing the likelihood of shortage situations.
- 2. Enhance Transparency Requirements for Drug Shortage Information:** FDA should require the reporting of accurate and timely information regarding shortages, including anticipated duration, supplier information about what drugs are manufactured at which plants and where those plants are located, and other disclosures, are critical to ensure that all stakeholders take the most effective steps toward addressing drug shortages and ensuring uninterrupted, quality care for patients. The goal for policy solutions should be to ensure that all parties operate under good, complete and timely information.

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The following are 7 additional policy recommendations that align with current FDA priorities, and reflect areas where FDA has made significant progress in advancing solutions to comprehensively address drug shortages.

1. **Senior-level FDA Drug Shortage Navigator:** To build on the work of the existing Drug Shortage Task Force and the Drug Shortage Ombudsman, the FDA should ensure that there is a single person responsible for rapid consideration and coordination with each manufacturer who submits an application to address drug shortage products. This position(s) should reside within the Office of Generic Drugs (OGD) and responsibilities would include shepherding drug

applications through the internal review and approval processes at FDA and maintaining communication with the manufacturer. In addition, the Navigator would be responsible for understanding the manufacturing landscape, foreshadowing future potential drug shortages, and working proactively to help address potential drug shortages before they arise and impact patient care. Furthermore, the Navigator would serve as a single point of accountability from the FDA to the inter-agency Drug Shortage Point Person and provide FDA with the flexibility to take necessary actions to address specific shortage situations as they arise.

- a. **Status:** The FDA has improved coordination and communications between the Office of Pharmaceutical Quality (OPQ), OGD and other coordinating offices.

2. **Development of a Multi-Stakeholder Advisory Panel:** To build on its existing efforts, FDA should work with various healthcare stakeholders including providers, manufacturers, and distributors to establish a multi-stakeholder advisory panel. This panel can assist the FDA and other federal agencies in understanding the depth and significance of specific drug shortages on patient care. The advisory panel can also help to develop alternate therapeutic options during the shortage, as well as provide input on potential actions being considered by the FDA and others to help alleviate the shortage.
 - a. **Status:** The FDA regularly engages with providers and manufacturers to receive updates on potential and ongoing shortage situations.

3. **Parallel Review Process:** For drugs identified as being shortage, FDA can expedite review of newly submitted ANDAs by reviewing the application while awaiting submission of the 6-month stability data instead of waiting until the 6-month stability data is received before beginning the review process.
 - a. **Status:** The FDA has implemented this policy.

4. **Facility Inspections and Review of Manufacturing Changes:** FDA, at the direction of the Inter-Agency Drug Shortage Point Person, should expedite facility inspections and the review of manufacturing changes, drug applications and supplements that would help mitigate or prevent a drug shortage.
 - a. **Status:** The FDA has implemented this policy.

5. **Supplemental Manufacturing Requests:** Supplemental manufacturing requests should be handled separately from ANDAs and should only be evaluated on the areas that will be changed or enhanced. By expediting these supplemental requests, manufacturers will be able to produce drugs more efficiently. For example, the FDA recently took action to review and extend the shelf-life of EpiPen.
 - a. **Status:** The FDA has implemented this policy.

6. **Import Alternatives (Short-Term Action) and Regulatory Approvals (Longer-Term Action)**: The FDA should maintain a list of import alternatives for drugs in shortage that meet the same high-level of regulatory and safety review. This list should account for the needs of different patient populations. The FDA should also ensure that all possible options to address the shortage within its jurisdiction, such as expediting review of ANDAs and better coordination with inter-agency partners such as the DEA, have been exhausted prior to importing alternatives.

FDA should assess global regulatory harmonization and what can be utilized from regulatory approvals, submitted data, and other evidence that can be recognized by US regulators to speed the approval and use of generics and biosimilars overall, as well as during a drug shortage.

- a. **Status**: The FDA has made improvements to facilitate expedited and safe import alternatives, such as gaining access to the use of foreign inspection data.
7. **Appointment of Inter-Agency Drug Shortage Point Person**: The creation of an inter-agency, White House-level ‘Drug Shortage Point Person’ will improve cross-agency coordination on issues related to drug shortages, such as the ongoing shortage of generic injectable opioids. A Drug Shortage Point Person will streamline needed communication and cooperation among stakeholders such as the Department of Health and Human Services (HHS), Department of Homeland Security (DHS), Drug Enforcement Administration (DEA), Federal Emergency Management Agency (FEMA), Department of Veterans Affairs (VA), Centers for Medicare & Medicaid Services (CMS), FDA, and other stakeholders. Specific examples of where a Drug Shortage Point Person could have helped mitigate recent drug shortages include: the recent injectable opioid shortage and the initial disconnect between the Drug Enforcement Agency and FDA on a coordinated response; and the IV saline solution shortage after Hurricane Maria, wherein FEMA prioritized re-opening hospitals but not certain pharmaceutical manufacturing sites.
- a. **Status**: The FDA has enhanced interagency coordination with the DEA to expand transparency, facilitate more dialogue between leadership, and implement work plans that improve efficiency.

These recommendations were developed by the Drug Shortage Working Group which is composed of the following organizations:

*America’s Essential Hospitals
American Hospital Association
American Medical Association
American Society of Anesthesiologists
American Society of Clinical Oncology
American Society of Health-System Pharmacists*

*American Society for Parenteral and Enteral Nutrition
Children’s Hospital Association
Federation of American Hospitals
Healthcare Supply Chain Association*