March 26, 2012

The Honorable Tom Harkin
Chairman

The Honorable Michael B. Enzi
Ranking Member
Senate Committee on Health, Education, Labor and Pensions
428 Dirksen Office Building
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Enzi:

The Academy of Managed Care Pharmacy (AMCP) is pleased to address several important issues in the congressional reauthorization of the Prescription Drug User Fee Act (PDUFA) for fiscal years 2013 to 2017. AMCP is a national professional association of pharmacists and other health care practitioners who serve society by the application of sound medication management principles and strategies to improve health care for all. The Academy’s more than 6,000 members develop and provide a diversified range of clinical, educational and business management services and strategies on behalf of the more than 200 million Americans covered by a managed care pharmacy benefit.

The Academy’s comments in this letter focus on the areas of generic drug user fees, postmarket risk management, specifically risk evaluation and mitigation strategies (REMS) and the Sentinel Initiative, the development of a biosimilar user fee program, and direct-to-consumer (DTC) advertising. The Academy is pleased that a generic user fee program, postmarket risk management, and the development of a user fee for biosimilars, were all addressed in the recent PDUFA reauthorization process. The Academy is concerned that DTC advertising was not addressed in PDUFA but was pleased to see FDA’s recent draft guidance on the issue.

**Generic Drug User Fee**
AMCP supports legislative and regulatory changes that would promote the development and use of safe, efficacious and equivalent generic drugs and eliminate barriers to the entry of generic drugs into the marketplace. Most managed care organizations structure their prescription drug coverage to promote the use of generic drugs because they usually offer greater value to patients and payers.
Congress needs to ensure that FDA has access to adequate resources in order to review and process applications for generic drugs. FDA is an agency that has been chronically underfunded for many years, and the lack of available funding has led to unnecessary delays in approval of generic drugs. AMCP believes that Congress must provide adequate funding to FDA each budget year. In the absence of adequate funding, the user fee program is essential.

The Academy’s preference is for this funding to be provided in total by the federal government. Absent this course of action, which we recognize to be unlikely, the Academy supports the establishment of a generic drug user fee. We believe funding is imperative not only to support the generic drug review program but also to support effective postmarket risk management.

**Postmarket Risk Management**

FDA is responsible for evaluating not only a drug's efficacy but its safety as well. The drug review process imposes limitations because of the comparatively limited timeframes and parameters of clinical trials and the relatively small population of subjects tested. This is the reason postmarket surveillance provides additional benefits toward patient safety.

AMCP believes FDA’s responsibility for medications extends over the life span of the medication. FDA must stand behind its assurance of the safety of medications not just after initial drug approval but for the life span of the drug. This includes working to ensure that medications are safe throughout their longevity and may occur through fee-supported postmarket activities. PDUFA IV initiated this change in the Agency’s recognition of its responsibilities by eliminating time limits on support of post-market risk management. This action is critical to increasing safety of medications after their initial approval. In a presentation on PDUFA IV in 2007, it was demonstrated that the extent of adverse events is not fully realized until more than five years after a medication is approved.

**Standardizing REMS:** A risk evaluation and mitigation strategy (REMS) is a strategy to manage a known or potential serious risk associated with a drug or biological product. REMS can include a medication guide, patient package insert, a communication plan, elements to assure safe use, and an implementation system, and must include a timetable for assessment of the REMS. The Food and Drug Administration Amendments Act of 2007 (FDAAA) authorizes FDA to require pharmaceutical manufacturers to submit a proposed REMS as part of an application if FDA determines that a REMS is necessary to ensure that the benefits of a drug outweigh the risks of the drug. FDA is also authorized to require pharmaceutical manufacturers to submit proposed REMS if FDA becomes aware of new safety information and determines that such a strategy is necessary to ensure that the benefits of the drug outweigh the risks of the drug. The Academy supports the concept of risk evaluation and mitigation strategies (REMS) when and as necessary to protect patients from a medication’s risks. With increasingly complex medications in the pipeline, the need to use REMS programs will become more common, and it is therefore important that REMS programs are designed to be manageable for all the concerned stakeholders, including patients, prescribers and dispensing pharmacies.

The Academy supports the provisions proposed by FDA to measure the effectiveness of REMS and to standardize and better integrate REMS into the health care system. Specifically, AMCP was pleased to see the following provisions:

- By the end of FY 2013, FDA will issue guidance on how to apply statutory criteria to determine whether a REMS is necessary to ensure that benefits outweigh risks
- By the end of FY 2013, FDA will hold public meetings to explore strategies to standardize REMS, where appropriate, with the goal of reducing burden
- By the end of FY 2013, FDA will initiate one or more public workshops on methodologies for assessing the effectiveness and impact of REMS

The efforts listed above will guide important improvements in the operation of REMS programs and the Academy supports these measures.

**Using the Sentinel Initiative to Evaluate Drug Safety:** With the passage of FDAAA, FDA was directed to establish the Sentinel System, a network of external entities that would develop electronic databases of health information utilized for surveillance and safety signal evaluation for drugs and other marketed medical products.\(^5\) FDA’s Sentinel pilot program is now enabling scientists to evaluate safety questions far more rapidly than using traditional channels. The current Sentinel database includes 17 data partners across the U.S., with the majority being managed care organizations, and encompasses the data of nearly 100 million patients.\(^6\)

One of the concerns with a large-scale sentinel system is the privacy and security of protected health information to be used in a clear and meaningful method only for specified purposes.\(^7\) The current Sentinel System has proven that FDA can accomplish active postmarketing surveillance without the establishment of a large centralized database, thereby maintaining the security of protected health information. Through this system, nearly all confidential personal health data can remain with the clinicians or original data holders.\(^8\) The ability to capture postmarketing data in real time under the Sentinel System will provide a foundation for the monitoring and communication of adverse events. In order to protect patient safety, FDA must communicate postmarketing surveillance results in a timely, transparent and appropriate manner to a range of audiences. Priorities for communication with patients should include finding ways of placing information about risks in the context of information about benefits, specifying the degree of certainty in particular findings, and identifying next steps for developing and communicating information that is more definitive. AMCP applauds FDA’s commitment to create a more transparent and efficient postmarketing surveillance system so stakeholders receive information that is more meaningful.

**BioSimilar User Fee**

Millions of Americans depend on biologic therapies\(^9\) and advances being made in the field of biotechnology. The field of biotechnology holds great promise for the development of many new biologic products to treat

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\(^9\) From the Food and Drug Administration: “Biological products include a wide range of products such as vaccines, blood and blood components, allergens, somatic cells, gene therapy, tissues, and recombinant therapeutic proteins. Biologics can be composed of sugars, proteins, or nucleic acids or complex combinations of these substances, or may be living entities such as cells and tissues. Biologics are isolated from a variety of natural sources - human, animal, or microorganism - and may be produced by biotechnology methods and other cutting-edge technologies. Gene-based and cellular biologics, for example, are often at the forefront of biomedical research, and may be used to treat a variety of medical conditions for which no other treatments are available.”
such serious diseases as cancer, multiple sclerosis, anemia and rheumatoid arthritis. Biologics are certain to play an increasingly important role in the country’s health care system – both in terms of scientific improvements in the treatment of disease and increased drug costs. The Academy believes that an expedited approval process for biosimilar products provides a needed incentive for the development of new therapeutic products that hold the promise of preventing, treating or curing otherwise inevitable, untreatable and incurable diseases. This process will help ensure greater access to new therapies at costs significantly below those of brand name biologics. Safe alternatives to some biologic drugs have existed for more than 20 years. An appropriately-funded process for a regulatory pathway for FDA approval of these products is essential.

The Academy supports the following specific initiatives related to biosimilars:

- FDA should develop an expedited approval process for biosimilars.
- Applicants seeking approval of biosimilars should be required to conduct clinical studies as part of the approval process if FDA determines on a case-by-case basis that such studies are necessary.
- Applicants seeking approval of biosimilar products should be required to conduct post-market studies as a pre-condition for approval if FDA determines on a case-by-case basis that such studies are necessary.
- FDA should have authority to determine whether or not an approved biosimilar is interchangeable with the innovator drug.
- The manufacturer of an approved biosimilar should be allowed to use the same government approved name as the innovator product.\(^\text{10}\)

The Academy will not address the specific dollar amounts suggested in the user fee proposal, but AMCP emphasizes the important, positive health care impact of more cost-effective alternatives for existing biologic agents. The Academy believes that FDA must have appropriate funding for the expedited approval pathway for biosimilar and interchangeable biologic products to function in a timely manner while ensuring that such products are safe and effective. The Academy’s preference is for this funding to be provided in total by the federal government. Absent this course of action, the Academy supports a user fee program for biosimilar and interchangeable biological product applications.

### Direct-to-Consumer Advertising

In a letter dated May 12, 2010, the Academy strongly encouraged the FDA to include provisions related to DTC advertising under PDUFA. While the Academy is concerned that DTC advertising was not addressed in the PDUFA reauthorization process, we are pleased to see FDA’s recent draft guidance on the issue (Guidance for Industry Direct-to-Consumer Television Advertisements – FDAAA DTC Television Ad Pre-Dissemination Review Program Draft Guidance). The Academy strongly recommends that the DTC advertising reviews should be required and the requirement should include precise language to provide an extension to all modes of DTC advertising, including media other than television. The Academy discourages the use of direct-to-consumer advertising that promotes specific prescription drug products, but supports advertisements that educate the public about disease symptoms and available treatment options. Advertising that increases public awareness about disease symptoms, informs consumers about available treatment options and diagnostic procedures that may be of benefit, stimulates discussions between prescribers and patients, and encourages individuals to pursue healthier lifestyles can improve the health status of patients. It does this by encouraging consumers to become more proactive about their health in general, and by fostering constructive dialogue between patients and their providers regarding their care.

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AMCP strongly discourages advertising aimed at consumers that promotes the use of specific prescription drug products. In general, such advertisements aim to increase a product's market share or create a new market for the product. Whether or not a prescription item is medically indicated for a given patient, direct-to-consumer advertising of the product can create unwarranted patient demand. The advertisements can often be misleading, failing to sufficiently warn consumers about the potential risks of using the product and about alternative treatment options.

AMCP appreciates the opportunity to comment on the PDFUA reauthorization and looks forward to working with you in the immediate future to enact these changes as quickly as possible. If you have any comments or questions, please feel free to contact me or AMCP’s Director of Government Relations, Lauren Fuller, at 703-683-8416, or by email at Lfuller@amcp.org.

Sincerely,

Edith A. Rosato, R.Ph., IOM
Chief Executive Officer