FOOD AND DRUG ADMINISTRATION (FDA)

Public Meeting

BIOSIMILAR USER FEE ACT (BsUFA)
REAUTHORIZATION

Thursday, October 20, 2016
9:03 a.m.

FDA White Oak Campus
10903 New Hampshire Avenue
Silver Spring, Maryland 20993

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A P P E A R A N C E S

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Josh Barton, Operations Research Analyst, Center for Drug Evaluation and Research, FDA

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OPENING REMARKS

DR. ROACHE: All right. Good morning everyone. And welcome to this public meeting on the Reauthorization of the Biosimilar User Fee Act.

My name is Amanda Roache and I work in the Center for Drug Evaluation and Research in the Office of Strategic Programs and I am going to be your moderator for today's meeting.

As you are aware this meeting is an important step in the process on the reauthorization of the Biosimilar User Fee Act also known as BsUFA and this Public Meeting presents an opportunity for the public to provide their views on the recommendations for the second iteration of BsUFA.

Before we get started I would like to mention that the public docket for comments which was open on September 19 will remain open for one more week and will close on October 28. So if you would like to submit a comment following today's meeting you will still have an opportunity to do so.

I just want to provide a quick overview of

the structure of today's meeting. We are going to start with some opening remarks from our Commissioner Dr. Califf. We are very pleased that he can be here today to get us started.

And following his opening remarks we will have a series of FDA presentations. We will start on some background of the Biosimilar User Fee Act that will be presented by Dr. Theresa Mullin from the Office of Strategic Programs in CDER. And then we will then present the proposed enhancements for BsUFA II and these will be presented by Dr. Leah Christl who is the Associate Director for the Therapeutic Biologics in the Office of New Drugs. Following this presentation we will go over the financial enhancements for BsUFA II and these will be presented by Josh Barton who is from the Office of Strategic Programs.

Following these presentations we will have a short break from 10:30 to 10:45 and when we return we will resume with our first panel which will be Perspectives from Patient and Public Health Advocates. We will then go on to Panel 2 which will be

Perspectives from our Health Care Professionals and then we will break for lunch from about 11:30 to 12:30 p.m.

When we come back from lunch we have our third and final panel with will be Perspectives from Regulated Industry.

We will then have an open public comment period. Following this Open Public Comment we will have closing remarks presented by Dr. Mullin.

A few housekeeping items before we get started. There are food and beverages available for purchase at the Kiosk, bathrooms are down the hall from the lobby and to the left. And if you would like to have the Wi-Fi password you can speak with the people at the desk in the lobby.

I would also like to mention that we are asking anyone who would like to provide a comment during the open public comment period to please register. You can go out to the registration desk where you signed in and there is a sheet there that says open public comment. If you could please write your name there if you would like to provide a

comment. And we ask that you preferably do this during our first break. And all of the public comments are asked to limit their remarks to five minutes.

I would now like to turn our meeting over to our Commissioner Dr. Califf to provide us opening remarks.

OPENING REMARKS

DR. CALIFF: Thanks. It is great to be here with you today and I shouldn't have expected anything differently than this well organized meeting.

Just sort of a reflection one of the reasons I was interested in being Commissioner was I knew the UFAs were going to be renegotiated and I had this anticipation I would need to come in with a heavy hand as a Commissioner and do all sorts of things to make it work. But this FDA teams and I think the corresponding teams that have been negotiating have really done an amazing job. So most of my work in the UFAs consists of giving opening remarks to meetings which go on and are well planned and turn out quite well. So actually it has been a great learning

experience for me.

The purpose of today's public meeting is to share with the public the proposed recommendations for the reauthorization of the Biosimilar User Fee Act that you all know about and to hear from you on your views on these recommendations. It is really important for us to have the public input as we go through this process and it is quite an amazing process and well evolved through experience with all the UFAs.

First authorization of BsUFA was 2012. This allowed the FDA to establish a biosimilar product development program. This program has shown considerable success with the approval of four biosimilars in the United States and publication of four final and five draft guidances.

The intent is to provide additional revenue so that the FDA can hire more staff, improve systems and established a better managed biosimilar review process. BsUFA has been critical to FDA's ability to develop the foundation needed to conduct reviews in a consistent and timely manner.

A well-managed review process is important to make therapies available to patients sooner without compromising review quality of FDA's higher standards for safety, efficacy, and quality.

I'll just note here it is a fascinating policy issue this speed versus quality thing which plays out in many areas of medicine and in many ways I think a pretty good equilibrium has been reached at this point where if you sped things up too much you would really sacrifice quality which is something that is really bad for the patients who are in need. But, of course, we should always look for way to do things faster within the context of high quality.

The biosimilar industry is still in the early stages of development but the number of biosimilar development programs has been steadily growing since the start of BsUFA I. Sponsor requests for meetings with FDA for consultation during biosimilar development have far exceeded our earlier projections. And the number of marketing applications is beginning to grow as well. The issues raised in these consultations and reviews are both

scientifically and legally complex and the volume of review work has been higher than anticipated.

FDA will continue to face challenges as this program evolves and there are a large number of industry biosimilar development programs under way. However, we feel that the recommendations in the proposed package for BsUFA II will help us to alleviate some of the challenges we have faced in the past. So we take these commitments very seriously.

Just a couple of notes here just from my experience. First of all I was very involved 25 years ago in the development of biologics in cardiovascular disease and it has been amazing to see how this field has evolved over that time. If you told me then we could even think about biosimilars it was sort of a frightening thought. But obviously things have evolved now to where we see an enormous number of things in the pipeline and growing and realistic confidence that this can work.

But also what I've just told you in the previous paragraphs it is sort of like the FDA administrators nightmare. We're out of space; we need

to hire more people; quite a few challenges here and all the while realizing something that I don't think people talk about enough the FDA's critical role in development, not just the evaluation of the final packages that come in. And I think industry has become very aware of this at these meetings that are so much in demand are a critical part of what the FDA does and what the industry does because what we all want as patients would be for the things that are not going to work to get weeded out quickly and things that will work to get sped along; and also for mistakes not to be made in the process of development. That is not in anyone's interest. And the ability of FDA to look at the entire picture of everyone coming through gives us a lot of expertise which is highly valuable to society. So it is exciting to see the demand for all these meetings and all these people but it is a challenge for us and I think the user fee negotiations are really a critical part to give us the resources that we need.

So the reauthorization package with industry occurred through a process of again with a public

meeting in December 2015 where we heard views from many of the same people who are in the room today about your experiences during the first iteration of BsUFA and expectations for the future of the program.

Over the past several months FDA has been in the process of developing a set of proposed recommendations for reauthorization of BsUFA. We are pleased to have the chance to discuss the proposed recommendations with you today. The recommendations represent a strong and comprehensive set of enhancements and refinements to the BsUFA program. And include enhancements in several areas and I'll just list a few of them here:

Application review, for example establishing a review model for biosimilars similar to the program under PdUFA for New Molecular Entity New Drug Applications and original biologic license applications and aligning the BsUFA goal for prior approval of manufacturing supplies with the goal timeframes from PdUFA.

Secondly enhancements to improve meeting management.

Third the commitments to development of new guidances for industry.

Fourth the enhanced capacity for guidance development, review or training, and timely communication.

And I'll just say I've gained a keen appreciation too for the importance of a variety of tools to increase communication across the industry, the patient advocates and the FDA not only about the rules of the game but also the knowledge base that leads to successful and useful product development.

And then finally management of BsUFA resources including measures for financial transparency and efficiency; something we are working on across the FDA.

Our goal is to submit the package of proposed recommendations to Congress by the end of the calendar year to support timely reauthorization of this program.

You will hear more about the proposed recommendation throughout the course of the meeting.

We are excited about the future of BsUFA and

look forward to hearing your views on the proposed recommendations.

Although I've got to run to a meeting downtown I'll be very interested in what's said today but having looked at this and worked with the team here I think we are in really great shape and look forward to any feedback on tweaks and improvements that you can see.

So thanks and have a great meeting.

DR. ROACHE: Thank you Dr. Califf. We are very happy that you were able to get us started today. I would now like to turn the meeting over to Dr. Theresa Mullin to provide some background on the Biosimilar User Fee Act.

BsUFA BACKGROUND AND REAUTHORIZATION PROCESS

DR. MULLIN: Thank you, Amanda.

Good morning. So I'm going to go through this. I noted on the Archives Building downtown that across the top engraved in the building it says "past is prologue" and you know, of course, how appropriate for the Archives Building but we thought we would just call this section by that name because for those of

you and maybe everyone here does follow BsUFA very closely and so this is going to be material that is very well known to you and you don't really need to hear it again. But we're going to go through and give you a little bit of a recap of the start of the authorization of biosimilars in that first program and what we were thinking of at the time and how we set it up the way we did because that is really the launching from our discussions of what to do next.

And this is just to review the provisions in the Statute for reauthorization of BsUFA. We've been following it very closely as we do with all the provisions that we have related to the different User Fee Programs. And they do vary a little bit.

This is still such a new program that the process is one that doesn't have all the provisions of a PdUFA program and it kind of makes sense. If you look around we don't have quite as much interest in it; there aren't as many products on the market yet and so on, although we are getting a good start now.

And so we began the process with a meeting that we had last December, December 18, 2015, where we

had initial consultation with the public about the program and about proposed areas for enhancement of the program. And you may have joined us at that meeting as well and provided your views then.

We analyzed the comments in the docket as well as what we heard in the meeting to get ready for negotiations which we started in March knowing that the same timeframe for getting the package to Congress was there for this program as for all the other User Fee Programs we worked to try to conclude those negotiations by about the end of May so that we could get the package put together for Agency ratification; industry indicated that it needed to take it and indicated that it needed to have a process and the summer is a hard time to get your senior leadership together sometimes. We then put it through a process of clearance, a review clearance by the administration.

And here we are today; this meeting marks one of the final milestones of this process at least as far as FDA carries it which is to hear the public comments on the package of proposed recommendations.

We'll again analyze the comments that we receive to the docket. We will analyze what we hear in this meeting today to see if any revisions need to be made and make any as necessary so that we can conclude this process and get the package along to the authorizing committees.

I was just in a session yesterday where I was able to hear the Senate senior staff on the committee indicating that you know they see challenges too this year because it is a rather unique set of circumstance for the reauthorization of these User Fee Packages because we have an administrative change occurring in January as well as transmitting and potential leadership change in Congress as well. So it creates some additional challenges for them.

But just to go back a bit and start with how this program got started. So the Biosimilar Price Competition and Innovation Act which was basically passed in 2010, enacted in 2010 amended the FDCNA Act to add that abbreviated pathway for biosimilars 351(k) path. And this is in addition to of course the 351(a) Innovator Biologic path. And the BPCIA also directed

FDA to come up with some recommendations for User Fee support for this program. One possibility when it was first enacted we were instructed to cover it under the PdUFA User Fee Program and the question really was at the time in 2010 and 2011 was should we keep it as part of PdUFA or separate it out and have its own program. And I think there sense on the part of most of the parties involved in this discussion that it really was a different pathway and it merited its own program. And so we were instructed in any case to get our recommendations to Congress within the same timeframe as those other programs that were being reauthorized or authorized like PdUFA for the first time. So we were trying to get it there within the same timeframe and so we had to work with the information we had.

And unlike the other User Fee Programs, unlike PdUFA, for example, with PdUFA there was a long history or at least a well established program that existed at the time that User Fees were first discussed in 1992.

And this on the left side of this chart you

see the volumes of workload coming in and what was there for PdUFA back in the early 1990s that gave us something in fact to work with as far as a fee structure goes and even trying to estimate the level of effort that would be involved or how much additional might be helpful to add to the non-fee funds so that we could figure out how to improve the process.

We had no history like that, of course, with BsUFA because biosimilar program was brand new; these products were new. There were no approved products at the time. There were no establishments making those products of course, no marketed products. And so we had some programs in development. We had some IND phase work going on. We had very little non-fee funding. We received some funding to go toward biosimilar so we could use it for that in fiscal year 2011, non-fee funding of $l.8 million so there really was no other existing funding stream to cover this program.

And that created a lot of challenges for us. And it wasn't really that helpful to look at the

projections of what would be coming because they were all over the place; most of them very, very optimistic and as we got -- if you go back a few years before 2010 they were even more optimistic and then they were adjusted downward a little bit by the time we got to 2010 and 2011 but still we thought what is the trajectory for these products. We knew there would be a lot probably in development but we didn't know how much would be coming through to be a marketing application. And so that uncertainty really effected what we did and how we figured out how to get started. And we all I think the people involved in talking about this and the consultations that we did really we thought we might as well start with something that we know.

What do we know? Well, we thought that the biosimilar application review would be similar in the level of effort required to that of a biologic, a new biologic, a 351(a). We thought we had to get some funding stream going during the development phase to be able to hire anybody to help even with development. So we couldn't wait for marketing applications if

PdUFA structure was almost all the first fees that a sponsor would pay is at the time of the marketing application submission. That wasn't going to work with biosimilars.

And so we had this structure, fee categories of a biosimilar product development fee and that would be paid annually. We tried to peg it to the PdUFA fee structure by saying okay ten percent of the NDA BLA application fee for that year would be what the BPD fee would be. And that would be for an active IND program under way for a 351(k). We wanted to encourage people to stay in the program. This would also help the funding stability. So there was a re-activation fee to sort of encourage sponsors to stay in the program once they were there.

And then there was the application fee when a marketing application would come in for a 351(k). And at the time we thought this is, you know, 2010, 2011 at that time we thought this would be a pretty quick process; we thought there might be a year or two in development and then we'd get the applications. So and we didn't know how active people would be in

asking for meetings during the development phase. So we set the fee -- marketing application fee equal to the PdUFA fee at that time and subtracting out and netting out from that what they had paid during the IND phase.

And there was a supplement fee like the supplement fee for PdUFA application for a submission with clinical data. And for marketed products the fee structure we went with would be the same as PdUFA and that was our standard; that is what we referenced at the time, not really knowing how much this program would generate in terms of work and what it would cost.

So for goals we tried to again pattern it similar to the New Drug or the 351(a) submissions so that companies would not feel disadvantaged by the goal commitments of 351(k). We wanted it to be an attractive pathway. And so we have -- we tried to ramp up as quickly as possible to the 90% goal in ten months for review of a 351(k) application. And the resubmissions 90% in six months and that is where we are this year.

You can see the schedule for the BPD types 1, 2, 3, and 4. We anticipated we'd get a lot of type 3 because that is the most substantive kind of discussion and a larger submission would be made and we wanted to ramp up to these goal timeframes to 90% by 2017 as well. And again this is patterned somewhat like PdUFA.

So we've had a number of learnings and observations about how the program is going and one of the things that has come up is that there has been a convergence and the emergence of novel legal issues and complex scientific issues that come up sort of at the same time in the course of these development programs. And those issues I think are still surfacing. It is not things we well anticipated that we could have produced guidance ahead of time. We're in a sort of a learning and it is a bit of a real time kind of problem solving mode that involves both legal expertise and various kinds of scientific discipline expertise. And this means that FDA has to have a lot of thorough consultation internally among those experts in order to give consistent advice to the

companies that are coming in and seeking meetings with these kinds of issues being raised.

And the next thing you see here is just some examples of statistical issues are different for biosimilars than they would be for new drugs or new biologics. The CNC packages are we're told by our Office of Biologic Products even at least as complex as for a 351(a). And the Regulatory Project Managers have the extremely difficult job of trying to schedule this work because the clinical expertise that is involved in this work and the other expertise comes from the same divisions, the same organizations as for the new drugs. And we've had hiring challenges and difficulties in both areas. So we've been understaffed in both programs trying to get the time from people's calendars to plan these meetings where they can get together and talk before and then during a meeting with sponsors has been extremely difficult to do. And as I said that plus the complexity of the issues have created challenges for the Biosimilar Program.

And we have -- I mean the good news the

challenge is the volume but the good news is there is a lot of volume, a lot of good growth in this program. There are now 66 programs enrolled in the BPD program. And those are to develop against 20 different reference products. And so that is really good for the biosimilar industry; really good for the biosimilar product portfolio that might be out there for patients in the future.

And we've had a lot more meeting requests. It is good people have found these meetings helpful. That is pretty obvious by the increase in demand. It is more than we expected; so meeting requests have gone up over 80% in the first three years of the program. Our scheduled meetings are up almost 70% over that time period. And even for those where we don't have meetings FDA has typically given written advice to those sponsors because we do want to advance the development of these products. But it has been more than we expected, let's just say. There's been more demand that we expected.

And this is to give you a sense of the composition of those meetings. You can see the vast

majority are that Type 2 meeting, it is a 75 day clock and the others are pretty evenly spread out. Not very many Type 3 meetings but this is to show I think that sponsors had found it helpful to come in and navigate issues by talking to FDA.

And with the limited capacity among the staff that we have on board and the ramping up of the timeframe and the demand for those meetings you can not surprisingly we've not been able to meet the timeframes that we had committed to. So we've been able to only schedule about half of the initial advisory meetings within the 90 day meeting goal. We've only been able to do about 67% of the Type 1 meetings within that 30 day timeframe; only able to schedule a Type 2 49% of the time. We do have these meetings; we can't meet them in the timeframes that were originally discussed and we hope to get to. And we haven't had that many of the Type 4 meetings but we have not been able to meet the Type 4 timeframe either.

Despite this industry had been telling us going into this process that these meetings are

extremely valuable and, of course, they would like more meetings and they wanted a faster turnaround from FDA. So that is part of what fed into this process and where we are going with our recommendations for BsUFA II.

Before we go on and Dr. Califf did mention this but just to go back and say we have despite the challenges had a number of successes already that can be described. So the first biosimilar was approved in the U.S. Zarxio in March of 2015; and since then three other biosimilars, Inflectra, Erelzi, and Amjevita have been approved. We have issued as he said four final guidances and five draft guidances and so the program is moving along and we want to build on the success to date and that is where Leah, Dr. Leah Christl, is going to tell you about the enhancement.

I don't know if I was supposed to introduce her.

Thank you.

FDA PRESENTATION ON PROPOSED COMMITMENTS FOR BsUFA II: PROGRAM ENHANCEMENTS

DR. CHRISTL: Good morning. My name is

Doctor Leah Christl. I am the Associate Director for Therapeutic Biologics in the Office of New Drugs and I facilitate the Biosimilar Program for CDER.

So I'm going to walk you through the proposed enhancements that are a part of BsUFA II. As we moved into negotiations for BsUFA II we took a hard look at what we had in BsUFA I; how things were going. We surveyed our staff internally as to what was going well, what wasn't going well. We had our own experiences with industry. My staff had their own feedback from biosimilar sponsors and interactions through the BsUFA I process and even before BsUFA I implemented. So we tried to get as much feedback as we could and really take a hard look at the program and where we thought that enhancements could be made because things can always be better.

So there are a number of enhancements that are in BsUFA II. They are listed here. But I will go through each one of them individually for you.

So one of the learnings that we had from BsUFA I was the value of the iterative process that we had established during the development phase and

working through these BPD meetings and having a number of touch points for communication and having those opportunities that were there to do that.

And we had some experience moving into the negotiations for BsUFA II with application review. And based on our experience we saw the value of communication not just in the development phase but also in the application review phase. So when we thought about how to do that, we looked to what is known as the program under PdUFA and this is an application review model under PdUFA that's for New Molecular Entity NDAs and original BLAs.

And that program intends to promote efficiency and effectiveness of the first cycle review process; so that first review plan from the submission to when the goal date would have been. And minimize the number of review cycles that were necessary for approval of a product. So what we've done in BsUFA II is that we've adopted that same model for the program, for the 351(k) BLAs under BsUFA II.

So again as I had spoken about we understood the value of these communication touch points and the

opportunity for additional interactions between FDA and the sponsor, so there are number of parameters that are in the program and they are listed here but some of them include a pre-submission meeting where FDA and the sponsor can talk about an agreement of what the content of a complete application is; talk about expectations for how the review is going to go; expectations for timings; and really give some transparency around the process.

It also includes review performance goal that is ten month user fee clock which starts at a 60 day filing date. So while the standard review clock was applied during BsUFA I which was a ten month review clock; under the program it will be a 12 month review clock in total.

It also includes mid-cycle communication and a late cycle meeting with the sponsor. Again those are those additional communication touch points between FDA and the sponsor where FDA will share information during the review process; give an opportunity for communication as to how the review is going; where deficiencies have been identified; and

hopefully again be able to support the first cycle review process through those communications and providing opportunities for transparency and for issues that can be fixed to be fixed.

The review activities are consistent with 21st Century Review for the program that is currently under PdUFA. So we will be revising the 21st Century Review process to include BsUFA as well.

And this additional two month review clock timeframe again we are shifting from a ten month review to a 12 month review is intended to provide FDA more time to complete additional late cycle activities that are part of this review process which can include that late cycle meeting that I spoke about and then also to address other late cycle review work such as any deficiencies that may be able to be addressed within that first cycle. If there is advice that comes back from the advisory committee discussion if we do take an application to an advisory committee and also inspectional issues. And again this is all in an effort to improve the efficiency of the first cycle review.

The next enhancement deals with the opportunity for FDA to apply a review goal extension related to the inspection of facilities that were not adequately identified in the original application or supplement.

So this is an enhancement that parallels what exists already in PdUFA and this is intended to have parity amongst all of our application reviews for NDAs and BLAs whether they are 351(a) BLAs or 351(k) BLAs. And this also gets into the concept of a complete application.

So for this enhancement all original applications and supplements will be expected to include a comprehensive and readily located list of all manufacturing facilities included or referenced in the application or supplement. FDA needs this list and needs to have it easily identified in terms of the facilities that need to be inspected so that we can make sure that right from the beginning receiving an application that we're working towards scheduling. A lot of facilities are outside the U.S.; that can be challenging in terms of timing, getting travel booked,

getting other things put together. And so having this list is very helpful to make sure that we know what we need to inspect. There isn't a facility that we've missed that is maybe someplace else in the application that we didn't see and didn't identify; that can certainly lead to issues if that is identified late in the review cycle. It could be too late to schedule a facility inspection in a timely fashion.

So with this enhancement again this parallels what already exists under PdUFA if FDA's review of an original application or supplement -- if during that review we identify a facility that was not included in this list the goal date could be extended for three months for an original application or supplement with clinical or by two months for a manufacturing supplement.

In BsUFA I we had a provision for Special Protocol Assessment and agreement. The language that was included in the goals that are BsUFA I that talked about which protocols would be eligible for this Special Protocol Assessment or SPA review indicated that it would be any necessary clinical study or

studies to prove biosimilarity or interchangeability. But in thinking about what we had learned from BsUFA I and our interactions with sponsors in that development phase we realized that there was some additional clarity that would be helpful around what was eligible for an SPA review and what we really meant by necessary clinical studies to prove biosimilarity or interchangeability. So the text that shows in bold and underlined is text that is added for BsUFA II to provide this clarity. And it includes protocols for pharmacokinetic and pharmacodynamic studies. We say that these PK and PD studies where PD is relevant are pivotal as a part of the biosimilar development program and the demonstration of biosimilarity. So because these studies are considered necessary clinical studies to support biosimilarity or interchangeability we wanted to make clear to sponsors as well as FDA reviewers and other stakeholders that these protocols would be eligible for this Special Protocol Assessment review.

So this enhancement is really an issue of clarity and transparency. The goal date didn't

change; it still has a 45 day review clock. This is also the same review parameter under PdUFA for Special Protocol Assessments. But we just wanted to provide this clarity to make sure folks knew which types of clinical protocols were eligible for review.

This next addition is where we move into the enhancements around meeting management. As Dr. Mullin had gone through we have a number of meetings; we have many more meetings than originally projected and anticipated. We have certain types of meetings that are more requested versus other types of meetings. But one of the things that she noted was that in some cases where we don't grant a meeting or we would deny a meeting considering it to be unnecessary based on the questions that were asked FDA has tried to provide a written response. But one of the things that we thought about as we moved into BsUFA II was that when we do that there is no structure that is around that. There were no goal dates, it is no longer considered a meeting, and so in terms of looking at prioritizing the limited resources that we had to put towards BsUFA and biosimilar product development in review without

something having a goal date as folks know sometimes it gets shuffled in the mix of work. And so both FDA and regulated industry had this discussion about how we could provide another option where a face-to-face meeting or a teleconference really wasn't necessary. Maybe it was a single question that was very important to a sponsor to answer but it really didn't necessitate all the resources and all the time and all the work that would go into scheduling a meeting, holding a meeting, needing to do meeting minutes; so we wanted to try to find another option. Under PdUFA there is an option for a written response only meeting. And that has its own characteristics and its own timeframes. And so we looked to that model and then had proposed an enhancement to add a written response meeting format for the Biosimilar Initial Advisory meeting and the BPD Type 2 meetings under BsUFA.

These are the types of meetings where we, in our experience, think that a written response option is feasible and could be most valuable. That BPD Type 3 meeting that is a very comprehensive meeting that

has to deal with data review really under no circumstances is going to lend itself to simply a written response; it is a very comprehensive meeting and we think that that still needs a face-to-face meeting. So here we really did try to limit it to where we thought that there could be value added in the meeting process.

So with this enhancement for the BIA and BPD Type 2 meetings a sponsor may request a written response to questions rather than having a face-to-face meeting, videoconference, or teleconference. Once that request is submitted FDA will review it and make a determination of whether a written response is appropriate or whether we think that a face-to-face meeting, videoconference, or teleconference is necessary. There are times, of course, that someone might think that it is a very quick question and a very easy answer but it might involve a complex scientific, regulatory, or legal issue and we think that a face-to-face discussion would be helpful in order to have that exchange rather than giving a written response that we think would potentially

generate the need for additional feedback. We didn't want to cut off the opportunity for that or add time to a sponsor's development program to receive a written response and then need to come in and request an additional meeting. So we'll try to identify where we think a written response is appropriate and where we think maybe the face-to-face interaction is really more necessary.

If a written response is deemed appropriate FDA would notify the sponsor of the date it intends to send the response and there are goal dates that are associated for both the Biosimilar Initial Advisory and BPD Type 2 meetings in BsUFA of when we would target to send those written responses.

The next enhancement is also a part of the meeting management enhancement under BsUFA II and this has to do with reducing the scheduling timeframe for the Biosimilar Initial Advisory meetings. So under BsUFA I the timeframe for scheduling a BIA meeting was 90 days from the receipt of the meeting request and the meeting package. Under BsUFA II the proposal is that these BIA meetings will occur within 75 calendar

days. And if you will remember from Dr. Mullin's presentation there were some issues with us meeting the goal date for the Biosimilar Initial Advisory meeting even on the 90 day clock. But through our discussions during negotiations we think that we can manage having this shorter timeframe based on capacity planning, boosting the resources in the program, and also having a good focus on what should be covered in a Biosimilar Initial Advisory meeting which is really a meeting to discuss with the sponsor whether they have a produce that is appropriate to develop as a biosimilar. So these BIA meetings are not intended to be comprehensive scientific meetings that really gets into the meat of a development program; it is really a first pass if a sponsor has questions about whether they really have a product that is appropriate to develop as a biosimilar and for FDA to maybe give some initial advice about how to get started in that program. So we think with that renewed focus on what a BIA meeting really should be in addition to capacity planning that we can work to meet this goal.

This next one is also an enhancement around

meeting management. This has to do with increasing scheduling timeframe for the BPD Type 2 meetings and this does have a phased in performance goal. So as was noted in Dr. Mullin's presentation the most common meeting that we have is the BPD Type 2 meeting. She also noted that we have a number of novel scientific, regulatory, and legal issues that are coming up with this program. When the BPCI Act first passed our Center Director Dr. Woodcock said that what we were doing is we were essentially open for business the day that the legislation implemented and that we were essentially building the plane while we were flying it and crossing our fingers and hoping for the best. And so again a lot of these novel regulatory, legal, and scientific issues are coming up in the development programs through our conversations with sponsors, through ideas that they are coming forward with in terms of really pushing the envelope on the science, having enhancements that are there, you know we've issued guidance on a number of topics but there is always other possibilities of how to demonstrate biosimilarity. And we need to consider those

proposals, discuss them internally, and making sure that we are really giving comprehensive, well thought out advice to sponsors.

So being that these BPD Type 2 meetings is the most common meeting that we have and really where we're having all those activities we had found ourselves in BsUFA I many times not only not being able to meet the goal because of the conversations that we needed to have but if we did really push to meet the goal we weren't always providing comprehensive responses. There might be responses where we said we will have to follow up with a post meeting addendum or we need additional time for this. So what we wanted to do is extend this timeframe for the BPD Type 2 meetings. The original date in BsUFA I was a 75 day goal. In BsUFA II it is proposed with a 90 day goal. And we are hoping there again through capacity planning as well as having this additional time the Agency will be able to provide more comprehensive responses to sponsors during their development program to keep those programs moving forward in a timely fashion. Again this does have a

phased in goal throughout the course of BsUFA II beginning at an 80% goal and then ramping up to a 90% goal by 2020.

With this there is also an agreement that the Agency will send preliminary responses to the sponsor's questions contained in the background package no later than five days before the face-to-face, videoconference, or teleconference meeting; but only for BPD Type 2 and BPD Type 3 meetings.

The next enhancement is for prior approval manufacturing supplements. In BsUFA I we had a goal date for all supplements that were supplements that didn't contain clinical data of six months. This was a different timeframe than the goal dates for certain types of supplements under PdUFA. Again because the same folks are working on PdUFA products and BsUFA products having this difference as we moved into having products that were approved and coming on the market in this space and looking at post approval manufacturing changes that could occur we wanted to create some parity between the 351(a) and 351(k) BLA review. So we proposed here that prior approval

manufacturing supplements will be reviewed in four months instead of the six months goal that was in BsUFA I. This does have a phased in performance goal. Again we're just moving into our product approval and having products that are coming on the market. So we did negotiate for a phased in performance goal around this for the four months and up to 90% by the end of BsUFA II.

This review timeframe again aligns with the goal for the same types of supplement under PdUFA so there is parity between the review programs.

BsUFA II also includes a number of new guidance commitments. Because we are changing some aspects of meeting management we do have a final guidance that was published on formal meetings between FDA and biosimilar biological product sponsors or applicants. We will need to update that guidance so there is a guidance commitment that we will update this guidance no later than September 30 of 2018.

We've also committed in BsUFA II to update the current draft guidance on best practices for communication between IND sponsors and FDA during drug

development. This applies to communications between IND sponsors and FDA during biosimilar biological product development and we did commit to updating this guidance either a revised draft or a final guidance by December 31 of 2018. This is a guidance that already exists; this is a practice that we have applied to PdUFA products in terms of the best practices for communication. We wanted to adopt this for the BsUFA program as well to have these additional communication methods and outline expectations; again give transparency to FDA and to sponsors about those communications.

So while we have the meeting management process opportunities for written request there are other communications that go on between FDA and sponsors during the development phase. So we wanted to add the BsUFA products to this best communication practices guidance during development so there is not just parity between the programs but we are again providing opportunities for communication and folks understand how to move through that process during the development phase.

This is a list of the additional guidances that we have goal dates for in BsUFA II. So as was stated we have some guidances that we've already published either in final or draft. And as folks likely who are familiar with the program would know there are a number of guidances that we've talked about either on the CDER guidance agenda for any given calendar year and so there is a mix of guidance commitments in here around the types of guidances that we've already discussed.

So the first one is that there is a commitment for issuing guidance on consideration for designating biosimilar biological products as interchangeable to a reference product. We do have a commitment to issue a draft on or before December 31 of 2017 and then a revised or final guidance 24 months after the close of the public comment period. So if FDA issued the guidance prior to December 31, 2017, then the comment period would begin when that was issued and then within 24 months after the close of the public comment period FDA has committed to issuing revised or final guidance within 24 months of that

period.

The next one is the statistical considerations for analytical similarity for biosimilar biological products. There is a commitment to issue a draft on or before December 31, 2017, and then revised or final guidance 18 months after the close of the public comment period. So again just as with the first one if we issue the guidance before the December 31, 2017, period we would then look at issuing revised or final guidance 18 months after the close of that public comment period. And the public comment period would go off of whenever the guidance was published.

The next one deals with processes and further considerations related to post-approval manufacturing changes for biosimilar biological products. We recognize this is most valuable guidance to sponsors. This was something that was discussed. Now that we have product approvals and we have a number of development programs that are moving into the pre-application stages it is important to think about next steps for these products in the marketplace

and their life cycle management.

So we have a commitment in BsUFA II to issue a draft guidance on this topic on or before March 31 of 2019, and then revised or final guidance 18 months after the close of the public comment period.

The next three guidances are guidances that we have already published in draft and there are commitments for the clinical pharmacology guidance, the non-proprietary naming guidance, and the labeling guidance to issue revised or final guidance on or before May 31 of 2019 for those three guidances that we've already issued in draft.

One of the other enhancements deals with capacity building and we've touched on this a little bit in terms of what we need to do for this program overall in terms of not just guidance development but reviewer training as well as timely communication. So the enhancements that we've gone through factor into a number of these in the guidance, timely communication and what it is that we are trying to do. So in order to meet our commitments and the goals that we've agreed to in BsUFA II FDA is committed to strengthen

staff capacity; to develop any new regulations that may be considered necessary as well as guidance; to clarify scientific criteria; to develop or revise any maps or SOPs; and also review templates for application review; to deliver timely information to the public; to improve public understanding of biosimilarity and interchangeability. We already have active education program, we've already engaged with some contractors. We understand FDA's role in this space of doing education and outreach to the prescribing community, patient community and other stakeholders. And so we have committed to strengthening staff capacity in that area as well.

And also to deliver information concerning the data first licensure and reference produce exclusivity expiry date to be included in the purple book. There are provisions in the BPCI Act related to when a biosimilar applicant can submit their application for review and then FDA can accept that application for review and then also when FDA could approve a biosimilar application. So we understand FDA's role in providing information about the date of

first licensure for reference product because those dates that are in the BPCI Act regarding our ability to accept an application and approve an application are driven off of the exclusivity period for the reference product. So biosimilar sponsors as well as other stakeholders definitely have an interest in knowing those expiry periods for the reference products and be able to calculate those dates as a part of their portfolio management and then also expectations for when products could be coming on the market.

And at this point I'm going to turn things over to my colleague Josh Barton to finish up with a couple of capacity enhancements and then he will move into the financial enhancement section.

FINANCIAL ENHANCEMENTS

DR. BARTON: Good morning. My name is Josh Barton with CDER's office of Strategic Programs. I supported the financial aspects of the BsUFA II negotiations and I'll walk through some of the administrative enhancements that are envisioned for BsUFA II.

I'll preface this by saying that there is a recognition really for maybe the first time going into this UFA cycle that the administrative aspects of the program are really critical to insuring the success of the program. So there are a number of enhancements here if you are familiar with PdUFA VI, the proposed recommendations there, there are a number of commonalities as there is a common infrastructure here to support these programs.

The first area is around enhancing hiring capacity recognizing that in order for the program to be successful we need to insure that we are able to hire and retain appropriate numbers of qualified staff to insure the success of the program. So we've committed to modernizing the hiring system and infrastructure, augmenting human resources capacity through the use of dedicated expert contractors; this it to really help move the freight through the hiring system; establishing a dedicated function for the recruitment and retention of scientific staffing; setting clear goals for hiring; and conducting a comprehensive and continuous assessment of hiring and

retention practices.

In terms of enhancing management of resources in BsUFA II we've committed to establishing a capacity planning function utilizing modernized time recording. The goal here is really to enhance our ability to be able to conduct rigorous and robust assessments of our resource needs both today and looking forward into the future. And this is common also with PdUFA as this will be a common infrastructure and the economy of scale here that will support both programs.

We also have commitments around enhancing financial transparency and efficiency. We've committed to a third party assessment to evaluate the financial administration of fee resources under BsUFA and to help provide us with ideas and best practices on how we could optimize administration of resources.

We've also committed to publishing a five-year financial plan for BsUFA as well as updating that five-year plan on an annual basis.

We've also committed to convening a public meeting starting in FY19 so an annual public meeting

starting FY19 to discuss the five-year plan as well as the Agency's progress in implementing a modernized time reporting and the capacity planning function.

I'll now talk about some of the changes to the fee structure for BsUFA II. As Dr. Mullin mentioned earlier in establishing BsUFA I given that there is a lot of uncertainty with what the size of the program would be and what the program costs would be for BsUFA I there was in a sense a sort of place holder program put in place where BsUFA fees were referenced the PdUFA fees. Going to BsUFA II our goals included establishing an independent efficient user fee structure for BsUFA that was based on BsUFA program costs; as well as enhancing predictability of our funding levels and sponsor invoices; minimizing inefficiency by simplifying the administration of the program; and improving our ability to manage program resources and engage in long-term planning. And this is especially important with the federal government labor model and potentially long-term timeframes to hire new staff.

In terms of the fee structure there are a

number of commonalities here between BsUFA II and PdUFA VI recommendations. However, the fees for BsUFA II are envisioned to be built off of BsUFA program costs. So you will see a number of ways that these two programs are in alignment around the fees including in order to reduce volatility in collections and simplify administration we're proposing to remove supplement fee and establishment fee. We are proposing to retain the biological product development fees. Modifying the product fee, first by changing its name to the BsUFA Program Fee and that is really in recognition that there's a bit of a misperception amongst some stakeholders that the type of fee defines how the fee resources can be used. That is not true. All the different fee types are collected and can be used for all of the activities that are defined within the scope of the BsUFA program. So we've renamed the product fee the program fee.

We've also proposed a provision whereby sponsors cannot be assessed more than five program fees for the number of approved products under a single application and this is also common with PdUFA.

Modifying the application fee to discontinue the reduction of the application fee by the BPD fees paid for by that product. And this is really to help simplify administration, enhance predictability of collections, and will work because the application fees will really be based on BsUFA program costs of BsUFA II.

There is also proposed modification of the Statute so that sponsors are assessed the program fee based on the approved products as of October 1. So this will really help simplify administration. It aligns with PdUFA and it really helps us to minimize the need for multiple billing cycles which we call cleanup billing.

There is a modification to the Budget Authority Spending Trigger. This is really to help given the relatively small size of the program and there's still a fair amount of uncertainty in the level of the program costs from year to year, enhancing the flexibility around the spending trigger will help insure that we can collect and utilize the BsUFA fee funds to support the program. So the

proposal here is to consider the spending trigger met if costs funded by budget authority are not more than 15% below the inflation adjusted amount for that year. So the spending trigger was set at $20 million at the beginning of BsUFA I, so we will continue that with adjustments for inflation to set the trigger amount each year.

This flexibility provision, there is precedent in both PdUFA and GdUFA for having a mechanism along these lines to enhance the certainty.

So in establishing an independent fee structure we needed to establish a target revenue for the first year of the program. And given that it is still a maturing program and there is still some uncertainty about the size of the program from year to year this was a little bit of a challenge but we agreed that the program would likely need about $45 million in fee funds to cover program costs in FY18. However given the uncertainty when we set fees for FY18 which would be next summer we would have the ability to adjust the target amount if our analysis suggested that there would be a more optimal level for

that target revenue amount. We think it would likely be close to $45 million. We've also established that there is an upward cap on the adjustment so this cannot increase more than $9 million above that $45 million. And should we make an adjustment here we will explain the methodology and the rationale for that adjustment in the Federal Register.

To help enhance predictability of sponsor invoices we've agreed to a provision whereby the fee amounts that are set in FY18 cannot increase above that level more than 25% until a capacity planning adjustment is available which is FY21. So once the capacity adjustment is available we would remove this restriction so as not to arbitrarily constrain the results of the capacity planning adjustment.

Also to help smooth out any possible fluctuations in fee amounts and invoice amounts from year to year we have proposed a process whereby we can adjust the allocation of the target revenue to each fee type each year. If you are familiar with PdUFA and GdUFA there is a set percentage that each fee type is supposed to generate from the total target revenue

given as we've mentioned the relative uncertainty and small size if the BsUFA program having a fixed allocation could result in widely varying fee amounts from year to year so if you went from five applications one year to ten applications the next year you would see a significant change in the fee amounts. So we will adjust that allocation on an annual basis with the best information we have to help smooth out the fee amounts from year to year and still insure that we collect the target revenue amount.

To establish a fee structure we had to establish a process for setting the annual target revenue each year. So I'll talk through that here. There is a number, like I said a number of commonalities with PdUFA but this is tailored to BsUFA program costs. So we are proposing a process whereby the annual target revenue provides for an annualized base. In other words there is an amount that rolls forward each year that establishes the base revenue amount. We've adapted the PdUFA inflation adjustment methodology so that we can insure we account for inflationary costs in the program. However this will

be tailored to BsUFA program costs.

We will adapt a capacity planning adjustment that once effective will allow us to adjust fee revenue and fee rates to insure that the program is optimally resourced and to keep pace with increases in program and workload and costs. This will be established in the same manner that the PdUFA capacity planning adjustment will be established which will be through a review by an independent accounting or consulting firm that will assess our data and propose recommendations for the methodology for the capacity planning adjustment which will occur no later than FY20 so that we can first utilize that adjustment in FY21.

We are proposing to create an operating reserve adjustment. This is the general idea is similar to PdUFA but there are a few aspects that are particular to BsUFA. So the idea here is to insure the program can survive fluctuations in fee collections; avoid accruing unnecessarily high carry-over balances; and to mitigate any potential substantial increases in fee rates.

So until the capacity planning adjustment is effective we can use this operating reserve adjustment to reduce the fee revenue and fees in any given year as determined appropriate. Once the capacity planning adjustment is effective we may continue to reduce the fee revenue in fees if necessary but we also have the ability to increase the fee revenue in fees so that we can maintain a carry-over reserve not more than 21 weeks of the target revenue which is about 40% of the annual target revenue.

And we've also committed in the commitment letter to reduce that carry-over balance to that level by FY22 and if we are unable to do so we will outline a plan about how we will go about to reduce the carry-over balance to that level and update the five-year financial plan.

So this flow chart just summarizes how the annual target revenue will be set each year so you can kind of see how this all plays together. So we have FY18 we start with $45 million, we have that FY18 potential adjustment if necessary to establish a target, that target amount for FY18 rolls forward to

establish FY19 base, then we have the inflation adjustment and then an operating reserve adjustment if necessary. The inflation adjusted amount would roll forward into FY20 in which we'd have the same process and then in FY21 the capacity planning adjustment would come on line and the capacity planning adjusted amount would establish the base revenue for subsequent years.

And I think that is it and we have a break.

DR. ROACHE: Okay. So thank you to our FDA presenters for providing some overview on the Biosimilar User Fee Act and an overview of the proposed enhancements for BsUFA II.

We are going to have our first break now. Before you head out I just want to remind people if you would like to comment during the Open Public Comment period please sign up at the registration desk which is right outside the door.

When we come back from our break we are going to hear from our Panelists from Panel 1 and Panel 2. I think we are a little bit ahead of schedule right now. So we will resume the meeting at

10:30 a.m.

BREAK

DR. ROACHE: Okay. It looks like we are missing a couple of people. So is there anybody else from the panels who would like to come up.

Is there anyone here from the National Center for Health Research who would like to comment?

Okay. We are a little bit ahead of schedule but we are going to go ahead and proceed and if our panelists show up they can join us as we proceed.

So the way I'd like to structure this is I will ask the panelists from Panel 1 to introduce themselves and then they can provide their remarks and then we will go on to Panel 2.

So I'll turn it over to our Panel 1 panelists to introduce themselves.

MR. SPIEGEL: Good morning. My name is Andrew Spiegel. I am with the Global Colon Cancer Association and also representing the Alliance for Safe Biologic Medicines today.

MS. PURVIS: Hi, my name is Leigh Purvis. I am the Director of Health Services Research, AARP's

Public Policy Institute where I am responsible for developing and helping to guide AARP's policy on prescription drugs.

MS. GREENBERG: Good morning. I'm Sally Greenberg. I'm Executive Director of the National Consumers League.

DR. ROACHE: Okay. Thank you all for being here today. So we will get started with the perspectives from Panel 1 which will be the perspective from patient and public health advocates. So I'd like to turn it over to Andrew Spiegel.

PANEL 1 - PATIENT/PUBLIC HEALTH ADVOCATE PERSPECTIVES

MR. SPIEGEL: Thank you. And thank you for the opportunity to comment on this important legislation today. As the Executive Director of the Global Colon Cancer Association I speak on behalf of the 1.2 million patients who have colorectal cancer in the United States. The arrival of biosimilars to the U.S. promises to offer new treatment options to patients suffering from colorectal cancer as well as other cancers and other serious conditions such as Rheumatoid Arthritis, psoriasis and Crohn's disease.

The patient community is excited about the potential of biosimilars to reduce treatment costs but we are mindful that we cannot value speed at the expense of safety or the quality of biosimilars over their original reference product. Simply put we recognize that in order for patients to enjoy the benefits of biosimilars the FDA must always have the resources it needs to insure both a timely yet thorough review process.

The Biosimilar Use Fee Act was designed to do just that. The Act will help to enhance the regulation of biosimilars and provide important resources to further a sustainable biosimilar review program and it will do this by first supporting a science based implementation of the Biologic Price Competition Innovation Act of 2009 and regulatory decision making. Second enhancing regulatory transparency and efficiency that enable stakeholders to understand the basis for FDA decisions. And third by promoting the long-term stability of the BsUFA program through financial transparency, efficiency and accountability.

As patient advocates we are extremely encouraged by the success of BsUFA and promoting both safe and timely introduction of biosimilars.

We've finally seen several biosimilars approved over the past year and numerous other products are in various stages of the pipeline. We can see the FDA's cautious science-based approach to biosimilar approval is working. Take for example its use of distinguishable names both in Zarxio approval and in subsequent approvals. It is critical for patients and providers always to be able to clearly identify which biological product is being used throughout treatment. Accurate attribution of adverse events to the correct biologic is also necessary for long-term tracking of safety and efficacy.

Additionally it is important that not only these funds are sufficient to meet review times but that the allocated funds remain dedicated to their intended purpose so that the FDA has the tools to perform this role. It is important to all of us who want safe and effective biosimilars to be successfully introduced that the FDA get this right.

The BsUFA II agreement will be critical to providing the predictable, timely, and efficient regulatory review of approval of biosimilars. The agreement will help provide the FDA with the support needed to enhance their review of new biosimilars and make sure that the standards for safety and effectiveness which will help increase competition in the marketplace to the benefit of patients is well represented.

In closing let me commend the FDA for its continued work in bringing biosimilar safety to American patients. BsUFA II is a critical component to the U.S. biosimilar's pathway and we unreservedly recommend that it be reauthorized.

Thank you again for the opportunity to comment on this matter.

MS. ROACHE: Okay. Thank you, Andrew. And I do apologize Diana we were running a bit ahead of schedule. We are very happy to see that you are able to make it so my apologies for that. So, I'll turn it over to you now if you'd like to introduce yourself and provide your remarks.

DR. ZUCKERMAN: Boy, I'd be really happy if somebody could go before me.

DR. ROACHE: Sure. No problem. No problem at all.

So I will then turn over to Leigh Purvis from AARP and I have a slide advancer for you.

MS. PURVIS: Hi, again my name is Leigh Purvis. And I am with AARP which happens to be the Nation's largest organization representing the interests of older Americans.

So I'm going to start off with explaining why this issue is so important to us and our members.

First of all as I think most people in this room are aware biologics represent a growing share of the drug development pipeline. A lot of our spending is being devoted on these products and the products are also being used by larger populations. We are seeing more and more biologics with more and more indications. So this is really something that is going to be impacting a lot of people whereas now it is a relatively small population.

The one thing that has really caught our

attention about these products is, of course, the costs. We are seeing more and more biologics entering the market with incredibly high prices that can range up to hundreds of thousands of dollars. We are also seeing as I mentioned the patient population size is growing without expanded medications. One example is the anti-cholesterol medications PCSK9 inhibitors which could potentially be used as many as 15,000,000 people. Now uptake has not been as high as expected but the reality is that is because payers have really clamped down on utilization. And again this is one product. We are expecting to see more of these products that affect millions of people. So when you are talking about an incredibly high priced product used by an incredibly high number of people you are talking about some incredibly high costs.

Specific to the population that I represent, again I don't think this is a surprise to anyone in this room but older adults use more prescription drugs than any other segment of the population. They also tend to use it for chronic conditions. So when we are out here talking about high prescription drug prices

we are also talking about prices that people are facing every year for the rest of their lives; obviously a huge concern. We also are realizing a biologics are typically using to treat conditions that commonly affect older adults. Again this is something that is really impacting our members. And unfortunately older adults typically do not have the financial resources to be able to absorb these types of high costs. The median income for a Medicare beneficiary is less than $25,000. Many of them have resources in terms of savings of less than $12,000. They cannot -- they simply cannot absorb high prescription drug prices.

AARP is also kind of unique in the sense that we also pay attention to the programs that our members rely on. One very good example is Medicare. Under Medicare Part B spending has doubled since 2007 on prescription drugs. It is now $22 billion. And nine out of the top ten drugs that they are spending on are biologics. Again this is something that really is impacting our members.

Of extreme importance to us is cost sharing

under Medicare Part B. Medicare Part beneficiaries are responsible for 20% of their prescription drug costs. There is no out of pocket cap. That has left some beneficiaries with out of pocket costs that have exceeded $100,000 per year.

Medicare Part D is also being increasingly impacted by biologics. Medicare Part D spending reached $85 billion in 2015. And a share of spending attributable to biologics increased from six percent to ten percent. Also the share of high cost enrollees which MedPac defines as those who actually reach catastrophic coverage who filled at least one prescription drug for a biologic is also increasing. Under Part D private plans, a large number of private plans provide coverage and many of them are moving towards co-insurance which for those of you who aren't familiar with that payment is a percentage of the drug's price as opposed to the flat co-pay that most of us are used to seeing. Again expensive drug, percentage of expensive drug results in a lot of costs. Now there is unlike Part B as in Boy an out of pocket spending cap which around $5,000 in 2017.

However, that cap is not a hard cap. Enrollees are still responsible five percent of their cost sharing after they reach that cap which has led to some beneficiaries having cost sharing that exceeds $10,000 per year.

All of which is a very long way of saying we really, really, really want biosimilars. The cost associated with biologics are simply not sustainable for the people that we represent or the programs that we are using. And we are very well aware that biologics patents are starting to expire. We are also aware that the spending that we are seeing associated with biologics is only going to increase until biosimilars become available.

So as far as BsUFA we do have just one overarching theme and that is that we want to make sure that biosimilars and the savings associated with biosimilars are achieved by what FDA is doing. More specifically we are aware that FDA has serious resource issues and we want to make sure that in the biosimilar review process there are no unnecessary delays in that process. We want to make sure that

biosimilars reach patients as soon as possible.

We also want to make sure that science is not set in place. The whole goal of this is to eventually reach an approval process that resembles something like what we are seeing with traditional generics. And unless those types of cost savings can be achieved from manufacturers there's a very good chance that they aren't going to use it which is a real problem for us obviously.

We are also aware there are a lot of people engaged in this discussion who may not have biosimilar's best interest at heart. So we really want to insure that FDA makes sure that science weighs heaviest in all of their decisions particularly when it comes to naming.

AARP continues to believe the unique INNs are not needed. We don't think that it is necessary and we think it actually has raised some safety concerns in terms of for example requiring prescribers to remember the names of multiple products that effectively can be used the same way.

We also are very well aware that FDA has

been tracking manufacturing changes in brand name biologics for a very long time. That gives us a pretty strong indication that they are more than capable of regulating biosimilar safely and we want that to be kept in mind.

As far as the future not to sound too "the sky is falling" but the reality is the cost associated with biologics are not sustainable and patients are not going to be able to afford the treatment they need without low cost biosimilars. And the final thought that I always like to leave people with in these types of discussion is that medical advances like biologics are meaningless if no one can afford to use them.

Thank you.

DR. ROACHE: Okay. Thank you very much for providing those remarks. And now I will turn it over to Diana to provide an introduction and her remarks.

DR. ZUCKERMAN: Yes. Thanks very much for letting me go next. I'm Doctor Diana Zuckerman. I'm President of the National Center for Health Research and our center really focuses on looking at the science of different medical products and translating

that information to make it useable information for patients and consumers and providers.

And I am particularly please to go after AARP because I can now agree with everything you've said and then I'm done. No. I'm almost done.

But so we share the enthusiasm for the need for these user fees and we also believe that a major goal is that this should make medications more affordable and we are concerned that sometimes that isn't happening. And so we are both concerned about any kind of backlog and how slow the process has been so far but also that the end result hasn't been the cost savings that we were hoping for.

That being said we still think that it is very important that we move forward and see if we can improve the situation. One of the concerns that we have is about the fees and actually I should probably go into the process.

So we are disappointed that the process has not included patients, consumers, and public health advocates in a meaningful way compared to other user fee processes where there have been multiple meetings

and much more information in this case there were I believe 14 meetings with industry and just one with us and that was in December. So that hasn't included us and even the information that's been available so far has been less information than has been available in other user fee negotiations.

So we are not really able to say are these fees enough. Some people might say well that's not your business because you are not paying the fees. But we believe that the patients and the consumers and American taxpayers are part of the consumers here, we are the consumers here, we are supporting all the appropriations for this for biosimilars as well and those appropriations although inadequate are still a very major part of the resources that FDA has. So if this program is to work we need to have adequate user fees as well as adequate appropriations. Many of us have been working for better appropriations but when there are so many performance goals as part of this negotiation then it becomes that much more important that there are adequate resources to make sure that these products are safe and effective and that FDA has

enough resources to do their job to not just meet the goals but also get these products on the market.

Couple of other things I wanted to say the one goal that seemed a bit unrealistic to us was that 90% of the products must be reviewed and acted upon by a certain date; that seemed like a very nice goal but is that a realistic goal; can't tell because we don't know how much money is going to be available.

We are concerned that the user fees do not seem to include post-market surveillance which they did last round and we're not sure if that is an actual difference or if it just looks to be a difference but we do think that the post-market surveillance is extremely important and one way or another FDA needs the resources to do a really good job on post-market surveillance.

I think that just in conclusion just wanted to say that the FDA has made a really important effort to include patients more in the process overall for everything that the FDA is doing. And we think that patients and consumers and public health advocates need to be more of a process for all the user fee

negotiations as well; that we are paying for these products both as patients, as taxpayers supporting Medicare and supporting other government programs that pay for health care. We are paying for our health insurance so one way or another we are paying for all of the medical products that FDA regulates including biosimilars and we should be a more essential part of the process of pertaining to user fees and every other aspect of the FDA; that the FDA has talked a lot about customer service and just wanted to remind the FDA that we are your customers as well.

Thank you.

DR. ROACHE: Okay. Thank you very much, Doctor Zuckerman for providing those remarks. I will now turn it over to Sally Greenberg from the National Consumers League.

MS. GREENBERG: Thank you. Good morning everyone. The National Consumers League appreciates the opportunity to deliver these comments on the reauthorization of the Biosimilar User Fee Act for Fiscal Years 2018 through 2022.

Among NCL's top priorities are insuring the

safety and effectiveness and appropriate use of both prescription and over-the-counter OTC drugs and medication adherence which we have helped to advance through our Scrip Your Future Campaign. And I also couldn't help reflecting on the history of biologics as I walked down the how to get into this room. The poster on the hallway describes the turn of the twentieth century, the development of biologics and there were complications along the way including contaminated biologics that killed people including a lot of children until they got it right. And it just reminded me that this is an imperfect process, certainly we're more advanced, much more advanced than we were a hundred years ago. But developing biologics and biosimilars and getting the pathway to biosimilars right remains a continuous challenge and we're very happy to have the opportunity to have input into this process.

So we are a strong supporter of biosimilars for all the reasons laid out by my colleagues here. They do help to provide less expensive products for patients with serious diseases such as Rheumatoid

Arthritis, Multiple Sclerosis, and cancer. Since 2012 BsUFA has helped to provide FDA with the resources the Agency needs to enhance the science-based review of new biosimilars.

User fees are certainly integral to FDA's ability to review the drugs and biologics in a timely manner since we continue to raise concerns about how the Agency is underfunded.

So the user fee program is obviously extremely important in speeding important treatments to patients. We understand that there is an across the board cut including the continuing resolution, the FDA is going to experience a funding cut over the ten week period until December 9th and so user fees are increasingly important for the FDA to carry out its drug and biological review options.

BsUFA II lays out some ambitious goals for the FDA. To meet these goals BsUFA II proposes to generate a total of $45 million in user fee revenue for Fiscal Year 2018. However, we are mindful that FDA can also raise the user fee amounts to no more than $9 million in FY2018 to reflect an updated

assessment of the BsUFA workload. We support the FDA's ability to increase the fees and urge the Agency to insure that the fees are sufficient to offset the increased workload under the BsUFA II agreement.

We also whenever we talk about a user fee program we like to remind the FDA that the Agency must be mindful of concerns expressed by some that the industry pays user fees and, therefore, industry controls the FDA's agenda and process. So we think it is critical for the FDA to act independently of industry influence and to include consumers in the process as Diana has described more fully than perhaps it has done through this particular proceeding and to uphold high standards for safety, efficacy, and quality of biologic products.

In reviewing the proposed BsUFA II User Fee Agreement we note that it has many good features. We support BsUFA II's emphasis on improving communication between FDA and product sponsors with the goal of promoting the efficiency and effectiveness of this first cycle review process and minimizing the number of review cycles necessary for approval of the 351(k)

applications.

NCL also supports the establishment of a biosimilars unit. We think that is a very good idea to provide a focal point for coordination to facilitate a scientific policy development, resources, operations management, program governance, and internal training as well as educational research and enhanced communications related to biosimilars.

We at NCL applaud FDA's commitment in BsUFA II to issue guidance documents in several areas related to biosimilar biologic product development in order to provide clarity to industry and other stakeholders on the Agency's expectations. We believe of particular importance are FDA guidances on demonstrating interchangeability with a reference product and labeling for biosimilar biologic products.

Improving FDA's ability to hire and retain a highly qualified biological product review staff is one of the most important components of BsUFA II. In order to carry out its mission the FDA has to be able to hire and retain these very highly qualified technical and scientific experts to efficiently

conduct reviews of drugs and biologics. We know there is a lot of competition for the brain power that goes into all the work that the FDA does. But we also know that there are many physicians and scientists that are committed public servants and they want to work for the public good. FDA certainly has a long history of attracting these talented and highly educated professionals. So we do believe the FDA must have the means to continue to hire and retain such talent.

In addition to the emphasis on guidance development we support BsUFA II's commitment for the FDA to develop and deliver timely comprehensive training to all CDER and CBER review staff and special government employees to deliver timely information to the public, to improve the understanding of biosimilarity and interchangeability. We think there is probably a lot of confusion out there among patients, among consumers on those issues. We want to see the delivery of information concerning the date of first licensure and reference product exclusivity expiration dates to be included in the purple book.

And with regard to education NCL believes

there's an urgent need for health professional consumer education about biologics and biosimilars to enhance the understanding and acceptance of biosimilars in the treatment of disease.

So in conclusion we very much appreciate BsUFA II's role in continuing to improve the efficiency of the science-based FDA review process for biosimilars. We are very pleased to have the opportunity to work with the FDA to offer these comments and to share the platform with our colleagues who are doing such great work on these issues and important work. We look forward to continuing to work collaboratively with the FDA, the advocacy community and the industry stakeholders to insure that consumers and patients have expanded and affordable access to safe and effective biologic medicines they need to maintain their health and enjoy a positive quality of life.

Thank you.

DR. ROACHE: Okay. Thank you to all of our Panel 1 panelists for being here today and providing the perspective from the patient and public health

advocates. We are very glad that you were able to be here today.

I would now like to move on to Panel 2 and ask that each of the presenters introduce themselves.

DR. WORTHING: I'm Angus Worthing. I'm a practicing Rheumatologist in the Metro area and I'm incoming Chair of the American College of Rheumatology Government Affairs Committee.

MS. SCHULTE: Hi, I'm Jillanne Schulte. I am the Director of Federal Regulatory Affairs at the American Society of Health-System Pharmacists or ASHP.

MS. CARDEN: Good morning I am Mary Jo Carden. I'm Vice President of Government and Pharmacy Affairs at the Academy of Managed Care Pharmacy, AMCP.

DR. ROACHE: All right. Thank you all for being here today. I will now turn it over to Dr. Worthing to provide the perspectives.

PANEL 2 - HEALTH CARE PROFESSIONALS PERSPECTIVES

DR. WORTHING: Thanks. I'm grateful to be here representing thousands of Rheumatologists across the country and the prescribers of these exciting new medications.

I'm going to talk about three major topics. The guidance on interchangeable designation, labeling, and enhancing capacity FDA.

As health care providers we're going to jump into a couple of the details in order to use my time efficiently. We expect as noted the draft of interchangeable guidance will be out next December and before then, however, self-administered biosimilars could be dispensed to our patients such as adalimumab-atto n etanercept SZZS. It could be that the lower cost or the higher margin on these products could incentivize insurance payers, pharmacy benefit manager and pharmacies to switch patients who are stable taking a specific reference biologic to a non-interchangeable biosimilar. And noting the change in formularies and insurance year to year they could be switching back and forth. This is potentially setting up a situation that could provide the kind of clinical data that the FDA will be using in the future to approve whether drugs are interchangeable.

In order to prevent this kind of switching and substitution FDA has posted text on the website

sort of preamble to the purple book stating "in contrast to interchangeable drugs FDA expects that a biosimilar product will be specifically prescribed by the health care provider and not be substituted for a reference product at the pharmacy level." ACR completely agrees with this and my point in bringing this up is we would simply ask that the FDA provide a specific guidance document for biosimilar substitution and the rationale for it and provide it on the website. Also embed it in that purple book the list itself which might be copied, emailed, and utilized just using that text at the top or the bottom of the purple book would be great.

Also recommend post-marketing programs for potential adverse effects after substitution of non-interchangeable biosimilars.

With regard to FDA labels I think it would be and we think it would be very helpful to include whether or not a compound is interchangeable or state that the compound is not interchangeable at the top of the label. Currently with the four products so far the products are listed as biosimilar. And I think it

would be helpful to use interchangeable or not interchangeable.

Doctors expect to learn a lot. I myself look a lot at clinical data from FDA labels. And so to increase prescriber confidence and enhance the market update for biosimilars the ACR suggests including clinical data on the FDA labels or via a hyperlink since many of us are looking at these online. This will encourage the discussion of clinical data between manufacturers, health care providers and other people.

One thing that I think many on both panels here will agree and the audience is the need to enhance FDA capacity for biosimilars. Rheumatologists look forward to the day when biosimilars improve access to biologic treatments through lower costs. However the price of the first rheumatology reference product in the biosimilar space increased 70% between 2010 when Congress initiated the biosimilar pathway and today. Yet the biosimilar to this product only offers a 15% discount. So clearly it will take multiple biosimilar drugs for each reference product to net an overall discount in the space. And to

shepherd this along FDA has used biosimilar program funding from BsUFA I from approximately $20 million trigger per year that is used from other FDA programs but except for where we heard earlier a small $1.8 million amount spent early on in the development of the 351(k) pathway there's been no congressional appropriations for this marketplace.

ACR is calling on Congress to increase FDA capacity to hire staff and issue rules and guidances and we intend to work with Congress and the FDA on this and I welcome my fellow panelists and the audience today to connect and discuss advancing this goal forward.

In summary ACR calls on specific guidance document on the substitution to help pharmacists avoid inappropriate substitution of biosimilars we ask to include biosimilar and interchangeable status and the clinical data or hyperlink on the FDA labels. We support congressional appropriations to enhance FDA capacity. And overall American College of Rheumatology supports safe and effective biosimilars to improve access to treatments.

Thanks.

DR. ROACHE: Okay. Thank you Dr. Worthing for providing remarks from the American College of Rheumatology. I would now like to turn it over to our next panelist to provide views from the American Society of Health-System Pharmacists.

MS. SCHULTE: Good morning again to everyone. So just a little level setting on what ASHP does. We represent pharmacists who serve as patient care providers in acute and ambulatory settings. We have more than 43,000 members and they include pharmacists, student pharmacists and pharmacy technicians. For over 70 years ASHP has been on the forefront of efforts to improve medication use and enhance patient safety.

We appreciate the opportunity to provide some comments on the BsUFA II commitment letter.

Let me just begin by saying that ASHP is extremely supportive of FDA's work to insure the safety and efficacy of drugs, biologics and medical devices. No other agency or private sector entity serves this vital public health purpose. So

sufficient funding to support the FDA's mission is absolutely essential.

We support increased appropriations for the Agency largely through our work with the Alliance for a Stronger FDA. While drug user fees do not replace the need for increased appropriations from Congress we do recognize that with the increase in applications for biologic products the Biosimilar User Fees provide important supplemental funding to help bring safe and effective biologic products to market.

So I'm not going to torture you all by going through our very robust policy but I think it will come as no surprise that our comments sort of track along with what our policy says. And a lot of what I will say has shades of what other folks at the table have said as well.

So ASHP has long supported the development and implementation of legislation, regulation that promote increased patient access to less expensive biological products. Thus we were pleased to note the draft BsUFA Commitment Letter identifies a hard deadline on guidance on the interchangeability of

biologic medications. While we understand that the Agency has to be thorough and deliberative in its processes and of course we support that to the greatest degree possible. We really encourage FDA to if at all possible move this guidance even faster than the December 31, 2017, deadline. As many of you in the audience know a lot of what is done at the state level around substitution, a lot of our educational initiatives for our own members are really inextricably linked to interchangeability guidance; so the sooner we have that the easier it is for us to move forward with educating our members on how to use these medications appropriately especially in the hospital and health system settings.

ASHP also supports FDA's proposed review of proprietary names to reduce medication errors associated with naming related confusion as outlined in the commitment letter. On the non-proprietary naming side we remain concerned if the proposed framework for the non-proprietary name process may confuse clinicians and complicate post-market surveillance. Specifically because four consonant

non-meaningful unpronounceable suffixes are unlikely to be readily recalled or associated accurately with specific products. Names with these suffixes may be unlikely to achieve FDA's goal of product recognition and recall by prescribers, patients and others. Further because the proposed naming framework also extends retroactively to approved biologics it will necessitate extensive clinician education as well as potential reprogramming of some health information technology systems.

Finally moving away from the shared non-proprietary naming may adversely impact post-market surveillance efforts. Absent a well-designed testing it is unclear if FDA's proposed naming convention would support high level Pharmaco vigilance. If for both reference biologics and biosimilars FDA intends to rely on proprietary names for self-reporting we ask that FDA provide stakeholders with a clear statement to that effect as it prevents a deviation from standard Pharmaco vigilance practice for small molecule engineered drugs. And while that might not seem hugely important when you are a pharmacist and

you are used to doing things in a very specific way for all of your drugs and your post-market surveillance field then having that one change for a certain subset of drugs does create a lot of ripple effects. So we really do want to make this post-market surveillance strong but we also have to make it workable within the current systems.

So generally for post-market surveillance purposes ASHP supports an approach predicated on tracking medications by NDC or another standard product identifier rather than relying on naming. While we recognize that hospitals may not currently have the ability to fully track drug products by NDC. The Drug Supply Chain Security Act requires package level NDC tracking by 2023. So as our hospitals prepare for full DSCSA implementation and compliance they may apply a surrogate NDC in the interim to reflect an array of NDC for related drug and biologic products.

Additionally there are other Pharmaco vigilance options that do not rely on naming that could be applied including the VAERS model, which is

the Vaccine Adverse Event Reporting System model that already applies to other biological and biosimilar products or manual entry of NDC into the patient's electronic health record. Given that the current universe of biologic and biosimilar products approved by FDA is small manual entry of NDC's can serve as an initial solution while a more permanent one is developed. ASHP and its member pharmacists are prepared to work closely with FDA on these and other policy options.

Finally in spite of the concerns outlined above around the naming and post-market surveillance given the number of biologic products entering the market we encourage FDA to move expeditiously to finalize the non-proprietary naming framework and provide definitive guidance to stakeholders. We seek to provide our members with up-to-date objective information regarding all biologic products and we are concerned that a naming paradigm shift of this magnitude carries significant risk for medication errors. Definitive naming guidance would facilitate the development of comprehensive educational programs

for our member pharmacists as well as other members of the health care team.

We appreciate the opportunity to comment at this meeting today and we look forward to working with Agency and other stakeholders moving forward.

Thank you.

DR. ROACHE: Thank you. I would now like to invite our third panelist Mary Jo Carden to provide perspective from Academy of Managed Care Pharmacy.

MS. CARDEN: Thank you very much. And as Jillanne said a lot of my comments will also echo her comments. AMCP is the national professional association of pharmacists and other practitioners who serve society by the application of sound medication management, principles and strategies to improve health care. The Academy's 8,000 members develop and provide a diversified range of clinical, educational, medication and business management solutions and strategies on behalf of more than 200,000,000 Americans covered by a managed care pharmacy benefit.

AMCP supports the implementation of a robust biosimilars pathway to insure that the American

population continues to receive access to safe, effective, and affordable biologics and biosimilars. AMCP has been working extensively with FDA and other stakeholders on federal and state legislation and regulations that impact the biosimilars pathway. AMCP has added biosimilars education for health care priorities as a key priority for 2016 and 1017. AMCP is please that FDA will release additional guidance on the biosimilars pathway particularly interchangeability and will finalize guidance on naming and labeling.

However, as Jillanne had mentioned AMCP would like to see guidance released earlier than the anticipated date of December 2017 which is more than a year after the initial anticipated date of December 2016.

AMCP also submitted extensive comments to the docket but I will review those today.

First AMCP urges FDA to issue interchangeability draft guidance as expeditiously as possible and as stated before before the December 2017 deadline after consultation with the regulated

industry and affected stakeholders. This guidance will be important for health care providers, payers, and others as they seek to implement programs and services to allow patient access to biosimilars. State pharmacy practice laws and Medicare and Medicaid and private payment policies will be affected by the scope of this document. And as FDA approves more biosimilars clarity on interchangeability will be important. AMCP supports clear rules designating biosimilars as interchangeable with a reference product similar to the AB ratings for small molecule agents.

FDA should implement a two-step process by first determining biosimilarity and then interchangeability. A determination of interchangeability should not be a requirement for a condition to biosimilar approval and interchangeable biologic products should not be granted exclusivity. Pharmacist substitution should be permitted without additional steps in the dispensing process including prescriber notification and record keeping.

In regard to naming while AMCP is pleased

that FDA has indicated a timeline for a final draft or revised draft guidance on naming and labeling; final draft guidance documents should be released as quickly as possible. To take steps toward a robust biosimilar regulatory pathway and provide certainty to stakeholder AMCP urges FDA to finalize these documents in a timely manner and to not issue draft guidance with an additional comment period. AMCP had previously suggested that FDA re-release naming guidance with a new comment period but in light of recent actions related to biosimilar approvals FDA should finalize its intent as soon as possible to provide needed clarity in the biosimilars pathway.

If FDA proceeds with the current approach of a four letter randomized suffix it should consider the impact of this approach through cognition testing for pharmacists, providers and patients. AMCP continues to encourage the use of a shared non-proprietary name for biosimilars, reference products, and interchangeable biosimilar products plus a requirement to use national drug codes on all claims to identify product as well as identify lot number and package

size.

With regard to labeling AMCP encourages FDA to reconsider the use of a biosimilar statement in the label and to insure that the labeling guidance is consistent with naming and interchangeability guidance.

Third, AMCP is pleased that FDA is committed to providing additional staffing and resources toward educational efforts on biosimilars. AMCP has made a significant commitment to educating health care providers including pharmacists, physicians, and nurses. In 2016 AMCP launched the biosimilars resource center available at www.biosimilarsresourcecenter.org to provide an unbiased, policy neutral, repository of educational resources and information on biosimilars. AMCP is joined in these efforts by the American Association of Colleges of Pharmacy, Americas Health Insurance Plans, the American Pharmacists Association, the American Society of Consultant Pharmacists, the Hematology and Oncology Pharmacists Association, the National Alliance of State Pharmacy Associations, and the

National Committee Pharmacists Association. In 2017 AMCP intends to enhance the resources on the website and also provide educational presentations including webinars and live seminars on biosimilars to health care providers.

Finally as FDA finalizes policies on the biosimilars pathway it should consider the use of active post-marketing surveillance to determine the safety and efficacy of biosimilars in patients outside of clinical trials. FDA has indicated support for these efforts but should provide additional guidance on this information.

Thank you again for this opportunity and AMCP looks forward to continuing its work with FDA and others.

DR. ROACHE: Okay. Thank you very much to all of our panelist on Panel 2 for providing your remarks.

FDA will be taking all the remarks that we hear today into consideration following today's meeting.

At this time we would like to take our break

for lunch. So we'll take a break now and we will resume at 12:30.

And when we come back we will have our third panel for the day and we will hear perspectives of regulated industry.

Thank you.

LUNCH

DR. ROACHE: Okay. So we will go ahead and resume this public meeting. And the next item on our agenda will be perspectives from regulated industry.

So I'd like to thank all of our industry panelists for being here today and ask you all to introduce yourselves and then we will proceed with your remarks.

MR. GAUGH: Good afternoon. I'm David Gaugh, Senior Vice President for Sciences and Regulatory Affairs for the Biosimilars Council.

MR. HAVERFIELD: Good afternoon. I'm Sasha Haverfield, SVP for Science and Regulatory Advocacy at PhRMA.

MS. HOLCOMBE: I'm Kay Holcombe, Senior VP for Health Policy at BIO.

MS. REED: Hi, I'm Juliana Reed. I'm the President of the Biosimilars Forum.

DR. ROACHE: Okay. Thank you all for being here today. I will now turn it over to David.

PANEL 3 - REGULATED INDUSTRY PERSPECTIVES

MR. GAUGH: Thank you Amanda. And thanks to the FDA for holding this public meeting today.

Again I'm David Gaugh from the Biosimilars Council. Biosimilars Council is a division of Generic Pharmaceutical Association and works to insure a positive environment for patient access to biosimilar medicines. The Biosimilars Council is a leading source of information about the safety and efficacy of these more affordable alternatives to costly brand biologic medicines. We represent manufacturers who currently produce high quality safe and effective biosimilars approved in the U.S., Europe and other regulated markets around the world.

Biologic medicines are often the only life saving treatment for many of the most severe diseases encountered by patients today. In many aspects they represent the future of medicine. Their high price

tag however can keep them out of the reach of many patients.

During negotiations the Council focused on a number of key goals, additional staff for the FDA, finalizing outstanding policy guidances, increased communications with applicants, and biosimilar public education.

The Council believes that the agreement reached will strengthen the BsUFA program and will specifically address key goals that we outlined. The Council expresses its enthusiastic support of the user fee funding to provide FDA with additional resources to apply consistent regulatory standards to all biologics including both originators and biosimilars and to review new applications thoroughly and in a timely manner. Both industry and patients will benefit from this user fee program by gaining a higher degree of certainty in the timeliness of application reviews.

We applaud the FDA for recognizing the importance of biosimilars and the need to apply state of the art science in the Agency's activities

governing and reviewing and approving these important drugs. While the FDA has set a promising foundation fewer biosimilars are approved today than originally projected. BsUFA II is designed to reverse that trend.

The proposed reauthorization under BsUFA II will provide shifting from a ten month to a 12 month review timeline in order to improve and increase the opportunities for application touch points between the FDA and the industry for first cycle reviews. The extended timelines will allow for increased communications in the interactions between FDA and the sponsors. FDA and sponsors are able to structure the nature and timing of communications interactions by mutual agreement through a formal communication plan.

FDA and industry want to insure the program is adequately resourced. Modifications to the user fee structure through a standalone fee model independent of PdUFA. Fees would be limited to the biosimilar development program, reactivation fees, application fees and product fees.

FDA will establish priorities of management

of the metric goals for targeted hires within the biosimilar review for BsUFA II. In particular FDA will target hiring 15 FTEs in Fiscal Year 2018 to enhance capacity for biosimilar guidance, guidance development, reviewer timing, and timely communications.

FDA will conduct activities to develop a resource capacity planning function and modernize time reporting approach for BsUFA II including inflation and workload adjustment, carryover balance and methods for settling target allocations. FDA will work toward a goal of producing revised draft guidances. Final guidance documents on or before May 31, 2019, for draft guidances that were published between January 1, 2014, and September 30, 2017. Reduction of scheduling timelines for BIA meetings from 90 to 75 days. Increase the schedule timeline for BDP II meetings from 75 to 90 days to allow for a more robust conversation between the applicants and FDA. Manufacturing supplements that require prior approval supplement subject to a four month review time point.

In conclusion FDA and industry need to

continue to work to create a public education campaign around the benefits of biosimilars. These educational efforts will provide a key source of information regarding biosimilar products, their safety, and their scientific development. Additionally other key stakeholders should contribute to these educational efforts.

Moving forward is critical for FDA and industry to continue to discuss strengthening the biosimilar review infrastructure and expertise at FDA. Together we can promote access to more affordable high quality biosimilars for the patients who rely on these essential medicines.

Thank you very much.

DR. ROACHE: Thank you, David. I'll now turn it over to Sasha Haverfield from PhRMA.

MR. HAVERFIELD: Thank you, Amanda. PhRMA appreciates the opportunity to participate in the BsUFA II public meeting to discuss the benefits that the new user fee agreement will have for public health, the FDA, the biopharmaceutical industry, and most importantly the patients we all serve.

The BsUFA program provides the resources and support needed for FDA to achieve its core mission of protecting and promoting the public health. Since its creation in 2012 BsUFA has helped benefit patients and promote public health through the review and approval of biosimilar products that meet FDA's high standards for safety, purity, and potency.

The BsUFA II agreement will continue to build on the success of the program through the new review enhancements that will help provide more predictable and timely access to biosimilar products and the inclusion of other regulatory enhancements that will result in increased biopharmaceutical competition in the marketplace. BsUFA II will enhance the regulation of biosimilars and provide important resources to FDA to insure the biosimilar review program thrives and is sustainable in the future by supporting science based implementation of the BPCIA of 2009 in regulatory decision making, enhancing regulatory transparency and efficiency that enables stakeholders to understand the basis for FDA's decisions, promoting the long-term stability of the

BsUFA program through financial transparency, efficiency and accountability.

BsUFA II will provide resources to establish dedicated centralized staff capacity as we heard earlier today known as the biosimilars unit to provide a focal point for biosimilar regulatory and policy activities. The biosimilar's unit responsibilities will include scientific coordination among review staff and policymakers, development of biosimilar policy through the publication of new draft guidances and finalization of existing guidance, educational outreach to external stakeholders that will allow the delivery of information about similars to the public in a more timely manner and last but not least enhanced communication for sponsors and others related to biosimilars reviews.

As we already heard during the FDA's presentation by Dr. Christl to enhance communication between FDA and biosimilar sponsors and to encourage more first cycle review decisions FDA and industry agree to adopt a new review model for biosimilars applications based on the Prescription Drug User Fee

Act New Molecular Entity Review Program, the NME review program as it is often referred to. This model will provide a two months filing period to allow enhanced engagement opportunities during the review cycle and to provide sponsors with more timely feedback on potential review issues that might arise.

BsUFA II will help insure that the FDA can hire and retain a strong scientific and medical work force to advance its public health mission. The BsUFA II goals letter included hiring initiatives and staffing goals that will help the biosimilars program to have the capacity and capabilities for the duration of the reauthorization and beyond.

PhRMA supports the reauthorization of the Biosimilars User Fee Act. The BsUFA II performance goals letter is a means of advancing public health by making adequate resources available to FDA for the regulatory review of biosimilar products consistent with the Agency's high standards for scientific rigor and patient safety.

PhRMA and its member companies are committed to working closely with the FDA and all stakeholders

to reauthorize this important program and to maintain, expand and improve upon its science based approach to the development and review of biosimilar products.

PhRMA, therefore, urges Congress to reauthorize BsUFA in 2017 in a timely manner and to compliment the user fees with congressional appropriations.

Thank you.

DR. ROACHE: Thank you Sasha. I will now turn it over to Kay Holcombe from BIO.

MS. HOLCOMBE: Thank you for including BIO in this important meeting.

BIO supported enactment of the Biologics Price Competition and Innovation Act because we believed then and continue to believe that patient's access to medications they need can be enhanced by the availability of FDA approved safe and effective biosimilar products. These products can provide additional choices for patients, caregivers and health care providers in a system that also promotes continued innovation.

We recognize that user fees are essential to

accomplish the goal of timely availability of safe and effective biosimilars. The reauthorization of the Biosimilars User Fee program is necessary for the continuation and improvement of the new biosimilars pathway and BIO strongly supports it.

The BsUFA II technical agreement reflects key principles that guided BIO in its deliberations about this reauthorization: science based effective implementation of BPCIA, an efficient and transparent regulatory process with appropriate timelines, guidance and feedback to sponsors, long-term stability of the BsUFA program through transparent and sustainable financing, and enhancement of staff capacity through effective hiring and clear hiring goals. One of our key objectives for this was modification of processes and procedures to insure appropriate staffing of the biosimilars program. Importantly the technical agreement includes clear and reportable FDA commitments related to improving recruitment, hiring, and retention of necessary personnel with the ability for stakeholders to track success. The BCPIA required specifically that the

reviewers of biosimilars applications be the same as those who review applications for new biological products. This makes it all the more important to insure a sufficient number of full time equivalents for both types of review to meet performance goals for both functions. It will be particularly important for the third party evaluation of all hiring and retention activities to focus on evaluating the impact of those activities on improvements for the biosimilar program specifically.

Financial predictability and stability are also crucial to the success of the biosimilars program and it is important to BIO that the current system will be appropriately tailored to achieve these objectives. A five-year financial plan will be developed and implemented with public input. The new capacity adjustment will allow the Agency to assess workload more accurately which will yield appropriate fee changes from year to year. These modifications will advance both predictability and transparency of the finances of the biosimilars program. The planned evaluation by a third party of progress against the

financial plan is essential.

Modernization of the time reporting system which is already underway at FDA will yield significantly more precise data and a better understanding of resource needs for biosimilars program activities than currently are possible. A clear and accurate accounting of time devoted to 351(a) reviews which are part of the PdUFA program and 351(k) biosimilar reviews is essential. PdUFA fees should be allocated only for PdUFA related activities and BsUFA fees for biosimilars related activities. The modernized time reporting system will help assure appropriately strict accountability.

Modification of the fee structure is a third component of improving financial predictability and stability. Although we know more now than we did four years ago about the number and stages of biosimilar product development programs the number of applications that will be submitted to FDA in any given year remains speculative. The number of biosimilars applications is the least predictable among the sources of user fees and the number of

products the most accurately ascertained. We are pleased, therefore, that the fee collection structure will be modified to recognize this collecting a smaller portion of the total fees from applications and a larger percentage from a new program fee based on the number of products.

BIO strongly supports several program enhancements also included in this BsUFA goals letter. First is the establishment of a new biosimilars review program patterned after the successful NME BLA program. The program aims to increase the likelihood of an application moving through the review process in a single cycle principally by improving communication between FDA and sponsors during the review. The effectiveness of this new biosimilars program will be evaluated by a third party through onsite evaluation and interviews of both sponsors and FDA staff. Importantly FDA commits in the goals letter to the completion or development of guidance to help sponsors understand FDA expectations and by clarifying regulatory requirements to help achieve the goal of getting biosimilars to market as expeditiously as

possible.

In conclusion BIO supports the FDA biosimilars program and the BsUFA II technical agreement. We believe this agreement helps to meet our ultimate goal of insuring that safe and effective biosimilar products reach patients in a timely way after appropriately rigorous fully science based evaluation by FDA. BIO believes in innovation and in the value of innovative biological products for patients. We also believe that biosimilars can provide an important therapeutic option. We support a well managed sustainable program of user fees to help the timely review and availability of these important products.

Thank you for inviting us to participate in this meeting.

DR. ROACHE: Thank you Kay. Next we will have Juliana Reed from the Biosimilars Forum.

MS. REED: Thank you Amanda.

The Biosimilars Forum appreciates the opportunity to have participated in the BsUFA II negotiations and to provide our perspective today on

the commitment letter. The Forum is a non-profit trade association representing biosimilar manufacturers and is dedicated to expanding patient access to biosimilars in the United States. Forum member currently represent the majority of the U.S. biosimilar programs in development and are a key stakeholder in BsUFA II.

The Forum is proud to have participated in industry negotiations with the FDA and greatly appreciates the cooperation of the Agency and the other industry groups represented during the negotiations. We feel the resulting commitments will provide the necessary time and resources needed by the Agency to support a successful biosimilars program.

The Forum believes that the commitment letter meets our overarching goal of providing ongoing support to this important program which ultimately will benefit patients by advancing biosimilar approvals and access in the U.S.

Within BsUFA II there are significant enhancements to the Biosimilar User Fee program that support the review and approval of biosimilar

medicines in the U.S. These agreed to enhancements include a revised review process meant to increase transparency and communication between the FDA and biosimilar sponsors that is expected to facilitate an increase in the likelihood of first cycle approval; Agency commitments to complete and publish several draft and final guidance documents that will provide industry with additional clarity and certainty regarding the biosimilar development and review processes; Agency commitments to augment and strengthen biosimilar staffing and enhancements to the user fee structure and management that will allow greater transparency, predictability and long-term stability of the program.

The Forum believes the negotiations resulted in improvements in communication and accountability between sponsors and FDA and the focusing of the industry's contributions of BsUFA funds on matters related to the FDA biosimilars program. We encourage Congress to support the BsUFA II agreement and also to provide the FDA with the necessary funding it needs to continue building this program.

The commitments by the FDA combined with the financial support of Congress and industry ultimately will benefit patients by getting these important products to market.

Thank you for the opportunity to be here today and to share our support of the BsUFA II commitment letter.

DR. ROACHE: Thank you Juliana and thank you to all of our panelists for attending today and providing your perspective on regulated industry.

So we are going to move into our final section of the meeting which is the open public comment session. And we had three brave souls who signed up to provide a comment during today's public meeting.

I just want to remind everybody that FDA is not going to be providing a specific response to the comments today but these comments will be transcribed and will be a part of the public record. And since we would like this to be a transparent process we invite you to note any financial interest that you may have that are related to your comment. If you don't have

any financial interest you are also welcomed to state that for the record as well. And if you do not want to state you financial interest you are still welcome to provide a comment.

So the list of speakers we have today. We have Bruce Leicher from Momenta Pharmaceuticals. We have Dennis Cryer from Biologics Prescribers Collaborative. And we have Thair Phillips from RetireSafe. So that will be the order of our speakers. I ask that everybody limit their comments to about five minutes. And we have a microphone up here in the center of the room that we invite you to speak into. So Bruce I will turn it over to you.

OPEN PUBLIC COMMENT

MR. LEICHER: Thank you Amanda. I'm Bruce Leicher, Senior Vice President and General Council, Momenta Pharmaceuticals and I would disclose that I am an employee of Momenta so I would certainly have a financial interest in that company and an equity interest in that company as well.

Momenta is a biotechnology company engaged in development of biosimilar and interchangeable

biologics as well as complex generics and novel products. We use innovative, analytical and biocharacterization tools and methods to develop biosimilars, to assure their quality, and to demonstrate similarity and interchangeability. Rapid advances in the sciences associated with biosimilar development along with the growing number of applications anticipated in the next five years demands significant additional resources over current levels of the Agency for the biosimilar pathway to succeed. The proposed BsUFA II User Fee recommendations are a major step forward in assuring that the FDA has the needed staffing and expertise.

The proposed revisions to the regulatory process included in BsUFA II are highly innovative and seek to apply these resources more efficiently to these needs. We are pleased with the recommendations and endorse their adoption and submission to Congress.

As a member of the Biosimilars Council I had the opportunity to participate in discussions leading to the BsUFA II recommendations. From that vantage point we would like to thank the Agency staff in

particular for its careful consideration of the industry proposals as well as its providing its own recommendations for regulatory improvement. The result should be more effective and timely review of high quality biosimilar applications. This matters to all of us as biosimilars and interchangeable biologics offer society one of the best means for insuring access for affordable medicine.

In particular we are pleased with enhancements introduced in BsUFA II to the pre-application meeting process. The explicit adoption of Agency best practices for meeting management will help assure that development programs are well designed and can deliver the data and information to reviewers that provide a high level of confidence to patients and physicians that biosimilars and interchangeable biologics are subject to the same rigorous review and quality requirements and offer the same safety and effectiveness as the reference products.

The adoption of a written meeting review process will also accelerate the process of advice for applicants when a face-to-face meeting is unnecessary

saving Agency staff time for other activities.

The adoption of the program review model developed under PdUFA for originator products is likewise a highly innovative regulatory reform. It will help assure that the Agency review staff has the information it requires at the right time during the application review. It facilitates timely communication with each applicant and assures the Agency is in the best position possible when it receives a qualified application to approve the application in a first cycle review. This should also free up Agency resources to handle more applications and should lead to more timely approvals and to more access to affordable medicine.

Additional improvements such as the four month review of post-approval manufacturing supplements and the use of Special Protocol Assessments for biosimilar clinical studies will likewise enhance the review process and make biosimilar development more predictable and affordable.

The additional fees contemplated for BsUFA

II and the use of reserves from BsUFA I will also enable a significant increase in staffing which should insure that the enhanced goal commitments for meetings and applications can be achieved as the number of pre-application meetings and applications increase substantially.

In addition the inclusion of staffing for guidance development, reviewer training and increased communication should increase the overall quality and efficiency of applications and the review of applications.

With these program improvements the tools will be in place to let science write policy development and support the biosimilar pathway.

We encourage the FDA to use these additional resources to combat interference with biosimilar applications by using its depth of expertise and its growing experience. For example FDA has the scientific expertise to thwart citizen petition abuses that seek to prevent biosimilar review and approval. FDA has the experience and now the resources to help assure that originator companies do not interfere with

commercially reasonable access to reference products that will be needed for biosimilar testing. FDA had the policy expertise to adopt naming, labeling, and interchangeability guidelines that do not mislead patients and physicians about the safety and effectiveness of biosimilars by suggesting the products are different. And FDA can assist CMS in understanding that interchangeable biologics are substitutable with originator products and are thus therapeutically equivalent. This finding will enable CMS to provide for reimbursement of interchangeable biologics in the same manner as it does today for generic product and enhance patient access to affordable medicine by avoiding the cost of unnecessary sales and marketing activities.

BsUFA II offers all of us and especially patients a clear and more predictable path for licensing and access to affordable medicine and we applaud the recommendations and look forward to their implementation.

Thank you for the opportunity to present our views.

DR. ROACHE: Thank you. Now we will have Dennis Cryer from the Biologics Prescribers Collaborative.

DR. CRYER: Thanks very much and good afternoon. My name is Doctor Dennis Cryer. I'm the lead physician co-convener of the Biologics Prescribers Collaborative or BPC as we call it. I have no financial disclosures to make. Would that I did.

I'm here on behalf of physicians who routinely prescribe biologics medicines and professional organizations with numerous biologics prescribers as members.

I think my quick executive summary of my comments are simply that we are concerned about the timelines around the guidances. We understand the challenge of putting these together. If that could be accelerated in some way that would be wonderful. But we are totally supportive of all the resources that can be garnered for the FDA and for these efforts. So maybe there is an opportunity for acceleration at some point.

But to go on with my formal remarks. The BPC supports the FDA's continuing careful deliberation on biosimilar related issues along with your recent expert and diligent review of medical products. In particular the Collaborative is please the FDA has stated that it will make decisions on a case-by-case basis until it has the knowledge to impose a comprehensive regulatory framework for the approval and safe use of biosimilars.

BPC realizes that it is a time and resource intensive process; therefore, we applaud the FDA for the proposed recommendations being submitted for the BsUFA reauthorization for Fiscal Years 2018 through 2022 and for taking the opportunity to set aggressive drug review timelines and goals to refine your existing activities and to remove provisions that are no longer needed.

The Collaborative acknowledges that in order to accelerate patient access to safe and effective biosimilars and to assure accuracy, consistency, and timeliness of these guidances FDA needs additional resources; the common theme here today. Therefore, we

support the FDA request of increasing staff capacity and for the review and development of biosimilar related regulations.

While it is important that a timeframe has been provided for receiving a draft guidance on interchangeability by December of next year and revised draft or final guidances on non-proprietary naming of biologics and on labeling of biosimilars by May of 2019 we are concerned that this still permits a considerable period of time during which additional products will be approved and brought to market without final policy decisions. As such we encourage the FDA to consider the implications of the lack of finalized guidances as it may negatively impact physician confidence but more importantly it may impact patient safety.

Thank you for this opportunity for the Biologics Prescribers Collaborative to share our perspective on these issues critical for the safe use of biosimilars and other biologics. We enthusiastically support all your efforts.

DR. ROACHE: Thank you Dr. Cryer. I would

now like to invite Thair Phillips from RetireSafe.

MR. PHILLIPS: Good afternoon. I'm Thair Phillips. I'm the President and CEO of RetireSafe. I have no financial disclosures.

RetireSafe is a nationwide advocacy organization representing 250,000 older Americans both supporters and email activists who are concerned about safety and about biosimilars.

We support BsUFA and its promise of offering the hope of biosimilars to more people while also insuring the safety of the approved biosimilars and the safety of the ongoing manufacturing process.

It is the subject of safety that I want to direct my comments. The issues of naming has come up more than once today. RetireSafe believes that unique names are required to insure safety. The manufacturer of a reference product for which a biosimilar was seeking approval who was also the developer of a biosimilar seeking approval agrees with us. Someone who is on both sides of this question believes that unique names for biosimilars is necessary. We should take note.

My last point concerns interchangeability. To put it bluntly the question of what constitutes interchangeable, interchangeability and whether a biosimilar is interchangeable is becoming mute. The lack of guidance on interchangeability has allowed health insurers beginning in January to in essence declare some biosimilars interchangeable by excluding the reference product from their formulary. FDA needs to respond to this safety threat. America has counted on the FDA to keep them safe. Please don't turn your backs on their trust.

Thank you.

DR. ROACHE: Thank you. So this concludes our open public comment session.

Again these comments will be a part of the record and will be considered following this meeting. And also another reminder that the public docket will remain open until October 28, so you still have an opportunity to provide a comment in writing.

At this time I would like to turn it over to Dr. Mullin to let us know what the next steps are and also provide closing remarks.

CLOSING ERMARKS

DR. MULLIN: Okay. Thank you very much for coming today. We weren't sure if we would -- I think we actually are ending about at the time we would like. We appreciate everyone's feedback on the package that has been put together. And we very much appreciate your comments and your support for the resourcing as well. That has been a theme and it is going to be complicated with the way this works in terms of a new program that didn't have footprint and appropriated funds prior to -- or rather I should say non-fee funds prior to its start.

And so what we've got here and you may recall if you were here last December we were somewhere to the left on this chart but this is to give you a sense of the process that has been followed. It just tracks what needs to be done in terms of the reauthorization process outlined in the statute with other touch points along the way.

And we're getting close to wrapping up the part that FDA does. Last week we were able to brief the Health Committee staff and the Energy and Commerce

Committee staff on the package that we have told you about today. And we're hoping as we close the comment period toward the end of this month and then take some time to analyze those comments that we'll be able to complete the process of analysis of those comments and then we can on that basis go forward with the package and the recommendations to the Secretary. And the Secretary would then transmit whatever is recommended to the authorizing committees. And so we hope to have that done well on the way to give it to -- perhaps give it to this Congress and then it will be available for the next Congress as well which will start in 2017.

So as Amanda said we have the docket that is still open if there is anything further that you think you want to add please do so. Please submit that to the docket by the deadline and we'll be taking everything that we receive and doing that analysis as quickly as we can to keep this moving along so that we can transmit the package.

And again thank you for your comments today and your continuing engagement and support for the

program and giving us the feedback. It really helps to make the program stronger. And we're looking forward to working over the next year for timely reauthorizations so that we really can move this forward.

Thank you and have a nice day. The last day of summer I think, we hope.

Thank you.

(Whereupon, the Biosimilar User Fee Act meeting concluded at 2:07 p.m.)

CERTIFICATE OF NOTARY PUBLIC

I, ERICK McNAIR, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was recorded by me and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

ERICK McNAIR

Notary Public in and for the

District of Columbia

CERTIFICATE OF TRANSCRIPTION

I, CHERYL LaSELLE, hereby certify that I am not the Court Reporter who reported the following proceeding and that I have typed the transcript of this proceeding using the Court Reporter's notes and recordings. The foregoing/attached transcript is a true, correct, and complete transcription of said proceeding.

10/31/2016 CHERYL LaSELLE

Transcriptionist

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