



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

DATE: December 13, 2007

TO: Randall W. Lutter, Ph.D.
Deputy Commissioner for Policy
Food and Drug Administration

THROUGH: Vince Tolino 151 12/21/07
Director, Ethics and Integrity Staff
Office of Management Programs
Office of Management

Michael F. Ortwerth, Ph.D. 151
Deputy Director, Advisory Committee Oversight and Management Staff
Office of Policy, Planning, and Preparedness

FROM: Igor Cerny, Pharm.D. 151
Director, Advisors and Consultants Staff
Center for Drug Evaluation and Research

SUBJECT: 208(b)(3) Conflict of Interest Waiver for Henry Black, M.D.

I am writing to request a waiver for Henry Black, M.D., a temporary voting member to the Drug Safety and Risk Management Committee of the Center for Drug Evaluation and Research, from the conflict of interest prohibitions of 18 U.S.C. §208(a). Waivers under section 208(b)(3) may be granted by the appointing official where "the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved" and where the individual has made a disclosure of the financial interests at issue. We have determined that you are the appointing official for purposes of section 208. Therefore, you have the authority to grant Dr. Henry Black a waiver under section 208(b)(3). Section 208(a) prohibits Federal executive branch employees, including special Government employees, from participating personally and substantially in matters in which the employee or his employer has a financial interest. Because Dr. Black is a special Government employee, he is under a statutory obligation to refrain from participating in any deliberations that involve a particular matter having a direct and predictable effect on a financial interest attributable to him or his employer.

The function of the Drug Safety and Risk Management Advisory Committee, as stated in its Charter, is to advise the Commissioner of Food and Drugs on risk management, risk communication, and quantitative evaluation of spontaneous reports for drugs for human use and for any other product for which the Food and Drug Administration has regulatory responsibility. The committee also advises the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services

and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances, and recommends actions to be taken by the Department of Health and Human Services with regard to the marketing, investigation, and control of such drugs or other substance.

Dr. Black has been asked to participate in the discussions of the safety and efficacy of new drug application (NDA) 22-054, INJECTAFER (ferric carboxymaltose injection), used for the treatment of iron deficiency anemia in patients with postpartum hemorrhage or heavy uterine bleeding. INJECTAFER is sponsored by Luitpold Pharmaceuticals, Inc., a wholly owned subsidiary of Daiichi Sankyo Co., Ltd. of Japan. If approved, INJECTAFER (ferric carboxymaltose injection) will be marketed in the U.S. by American Regent, Inc., a subsidiary of Luitpold Pharmaceuticals, Inc.

This matter is coming before a meeting of Drug Safety and Risk Management Advisory Committee. This issue is a particular matter involving specific parties.

Dr. Black has advised the Food and Drug Administration (FDA) that he has a financial interest that could potentially be affected by his participation in the matter described above. Dr. Black is a member of _____ speaker's bureau regarding hypertension, an issue unrelated to the Committee's agenda. He receives minimal compensation. _____ makes _____, a competing product to INJECTAFER.

As a temporary voting member of the Drug Safety and Risk Management Advisory Committee, Dr. Black potentially could become involved in matters that could affect his financial interest. Under section 208, he is prohibited from participating in such matters. However, as noted above, you have the authority under 18 U.S.C. §208(b)(3) to grant a waiver permitting Dr. Black to participate in such matters as you deem appropriate.

For the following reasons, I believe that it would be appropriate for you to grant a waiver to Dr. Black that would allow him to participate in the matter described because the need for his services greatly outweighs the conflict of interest created by this financial interest.

First, it is important to consider that Dr. Black's interest is unrelated to the product coming before the committee and the competing products.

Second, this interest is not so substantial as to preclude Dr. Black's participation. Dr. Black receives nominal compensation.

Third, according to the review division, this Drug Safety and Risk Management (DSaRM) advisory committee will discuss the risks and benefits of a new drug to treatment iron deficiency anemia (iron carboxymaltose, Luitpold, Inc). FDA anticipates that the committee will make recommendations regarding market approval of the drug. FDA has identified three major safety concerns for the drug: excessive numbers of deaths, excessive risks for severe decreases in blood phosphate (mineral) levels and excessive risks for serious adverse reactions. FDA's concerns are

based upon epidemiological assessment of the new products' safety database and considerations of the potential cardiac causes for the safety risks.

As a prelude to questions of overall marketing consideration, FDA plans to ask the DSaRM committee about the importance of epidemiological data assessments and cardiac considerations for people with iron deficiency anemia. FDA has chosen the DSaRM committee as the venue because the new drug is a variant of other FDA-approved drugs that are currently marketed and because epidemiological, statistical, hematological and cardiovascular expertise is essential to fully interpreting the new drug's safety database and because drug safety is the major FDA concern for the drug (not efficacy). FDA is working to supplement the drug safety experts on DSaRM committee with experts in cardiovascular and hematologic diseases as well as other subspecialists familiar with the management of iron deficiency anemia.

Dr. Black is currently a Professor of Internal Medicine (Kidney diseases and Hypertension) at the New York University School of Medicine. For over 20 years, Dr. Black has published reports of analytical considerations for clinical trials that enroll patients with kidney disease or trials that involve hypertension considerations. Dr. Black has extensive experience in the analyses of large clinical trial databases, especially databases from patients with kidney failure. This expertise is very important for the drug to be discussed at the DSaRM meeting because the FDA's major safety concerns relate to death risks and many of these deaths in the new drug's database occurred among patients with kidney failure or hypertension. The DSaRM committee lacks expertise in kidney failure and the participation of at least two experts in kidney failure is essential to a thorough evaluation of the new drug's safety risks. Dr. Black is unique among kidney disease experts in that he has an extensive history with the review of drugs used among kidney disease patients, including drugs that cause death. Dr. Black's participation will help to ensure adequate and varied scientific analysis and discourse. Therefore, Dr. Black's participation is critical to include a variety of viewpoints from the pharmacoepidemiology and cardiovascular/renal community.

At this time, of the two individuals considered as possible alternatives to Dr. Black, both were more seriously conflicted or unavailable to participate in this advisory committee meeting. The division believes that Dr. Black's participation will bring an enormous amount of experience, knowledge, and expertise in the field of nephrology that is essential to the committee's discussions and will help provide a foundation for developing advice and recommendations that are fair and comprehensive. Due to the safety issues involved with this product, it is essential to have more than one nephrology expert on the panel. If Dr. Black is recused, it will leave the committee with either insufficient or no nephrology expertise on the panel.

Moreover, the Federal Advisory Committee Act requires that committee memberships be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee. Also, the committee's intended purpose would be significantly impaired if the agency could not call upon experts who have become eminent in their fields, notwithstanding the financial interests and affiliations they may have acquired as a result of their demonstrated abilities.

Accordingly, I recommend that you grant Henry Black, M.D. a waiver that would allow him to participate in all official matters concerning the discussions of the safety and efficacy of new drug application (NDA) 22-054, INJECTAFER (ferric carboxymaltose injection), used for the treatment of iron deficiency anemia in patients with postpartum hemorrhage or heavy uterine bleeding. I believe that such a waiver is appropriate because in this case, the need for the services of Dr. Black outweighs the potential for a conflict of interest created by the financial interest attributed to him.

DECISION:

Waiver granted based on my determination, made in accordance with section 208(b)(3), that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest attributable to the individual.

Waiver denied.

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Randall W. Lutter, Ph.D.
Deputy Commissioner for Policy
Food and Drug Administration

1/4/08
Date