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41093 COUNTY CENTER DRIVE, TEMECULA, CA 92591 (909) 695-7770 FAX (909) 695-7777  
(800) 843-7477

December 20, 1999

**VIA MESSENGER**

Dockets Management Branch (HFA-305)  
Food and Drug Administration  
5630 Fishers Lane, Room 1061  
Rockville, MD 20852

Re: Docket No. 98N-0815/Advanced Notice of Proposed Rulemaking

Dear Sir or Madam:

FFF Enterprises, Inc. has read with great interest, and appreciates the opportunity to comment on, the Food and Drug Administration's (FDA) above-referenced Advanced Notice of Proposed Rulemaking (ANPRM) regarding requirements for tracking and notification related to plasma derivatives and other blood-derived products. As you know, this ANPRM was published in the August 19, 1999 *Federal Register* and the deadline for comments was extended to December 22, 1999 by notice in the November 9, 1999 *Federal Register*.

Founded in 1988, FFF is now the world's largest distributor of fractionated plasma products, including albumin, intravenous immune globulin (IVIG) and anti-hemophilic factor. Our partners include the largest and most influential group purchasing organizations, representing over 15,000 customers across the U.S. We are also in the forefront of developing extremely affordable software necessary to track these biologicals, and as such believe we have significant experience on this critically important health and safety issue from which the FDA and the nation could benefit.

We support the FDA's efforts to develop regulations to require proper tracking of plasma derivatives and other blood-derived products as well as notifying recipients of product recalls and withdrawals. Recipients include hospital pharmacies, physicians, and most importantly the patients, many of whom rely upon these products for sustaining their quality of life under what can be very difficult circumstances. FFF ascribes the highest value to patient safety.

Millions of people use biological products every day. They rely to a large degree, on their physicians or pharmacists to ensure the 1,100 licensed biological products on the market are safe. Each of these products is derived from living tissue and inherently has the potential of carrying pathogens that may or may not be known to us today. The vast majority of recipients of

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biological products, unfortunately, are unaware of these inherent safety issues. There is often a long lag time between the administration of these products and learning that the product has been compromised for whatever reason. Coupling the immediate need to use these life-saving products with that lag time, it is simply not possible to provide certainty about a product's safety at the time it is transfused into a patient. Unfortunately, without this absolute certainty, we believe it is inevitable that there will be appropriate and necessary product recalls and withdrawals in the future. Critical health care treatments will be possible, if patients can be notified in a timely fashion. The current Hepatitis C situation is a perfect example of how a threat is identified and the healthcare profession evolves a treatment.

Each participant in the distribution chain, from manufacturer to the patient (the consumer), must accept a portion of the responsibility to ensure that when new knowledge dictates action, that the appropriate action can be taken promptly and responsibly to ensure patients are notified, not only of the potential risk, but also of potential treatments.

To best serve our customers, FFF Enterprises invested significantly in understanding the issues and processes surrounding product tracking and patient notification. In surveying our 5,500 pharmacy customers, 93% of our respondents agreed that biological product lot numbers should be tracked all the way to the patient for the reasons addressed by this ANPRM. Doing so would enable notification of the physician and patient and allow them to make fully informed and timely health care decisions. FFF has responded to this challenge by developing a complete software solution that accomplishes this goal at a price our customers agree is reasonable. We have been able to do this while maintaining patient confidentiality. Although our software is unique at this time, there is no reason to suggest that others do not have the ability to create equally inexpensive and efficient solutions, given the proper motivation.

Our software has been beta tested and utilized in several sites. It is extremely accurate and inexpensive, making tracking of all blood and blood-derived products, regardless of location of use, extremely feasible and cost-effective. Our tracking software includes the ability for hospitals, home health agencies, and physicians to notify patients of a problem, real or threatened by a product that has been deemed to be a health threat. As suggested above, the software functions in a way such that FFF does not and cannot know the actual identity of the patients who should be notified. Only the hospital or clinic has the ability to identify the encrypted patient information.

Having reviewed the ANPRM in conjunction with the impetus behind it (Committee on Government Reform and Oversight House Report 104-746, "Protecting the Nation's Blood

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Supply from Infectious Agents: The Need for New Standards to Meet New Threats”), we strongly encourage the FDA to go beyond the stated limited scope of the ANPRM to also reach all those patients who have been transfused with biologicals subject to recall or withdrawal. The proposed rule should not just be limited to those patients who are in custody of unused products. We believe it is critical that all transfused patients, whether they be subject to single or repetitive usage, be notified of all potential problems arising from defective blood and blood derived products. Medicines have evolved dramatically over the past several years allowing treatments to stabilize Hepatitis C and HIV and permitting people to live longer lives with an improved quality of life. If tracking and notification had been in place years ago, the impact would have at least been lessened. It is imperative that Hepatitis C and AIDS type catastrophes not be repeated when cost effective solutions exist that can easily track and identify, as early as possible, patients who may be in harm’s way.

Among its many findings, the Committee on Government Reform and Oversight calls upon the U.S. Department of Health and Human Services to “take steps to ensure that the estimated 300,000 living recipients of blood and blood products who were infected with Hepatitis C virus before 1990 are notified of their potential infection so that they might seek diagnosis and treatment.” (See House Report 104-746, page 3). While we do not suggest that FFF has the capacity to apply its technological know-how retroactively, we believe this finding reflects Congress’ intent that the FDA regulate this area more fully than is reflected in its ANPRM.

Addressing the particulars of the ANPRM, FFF would like to make the following comments.

### *III.A. Scope of the Regulations – Types of Blood-Derived Products*

We have already commented that FDA should not limit the scope of its regulations to plasma derivative products that patients possess. At a time when there are more than a thousand biological products on the market, and more coming every day, now is the time for the FDA to create the incentives for industry to monitor the whole range of products to ensure the highest level of patient safety.

Based upon our experience, we would respectfully disagree with the FDA’s perception regarding “the complexity, expense, and inefficiency of a system which would be needed to track large volumes of product, for the purpose of potentially notifying a small portion of patients.” The principal behind our technology is simple: The majority of biological products are administered in a hospital setting. If that tracking problem is resolved then the balance of the notification problem becomes very manageable. Our software system has solved this problem.

Without disclosing proprietary information, we can best describe our technology, known as Lot-Track, as an information management system capable of tracking every drug vial to every patient in a hospital setting at a very reasonable cost. More specifically, Lot-Track utilizes software modules installed on individual hospital network systems to facilitate the gathering and assembly of a notification record including vial lot number information, and then creating an association of that information with patient information. All of it is then managed by a centralized networked computer system. The system communicates with each hospital site to obtain the lot number information without receiving or having access to the patient identifying information. It can then quickly issue recall notices to the appropriate hospitals upon receipt of a recall or withdrawal notification from a manufacturer, FDA or other issuing agency.

It is important to note, however, that no link exists between the manufacturer and the patient directly. We have taken an approach that has the caregiver create the link allowing for greater confidentiality. If the hospital pharmacy has already transfused the product, it releases only the lot number information related to that transfusion. Therefore, when we are alerted to a recall or withdrawal of that already transfused product, we can quickly respond to the hospital or clinic relaying the recall details to the hospital pharmacy. The hospital pharmacy, in this scenario, then can check their inventory as usual, but more importantly, notify and counsel the physician and patient accordingly.

As you can see, privacy and confidentiality are paramount elements of our system. The complete process is all done without FFF or the manufacturer having the ability to know the identity of the patient. Only the health care provider or hospital has the information necessary to contact the patient. FFF believes that health care providers need to be provided the incentives (through federal regulation if required) to address known potential health risks related to biologics at the earliest possible moment, but to also be prepared for new knowledge that may become available in the future. Our software system addresses this issue. Furthermore, our software would not require patients to have the sophisticated understanding or motivation required to enroll in a voluntary system, which itself raises real and/or perceived confidentiality and access issues. We would urge, however, that a comprehensive educational effort be made to inform patients of the potential risks associated with the products that they receive and that they understand that their health care providers may need to contact them in the future, if in fact a risk is identified.

This should be the case, regardless of whether the biological product is to be administered by the patient at home, or by the health care professional in an outpatient or in-patient hospital setting. Given the ease with which our technology can be utilized, we believe the "burden" created by

adding blood products and blood derivatives to this regulation is miniscule compared to the significant public health advantage that would accrue to all patients. Having timely notice of potential or actual exposure to HIV or Hepatitis C, would have saved untold sums. The need to move forward with comprehensive regulation is evident.

### *III.B. Scope of Regulations – Reasons for Notification*

Now is the time to improve the current notification process. If the American public had an understanding of these issues, we suspect the current status quo would not be acceptable. The public believes tracking to the patient exists today in the same way that other products are tracked. Given that the technology exists to accomplish this goal, the public's perception can be met now. Sound public health policy requires that we be proactive, before the public outcry, and take the steps necessary to protect the nation from avoidable harms and health risks, particularly when they can be accomplished, at a relatively inexpensive price.

By definition, recalls are necessary when pathogens embedded in biologicals evade the front-end plasma screening process. The ultimate goal of a tracking system, whether or not it is regulated by the federal government, should be to protect the recipients of unsafe blood and their derivative products from potential threats. At present, however, regulations do not require tracking a biological to the transfused patient. Manufacturers and distributors only need to notify their purchasers. A significant gap exists between the ability to pull unused unsafe product from pharmacy shelves or out of someone's home, and the ability to locate the recipient of the transfusion when it is later learned that the transfused product was unsafe. As mentioned above, given the advances in medicine, we should be moving in this direction to permit affected people and their physicians to make fully informed medical decisions.

### *III. C. Who Should Be Responsible for Notification and Related Tracking Responsibilities?*

FFF believes the responsibility for healthcare is shared by the complete healthcare continuum, including the physician and patient who must be aware of the risks and benefits associated with any particular treatment. The manufacturers of biological products, however, should have primary responsibility of having a tracking mechanism in place that can ultimately reach all patients, including transfused patients. Consistent with the FDA's Mission Statement to "protect the public health by ensuring that . . . human . . . drugs are safe . . .", the agency should embrace a notification and tracking system which can reach all patients (i.e., the public), regardless of whether they simply possess tainted biologicals, or have actually received a transfusion. The complexity in the supply chain, as acknowledged by the Committee on Reform and Oversight,

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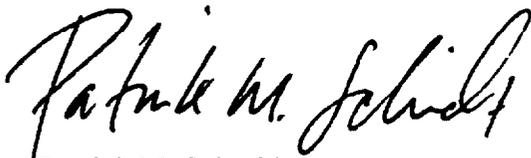
causes the barriers that make this difficult. These barriers can be eliminated by addressing the issue from the patient or public health perspective. If the issue is addressed from the patient perspective, the only impediment is confidentiality, and even that issue becomes much simpler when there is no need for multiple duplicated databases with the risk of confidentiality breaches at every turn. While we understand this process may create some jurisdictional issues among Federal agencies, with the nation's public health at stake, the FDA should take on the challenge now, consistent with its Mission Statement, to address and resolve them to accomplish this goal.

### III. D. *Tracking of the Consignment of Applicable Plasma Derivatives*

As discussed above, FFF believes all blood and blood-derivative products should be subject to the FDA's contemplated regulation. We would reiterate that the issue is not simply that of tracking products, but notification of health care providers and patients in the event of product being deemed to be a threat to public health. This notification process must include the hospital and other health care providers, since they are involved in the majority of cases where biological products are used. Otherwise, patient confidentiality must be compromised, and that is an unnecessary alternative given the available inexpensive solutions.

We have the opportunity to use technology to vastly improve the safety of our nation's use of blood and blood derivative products. Our shared experience dictates that we move from a less than adequate passive notification system to a proactive one that will enable patients to make informed health care decisions. Thank you, again, for the opportunity to comment. Please call upon us if we can answer any questions you may have, or if we can be of any further assistance in the development of this regulation.

Sincerely,



Patrick M. Schmidt  
President & CEO