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July 9, 2004

Sent by E-mail;
No paper copy sent

Division of Dockets Management
HFA-305
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, Maryland 20852

Re: FDA Docket 2004N-0133, April 8, 2004, "Electronic Records; Electronic Signatures; Public Meeting"

Dear Docket Officer:

America's Blood Centers (ABC) appreciates the opportunity to comment on the Food and Drug Administration's re-examination of CFR Title 21, Part 11, regulatory approach to electronic records. For your information, ABC is a national network of locally-controlled, not-for-profit community blood centers that collect almost half of the US blood supply from volunteer donors. Collectively, we operate in 45 states and serve patients at more than half of the nation's 6,000 hospitals. ABC members collected more than 7 million units of whole blood and apheresis platelets in 2003.

ABC members were pleased that FDA has stepped back to examine the principles of the Electronic Records; Electronic Signatures (ERES) regulation and congratulate the agency on bringing clarity to what has become a confusing plethora of opinions in this area. ABC believes that 21 *CFR Part 11* is an excellent and flexible rule and we support the scope of the regulation and its purpose – to allow the use of computer records as evidence of compliance with FDA regulations.

Unique Aspects of Blood Establishment Record Keeping. Before commenting on specific aspects of the Part 11 regulation, we would like to make FDA aware of the implications of the regulation and subsequent guidances on blood centers. For example, while a "lot" of a prescription drug can be a thousand or more containers, for a blood bank, the "lot" is an individual unit of blood. So a blood center easily could issue 300 "lots" a day every working day of the year – with all the attendant paperwork and recordkeeping. Should all this recordkeeping be subject to the Part 11 regulations, this would create a tremendous burden on blood centers.

We recommend that future guidances address the unique characteristics of record management at various industries, such as volunteer blood centers.

From the perspective of blood centers, electronic signatures is the topic that creates the most confusion and angst. For example, in the regulations for blood and blood components, the only predicate rule requiring a signature is 21CFR 606.151(e), the signature of a physician justifying the emergent use of

blood. Following the reasoning provided elsewhere in this guidance, only this signature should be electronic unless handwritten. However, there is not a consensus in the blood banking industry that FDA intends for this to be the only place. For example, one interpretation is that if personnel identifiers are applied to a paper manufacturing record, then they must be elevated to an electronic signature when the record becomes electronic, while another interpretation is that, since there are no predicate rules of requiring the signature of the person performing the task, then an electronic signature is not in order.

We advocate the ISPE risk-based approach, in which signatures currently used on paper records may not always be appropriate for conversion to an electronic signature.

Electronic Submissions: The common sense approach for submitted and transmitted record(s) requires that they be safe from tampering, arrive intact, and fundamentally represent the information as intended, including any contextual information which might matter. There are many ways to do this. Embedding an electronic signature in such a record is not unreasonable if the nature of the content is such that it requires some sort of authentication/verification.

With paper records, handwritten signatures are applied in two different cases: 1. As a legally binding signature, when there is a regulatory expectation; and 2. As a convenient way of identifying a person

In the second of these cases, the appropriate electronic equivalent would be the system log-in with a user-ID or an entry in the audit trail, rather than an electronic signature. Automation of the process may, in some circumstances, remove the need for identification, because sufficient assurance is provided through validation and log-in procedure. Signatures should be mandatory only when explicitly required by a predicate rule.

Our answers to specific questions in the April 8, 2004 FR Notice follow.

Subpart A – General Provisions

?? Should part 11 be revised to implement the narrow interpretation described in the August 2003 Guidance for Industry “Part 11, Electronic Records; Electronic Signatures – Scope and Application”?

The ABC membership agrees that the interest in using electronic tools has been dampened by ambiguity about how the ERES regulation applies. It is our understanding that the FDA plans a significant narrowing of the scope and definition of systems subject to 21 CFR11. We concur with this scope.

?? Will revised definitions in part 11 help clarify a narrow approach?

We agree that in order to reduce or eliminate paper records, the user must employ procedures and controls that assure FDA that the electronic records in place are as reliable and accurate as traditional paper records and hand written signatures.

However, we also seek more detailed definitions that clearly separate the requirements for computer systems that properly maintain electronic records from the requirements of computer systems that properly employ electronic signatures.

Clarification is also needed to separate the initials and signatures used by blood product manufacturers that document the individuals responsible for each part of the process – the audit trail – from the need for an approved release signature, an “electronic signature” to release a lot or batch into the usable inventory.

We interpret the term “electronic signature” as referring to the need for safeguards surrounding the security and validation of physician’s orders and prescriptions through electronic media – and *not* the broad general interpretation that any set of initials or signature used to document an audit trail would be defined as an electronic signature. The latter interpretation has led to confusion and the erroneous assumption that every transaction logged on a computer required the application of an electronic signature.

We urge FDA to clarify the definition of “electronic signature” by stating that it applies to approved release signature and not to audit trails, *i.e.*, the initials and signatures used by blood product manufacturers that document the individuals responsible for each part of the process

Subpart B – Electronic Records

?? Are there examples of areas other than validation, audit trail, record retention and record copying that should incorporate the concept of a risk-based approach (e.g., those that require operation system and device checks)?

ABC believes that the risk based analysis models should apply to the evaluation of legacy system functions as well as emerging computer based technologies. Since FDA has stated that risk assessment is in the hands of the manufacturer, we believe it should be sufficient for the manufacture to complete an analysis showing that the principles of ERES are satisfied. In other words, if an electronic record does not contain an integrated electronic audit trail, so long as the company has identified control procedures that adequately address changes to the record, even a handwritten audit trail should suffice.

?? Is additional clarity needed regarding how predicate rule requirements related to subpart B can be fulfilled?

With respect to the regulation of blood centers, we believe that that only records and signatures specified in 21 CFR 210, 211, 600-640, 820 and 1270 should be subject to 21 CFR 11. Intermediate records or record keeping systems ideally will conform to the regulation but are not the intended objective.

We recommend that future guidance further this concept by providing specific examples of systems or processes not subject to the rule. For example, we suggest that FDA clarify that intermediate databases that store or organize data or documents not used in manufacturing decisions are not the intended targets of ERES regulations.

Subpart B – Individual Controls

?? Should we retain the validation provision under part 11.10 required to ensure that a system meets predicate rule requirements for validation?

We recommend that a validation provision not be retained under part 11.10. Existing requirements and standards for validation are adequate (21 CFR parts 211 and 820). There is no need to duplicate the requirements in part 11.

We believe that the distribution of a validation guidance document related to ERES only promoted confusion. The General Principles of Software Validation; Final Guidance for Industry and FDA Staff is sufficiently detailed to provide information to industry about the level and scope of required validation.

Additional Questions for Comment

?? Can the use of risk mitigation and appropriate controls eliminate concerns regarding legacy systems?

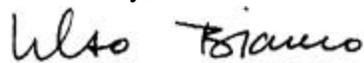
We find it encouraging that FDA stated in its recent “scope” guidance that it does not expect legacy systems to be retrofitted, but we believe the definition of a “legacy system” needs more clarification. For example, if a pre-1997 system is purchased and installed tomorrow, is it a legacy system? Many production systems originated before 1997 and have not yet been sufficiently revised to achieve compliance with 21 CFR11. Ideally, all marketed software should be ERES-compliant, yet the field is limited. In many cases, blood establishments’ purchasing decisions are limited to systems that meet their business needs but cannot comply with ERES.

ABC recommends that legacy systems include those that were put on the market prior to 1997, not simply installed prior to 1997. Additionally, we recommend that for systems installed prior to 1997, any patches or upgrades applied to those systems should not affect their “legacy” status.

Additionally, many of ABC’s member blood centers are closely integrated with hospital systems where physicians authenticate prescriptions or orders. To our knowledge, none of these systems achieves the definition of 21 CFR11. Does this mean that they cannot be used or simply that they are not “electronic signatures” in FDA parlance? We would like to continue using these electronic aids without characterizing them as “electronic signatures”—particularly if they aid work processes and are not legally binding nor required by predicate rule.

Thank you for the opportunity to comment. The ABC membership supports FDA’s initiatives in reconsidering and the ERES regulatory framework and look forward to guidances and interpretations that allow blood establishments to capitalize on information technologies rather than suffer from their deficiencies.

Yours truly,



Celso Bianco, MD

Executive Vice President