Edwin R. Thompson, President
Pharmaceutical Manufacturing Research Services, Inc.
202 Precision Road
Horsham, PA 19044

Re: Docket No. FDA-2018-P-4338

APR 12 2019

Dear Mr. Thompson:

This letter responds to your citizen petition submitted on behalf of Pharmaceutical Manufacturing Research Services, Inc. (PMRS) and received on November 13, 2018 (Petition). In the Petition, you request that the Food and Drug Administration (FDA or Agency) take the following actions:

- Refrain from approving pending or future applications for an opioid product submitted pursuant to section 505(b) or 505(j) of the [Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(b) or (j))], including [new drug application] NDA No. 209774 submitted by SpecGx LLC, with an indication or any other labeling which allows for administration for control of chronic pain.

- Refrain from approving any pending or future application for an opioid product submitted pursuant to section 505(b)(2) or 505(j) of the FD&C Act, including NDA No. 209774 submitted by SpecGx LLC, that relies upon Roxicodone as the Reference Listed Drug (RLD) to support efficacy for the treatment of chronic pain.

- Refrain from approving any pending or future application for an opioid product with abuse-deterrent labeling submitted pursuant to section 505(b) or 505(j) of the FD&C Act, including NDA No. 209774 submitted by SpecGx LLC, absent a meaningful demonstration of any such claims in compliance with a defined legal standard rather than mere reliance on methods unlawfully prescribed in the form of an FDA Guidance Document.

(Petition at 1-2).

We have carefully considered your Petition and comments to the Petition. For the reasons explained below, your Petition is denied.

I. BACKGROUND

A. MNK-812

SpecGx LLC submitted NDA 209774 for MNK-812 in January 2018.[1] The application proposes an immediate-release formulation of oxycodone hydrochloride (HCl) designed with properties intended to deter abuse by the nasal and intravenous routes of abuse. The proposed indication is the management of pain severe enough to require an opioid analgesic and for which alternative treatments are inadequate.

B. Section 505(q) of the Federal Food, Drug, and Cosmetic Act

Section 505(q) of FD&C Act was added by section 914 of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110-85, 121 Stat. 823) and was amended by the Food and Drug Administration Safety and Innovation Act (Pub. L. 112-144, 126 Stat. 993). Section 505(q) of the FD&C Act, as originally added by FDAAA, applies to certain citizen petitions and petitions for stay of Agency action that request that FDA take any form of action relating to a pending application submitted under section 505(b)(2) or (j) of the FD&C Act and governs the way these petitions are treated. Among other things, section 505(q)(1)(F) of the FD&C Act governs the time frame for final Agency action on a petition subject to section 505(q). Under this provision, FDA must take final Agency action on such a petition no later than 150 days after the date on which the petition is submitted.

II. DISCUSSION

The Petition is very similar to the petition submitted by PMRS and received by the Agency on July 23, 2018, concerning Remoxy ER (oxycodone hydrochloride (HCl) extended-release) capsules (FDA-2018-P-2851, Remoxy ER Petition). In the Remoxy ER Petition, PMRS requested, among other things, that FDA not approve any pending or future application for an opioid drug product pursuant to section 505(b) or 505(j) of the FD&C Act with a proposed indication of chronic pain, that relies upon Roxicodone (oxycodone HCl) as the RLD, or with labeling that describes the product's abuse-deterrent properties (Remoxy ER Petition at 1-2). PMRS repeats those requests in this Petition and supports them with the same arguments made in the Remoxy ER Petition.

On December 20, 2018, the Agency denied the Remoxy ER Petition. On the same date, the Agency also denied another petition submitted by PMRS (FDA-2016-P-0645, Evaluation and Labeling Petition) requesting, among other things, that FDA make changes to the way it evaluates and approves abuse-deterrent formulations and labeling. For the requests and arguments in this Petition that are repetitive of the requests and arguments in the Remoxy ER Petition and Evaluation and Labeling Petition, we deny them for the same reasons stated in our responses to those petitions. We continue to consider the issues you have raised in this and other petitions relating to long-term use of opioid drug products.[2] We are also working on

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[1] FDA Advisory Committee Briefing Document, available at https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/AnestheticAndAnalgesicDrugProductsAdvisoryCommittee/UCM625473.pdf.

[2] In particular, we continue to consider these issues in connection with your petition dated March 6, 2017, which requested, among other things, that FDA revoke the approvals of extended-release or long-acting (ER/LA) opioids indicated for long-term use (March 2017 Petition). See Docket No. FDA-2017-P-1359-0001, available at www.regulations.gov. Your March 2017 Petition remains pending with the Agency, and we will respond to it as

implementing our new authorities under the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) (Pub. L. 115-271, 132 Stat. 3894); those authorities may inform the Agency's continued thinking on these issues.[3]

Regarding your requests and arguments related to the approvability of the NDA for MNK-812, as described above, section 505(q)(1)(F) of the FD&C Act requires FDA to take final Agency action on a petition within 150 days of submission. Therefore, we must take action on your Petition at this time. For the reasons explained below, we deny without comment the specific requests in your Petition regarding the approvability of the application for MNK-812.

FDA has made no final determination on whether to approve the application for MNK-812. Therefore, FDA must determine whether it would be appropriate to take final Agency action on the approvability of a specific aspect of an application (i.e., substantively grant or deny the requests made in your Petition) before taking final action on the approvability of the entire application. To make this determination, we believe it is appropriate to evaluate the statutory and regulatory provisions governing the content and review of NDAs and abbreviated new drug applications (ANDAs), along with the statutory provision of section 505(q) of the FD&C Act governing the time frame for action on the Petition.

The FD&C Act and FDA regulations establish procedural protections for applicants in the context of application review. Section 505 of the FD&C Act and FDA's regulations in part 314 (21 CFR part 314) describe certain procedures by which the Agency reviews an NDA or ANDA and notifies an applicant if it determines that an application is approved (§ 314.105) or not approved (section 505(c) and (j) of the FD&C Act; §§ 314.125 and 314.127), or identifies the deficiencies in the application and the steps an applicant may take to respond to the deficiencies (§ 314.110). In addition, as you know, the statute and regulations describe a specific process through which an applicant whose application the Agency has found does not meet the requirements for approval may challenge the Agency's determination (section 505(c)(1)(B) and (d) of the FD&C Act; § 314.200). Under this process, the Agency will give the applicant notice of an opportunity for a hearing on whether the application is approvable, with a specific time frame and process if the applicant requests such a hearing (id.). These procedures ensure that applicants have an adequate opportunity to challenge a finding by the Agency that a product does not meet the requirements for approval.

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soon as we have reached a decision on your request. PMRS submitted a separate petition dated July 20, 2017, requesting that the Agency refrain from approving pending or future opioid applications, including NDA 209653, indicated for long-term use (Docket No. FDA-2017-P-4352). The Agency responded to that petition on December 15, 2017.

[3] On October 24, 2018, the SUPPORT Act was signed into law. Section 3041 of the SUPPORT Act gives FDA the authority under Section 505(o)(4) of the FD&C Act to require labeling changes if the Agency becomes aware of new information, including "information related to reduced effectiveness," that the Agency determines should be included in the labeling of the drug. Section 3041 also requires the Agency "not less than one year after the date of enactment" to issue guidance "regarding the circumstances under which the Food and Drug Administration may require postmarket studies or clinical trials to assess the potential reduction in effectiveness of a drug and how such reduction could result in a change to the benefits of the drugs and the risks to the patient." The guidance would also address how the Agency "may require postmarket studies or clinical trials and safety labeling changes related to the use of controlled substances for acute or chronic pain."

There is no evidence that in enacting section 505(q) of the FD&C Act, Congress intended to bypass the application review process or to lessen an applicant's procedural rights by requiring that the Agency make decisions that constitute final Agency action regarding the approvability of certain aspects of pending applications on a piecemeal basis outside of the process established under the FD&C Act and FDA regulations. Therefore, we do not interpret section 505(q) of the FD&C Act to require that the Agency render a final Agency decision within the statutory deadline on the approvability of a specific aspect of an application when a final decision on the approvability of any such application has not yet been made.

Accordingly, we are denying without comment the Petition's requests related to any particular pending or future application, including for MNK-812.

III. CONCLUSION

As described above, section 505(q)(1)(F) of the FD&C Act requires FDA to take final Agency action on your Petition within 150 days of submission. FDA has made no final decision on whether to approve the application for MNK-812. Therefore, we are denying without comment your requests related to any particular pending or future application, including for MNK-812.

Sincerely,

Janet Woodcock, M.D.
Director
Center for Drug Evaluation and Research