H. R. 1959

"Preserving Patient Access to Compounded Medications Act of 2019"

116TH CONGRESS - 1ST SESSION

A guide to explaining the nature and importance of this Bill

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IN THE HOUSE OF REPRESENTATIVES
March 28, 2019

Mr. Griffith (for himself and Mr. Cuellar) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to compounding pharmacies, and for other purposes.

Cosponsors (21)

- Rep. Cuellar, Henry [D-TX-28]
- Rep. Carter, Earl L. "Buddy" [R-GA-1]
- Rep. Herrera Beutler, Jaime [R-WA-3]
- Rep. Bishop, Rob [R-UT-1]
- Rep. Stewart, Chris [R-UT-2]
- Rep. Palmer, Gary J. [R-AL-6]
- Rep. Clarke, Yvette D. [D-NY-9]
- Rep. Joyce, John [R-PA-13]
- Rep. Van Drew, Jefferson [D-NJ-2]
- Rep. Fortenberry, Jeff [R-NE-1]
- Rep. Biggs, Andy [R-AZ-5]
- Rep. Amash, Justin [R-MI-3]
- Rep. Fitzpatrick, Brian K. [R-PA-1]
- Rep. Newhouse, Dan [R-WA-4]
- Rep. Gabbard, Tulsi [D-HI-2]
- Rep. Higgins, Clay [R-LA-3]
- Rep. Lesko, Debbie [R-AZ-8]
- Rep. Gosar, Paul A. [R-AZ-4]
- Rep. Rogers, Mike D. [R-AL-3]
- Rep. Duncan, Jeff [R-SC-3]
- Rep. Thornberry, Mac [R-TX-13]

My Personal Background with the FDA 503<a> Bulk Drug Substance Process

- Starting in 2015 provided written testimony on substances nominated by AANP for this process. (The AANP is part of the Integrative Medicine Consortium aka “IMC”).
- Testified at the PCAC Committee (who are the hearing body for the 503<a> bulk drug process) on three occasions in 2016 and one occasion in 2018.

Nomination and Approval in the FDA 503<a> Bulk Drug Substance Process

* The general number of nominated versus approved substances to date.

* A PDF summary and FAQ of that process can be found here: https://www.consultdranderson.com/wp-content/uploads/securepdfs/2018/09/Anderson-Summary-FDA-503-Lists-and-Questions-09-15-2018-1.pdf

How were the nominations divided?

- What are “Category 1, 2 and 3”?
- Approximately how many substances were nominated?
- How many will receive NO hearing (Cat-3)?
- How many are immediately illegal to compound (Cat-2)?
- How many as of 09-2018 are approved vs pending hearing (Cat-1)?

Examples: Cat-1

- Cat-1 Approved
  1) Alpha Lipoic Acid (ORAL ONLY)
  2) brilliant Blue G
  3) cantharidin
  4) Coenzyme Q10 (Oral)
  5) Creatine, Monohydrate (Oral)
  6) diphenylcyclopropenone
  7) Diphenylcyclopropenone (DPCP) (topical use)
  8) DMPS
  9) glutaraldehyde - topical
  10) glycolic acid for topical use
  11) pyruvic acid for topical use
  12) Pyridoxal 5-Phosphate Monohydrate (Oral or IV)
  13) squaric acid dibutyl ester
  14) tea tree oil
  15) thymol iodine
  16) Trichloroacetic acid topical

- **Cat-1 Denied**
  1) acetyl-L-carnitine
  2) alanyl-L-glutamine
  3) Aloe Vera freeze dried 200:1
  4) artemisinin
  5) boswellia
  6) chondroitin sulfate for topical use
  7) chrysin
  8) curcumin
  9) D-ribose
  10) deoxy-D-glucose
  11) dichloroacetate (DCA)
  12) diindolylmethane
  13) glycyrrhizin
  14) kojic acid

- **Cat-1 Denied**
  15) (MSM)
  16) nettle
  17) N-acetyl-D-glucosamine
  18) (NAD)
  19) (NADH)
  20) oxitriptan (listed for denial in the 12/16/2016 NPRM)
  21) piracetam (listed for denial in the 12/16/2016 NPRM)
  22) Quercetin
  23) quinacrine hydrochloride
  24) rubidium chloride
  25) silver protein mild
  26) tranilast
  27) ubiquionol
  28) vanadyl sulfate
  29) vasoactive intestinal peptide

- **Cat-1 Pending**

1.. 7-Keto-DHEA

2. Acetyl Glucosamine

3. ["TM"] Ammonium Tetrathiomolybdate

4. Beta Glucan (1,3/1,4-D)

5. Bromelain

6. Capsaicin palmitate

7. Cetyl Myristoleate

8. Choline Chloride

9. EGCG

10. Ferric Subsulfate

11. Glutathione

12. Glycoaminoglycans

13. L-Citrulline

14. Methylcobalamin

15. Ornithine Hydrochloride

16. Phosphatidylserine

17. Pregnenolone

18. Resveratrol

Cat-2 Illegal to Compound Immediately

1. Cesium chloride

2. Domperidone

3. Quinacrine Hydrochloride for intrauterine administration

4. Germanium Sesquioxide

Cat-3 (A few examples – there are over 250 on this list.)

1. Acidophilus Lactobacillus
3. Adenosine-5-triphosphate disodium salt
4. Alcloxa
5. Aldioxa
6. Aldosterone
7. Alfalfa
8. Alfalfa leaves
14. Aminacrine Hydrochloride
17. Anise seed
18. Argentyn
19. Aromatic powder
21. Asclepias tuberosa
22. Asefetida Tincture
23. Asparagus
24. Aspergillus oryza enzymes
56. Ginger root powder
57. Ginkgo Biloba Standardized Extract
58. Gluconic acid calcium salt
59. Glycerol Formal
60. Glydiazinamide
61. Grape seed oil
175. Prune concentrate dehydrate
176. Prune powder
177. Psyllium
186. Rhubarb fluid extract
187. Rhubarb, Chinese
Etc….

What triggered this "Nomination and Hearing" Process?

A New England Compounding Center **meningitis outbreak that began in September 2012 sickened over 800 individuals and resulted in the deaths of initial 76, with a later report of over 100 people killed**.[2][3] In September 2012, the Centers for Disease Control and Prevention, in collaboration with state and local health departments and the Food and Drug Administration (FDA), began investigating a multistate outbreak of fungal meningitis and other infections **among patients who had received contaminated steroid injections from the New England Compounding Center (NECC) in Framingham, Massachusetts**. The NECC was **classified as a compounding pharmacy**.

https://en.wikipedia.org/wiki/New_England_Compounding_Center_meningitis_outbreak

Why the current "503<a> Process" has nothing to do with this tragedy?

- Immediately FDA and State Authorities:
  - Began aggressive inspection and enforcement of compounding pharmacies
  - Many compounding pharmacies lost their licenses or closed voluntarily
  - Those that still exist WERE REQUIRED TO:
    - **Upgrade all facilities**
    - **Upgrade processes, policies and procedures**
      - **Normally at a cost of $ 100,000 – over $ 500,000 each (more in some cases).**
    - **Submit to ongoing scrutiny**

Why the "503<a> Process" has nothing to do with this tragedy?

- So, the horrific issue (NECC Infectious Outbreak) had it's "cause" stopped through this process.
  - Due to the inspection and compliance changes mentioned above the original problem is highly unlikely to ever happen again.

503<a> Pharmacies:

- Licensed by their State Board of Pharmacy
- Have FDA oversight via "493 letters" and other avenues
- HR1959 affects 503<a>
  - ***"Section 503A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a(a)) is amended—"***
- **ALL SUBSTANCES (DRUG OR NATURAL) A 503A PHARMACY USES MUST BE SUPPLIED BY AN FDA REGISTERED WHOLESALER**

*******In case it comes up: A "503<b> pharmacy is a different type of manufacturing pharmacy and NOT a part of this process or Bill.

So: This affects 503<a> Compounding Pharmacies

- ANY FORM OF COMPOUND:
  - Oral, Topical, Nasal, Ophthalmic, Parenteral etc.
  - Both Sterile (USP 797) and Nonsterile (USP 795)
- If the substance is not approved in this process:
  - **It will be illegal for a 503<a> Pharmacy to possess it or make a product from it.**

So: This affects 503<a> Compounding Pharmacies

- WHO DOES IT NOT AFFECT:
  - Supplement Companies
  - Food Stores
  - The general public
  - 503<b> Pharmacies
  - Pharmaceutical Manufacturers (manufactured drugs)
  - etc.

Difference between a “compound” and a “manufactured drug”:

- Manufactured drug:
  - Standardized product from a pharmaceutical manufacturer
  - Set doses and administration forms
  - Often contain preservatives, fillers, additives, allergens which are not alterable
- Compound:
  - May be customized as to dose, administration and form.
  - May be produced without preservative or any fillers or additives a patient may be sensitive or allergic to.

How then does

HR1959

Help Clarify this Process

and

Improve Patient Access?

SEC. 2. OFFICE-USE COMPOUNDING WHEN AUTHORIZED BY STATE LAW.

- This change in language would increase the availability of “office use” compounds ***if allowed by State Law***.
  - What is “office use”?
  - What used to be available?
  - What changed?
  - How is this restrictive?

SEC. 3. UNITED STATES PHARMACOPOEIA OR NATIONAL FORMULARY MONOGRAPH REQUIREMENT.

The essential help "section-3" gives is to reclassify language and compel the FDA to use substance monographs ALREADY in existence but currently NOT ACCEPTED by the 503<a> hearing process.

Detail Below:

SEC. 3. UNITED STATES PHARMACOPOEIA OR NATIONAL FORMULARY MONOGRAPH REQUIREMENT.

(A) by amending subclause (I) to read as follows:

''(I) comply with the **monograph standards in any section** of the United States Pharmacopoeia or National Formulary, **including drug substance or dietary supplement monograph, if a monograph exists**.'';

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HOW DOES THIS HELP?

SEC. 3. UNITED STATES PHARMACOPOEIA OR NATIONAL FORMULARY MONOGRAPH REQUIREMENT.

(B) by amending subclause (III) to read as follows:

‘‘(III) if such monograph **does not exist** and the drug substance or dietary supplement is **not a component of a drug approved** by the Secretary, **but appears on a list** developed by the Secretary through regulations issued by the Secretary under subsection (c) of this section;’’.

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HOW DOES THIS HELP?

How does the 503<a> Pharmacy Improve Patient Care and Access?

- **Availability of personalized Rx. Dose as opposed to those available via a manufactured drug.**
- **Compounding substances without additives, allergens etc.**
- **Compounding of medications in routes of administration not available from many manufactured drugs (Nebulized, Sublingual, Topical, Nasal etc.)**

How /How will the 503<a> bulk process hurt patient access:

Of the over 300 nominated substances:

- **Only 16 are approved**
- **UNDER 20 are left to have hearings!**

*** If we leave the 503<a> process as is it will SEVERELY RESTRICT patient access to many needed compounds.**

How /How will the 503<a> bulk process hurt patient access:

- Arbitrarily reduces multiple substances available for compounding.
- Many of these have been in Rx. or Common use for decades and have as good or better safety records than FDA approved drug equivalents.
- Follows illogical exclusion guidelines such as:
  - "Curcumin is not needed as we have [fill in any approved anti-inflammatory drug approved as a medication already"
  - Or in some of my testimony I was told "We already have FDA approved oncology drugs, we do not need these…"

How does improving the 503<a> bulk drug process help patient access:

- It will allow for “office use” of compounds which reduce the number of patient visits required to receive care.
- It will increase the monographs used to approve a substance and increase (drastically) the availability of things which may be compounded.
- It will force FDA to use very SAFE but more inclusive approved guidelines for this process.

Key Points:

- HR 1959 is simple, straightforward and easily enacted if passed.
- It has minimal financial impact to the government.
- It is strategically pointed at removing arbitrary restrictions in the 503<a> process WHILE maintaining patient safety. (It has no effect on the rest of the pharmaceutical industry).
- It will increase the number of approved substances for compounding from the miniscule number approved or potentially to be approved.
- It will greatly expand and improve safe, effective, personalized access to compounded medications.

Thank you.

Dr. Anderson