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ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

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August 29, 2016

Dr. Robert M. Califf
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Dr. Califf:

Recent stories and patient experiences regarding the out-of-pocket costs for Mylan Specialty's EpiPen have raised serious concerns within Congress and across the country. We must ensure that federal law and regulations are best tailored to promote a competitive prescription drug market to serve America's patients. Some of the policy issues at hand intersect with regulations of generic drugs at the Food and Drug Administration (FDA).

In 2012, the Energy and Commerce Committee lead the effort to pass the first generic drug user fee authorization (GDUFA) program. The goal of the legislation was to expedite the review of abbreviated new drug applications (ANDAs) and clear the backlog of applications at the agency. Improving the generic drug review process will promote competition and ultimately lower the cost of prescription drugs for America's patients.

We are concerned about the lack of generic competition in the epinephrine auto-injector market. To help us to gain a better understanding of why this is the case as well as the difficulties involved in developing such products for FDA approval, please provide the committee with answers to the following questions no later than September 9, 2016:

1. How many abbreviated new drug applications (ANDAs) have been submitted relying on Mylan Specialty's EpiPen (epinephrine injection) as the reference listed drug (RLD)? How many have been rejected? How many have been withdrawn? How many are currently pending? When was each currently pending ANDA submitted?

2. Has FDA prioritized the review of ANDAs referencing EpiPen? Why or why not? How would the recent policy and procedural changes FDA announced related to prioritizing certain ANDAs apply in this context?

3. Please explain in detail the factors FDA considers in determining whether to approve an ANDA referencing a drug-device combination product such as EpiPen.

    a. How does the principle of "sameness" apply to the device constituent part of the product? Does the product need to use identical technology to be approved as therapeutically equivalent to the RLD?

    b. What type of design differences would be acceptable, if any?

    c. Does FDA intend to always require comparative performance tests, clinical usability or human factor studies? If so, can an ANDA referencing EpiPen ever be approved or are such studies considered outside the scope of this approval pathway?

4. While the agency issued guidance in 2013 entitled "Technical Considerations for Pen, Jet, and Related Injectors Intended for Use with Drugs and Biological Products," the document does not discuss specific factors a company should consider when referencing such a product in an ANDA. Has FDA issued any guidance documents that would be of interest to a company seeking approval for a generic epinephrine auto-injector? Does the agency plan on issuing such guidance? If so, when?

Should you have any questions about the contents of this letter, please contact John Stone with the Committee staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Joseph R. Pitts
Chairman
Subcommittee on Health

Tim Murphy
Chairman
Subcommittee on Oversight and
Investigations