SECOND ROUND OF UPDATES TO THE FDA GUIDANCE FOR CLINICAL TRIAL RESEARCHERS AMID COVID-19 PANDEMIC

May 12, 2020

THE U.S. FOOD AND DRUG ADMINISTRATION ("FDA") AGAIN SUPPLEMENTS ITS MARCH 18TH GUIDANCE ENTITLED "CONDUCT OF CLINICAL TRIALS OF MEDICAL PRODUCTS DURING COVID-19 PUBLIC HEALTH EMERGENCY"

Once again, the FDA has added additional content to the question-and-answer appendix issued with its guidance intended for industry, investigators, and institutional review boards related to addressing research-related challenges posed by the COVID-19 pandemic. The new content takes into account the need for researchers to utilize alternate laboratories and imaging centers based upon COVID-19 challenges. The content also acknowledges the value of technology in remotely conducting study subject visits and provides additional information regarding conducting required post marketing clinical trials. The updated guidance is posted here, and a brief summary of key provisions follows.

SPONSOR/FDA ENGAGEMENT MECHANISMS

The FDA affirmed that review division regulatory project managers should be the primary point of contact for study sponsors seeking to engage with the agency on COVID-19 related changes to ongoing clinical trials. Recognizing that different modes of communication exist, the FDA encouraged sponsors to select the best mode for the types of issues at hand. For example, time-sensitive matters may warrant the use of direct telephone contact. However, given the current PHE stressors, the FDA noted that it would work to balance public health priorities and other work obligations while still attempting to be responsive. Accordingly, sponsors can expect that responses to safety-related inquiries will take priority over other types of inquiries. FDA clarified that for urgent issues related to investigational device exemptions managed in Center for Devices and Radiological Health, sponsors should contact the lead reviewer and that a Pre-Submission is recommended for non-urgent requests.

ALTERNATE LABORATORIES AND IMAGING FACILITIES

Where study subjects are unable to be physically available at a clinical trial site, the FDA recognizes that the use of alternative sites for laboratory testing and/or imaging assessments may be appropriate when such tests and assessments are routinely performed in those settings. For IND studies, these locations would include laboratories and imaging centers not listed on the Form FDA 1572. If the new location will not replace the laboratory and imaging center specified in the Form FDA 1572 for all patients, sponsors are not required to list them on the Form FDA 1572. Rather,

sponsors may retain documentation of when such facilities are used and submit accumulated information to the IND though an information amendment or a protocol amendment.

Of note, sponsors should consult with the relevant FDA review division before utilizing such locations where deviating results are likely to affect study integrity. This would include where: 1) the results of tests/assessments are the basis for formal hypothesis testing (including primary or secondary efficacy endpoints and some safety endpoints); 2) baseline tests are necessary to characterize the eligible study population; and 3) the potential exists for variation in test performance or precision related to use of an alternative laboratory or imaging center.

BEST PRACTICES FOR REMOTE TRIAL PARTICIPANT VISITS

Although the FDA does not endorse any particular telemedicine best practices, important considerations for remote trial visits include adequate training of study staff on conducting real-time video conferencing visits, maintenance of subject privacy, adequate confirmation of investigator and subject identities before engaging in the tele visit, and appropriate case report form documentation of issues specific to technology enabled engagement. Real-time video interactions, including telemedicine, are considered to be live exchanges of information and not electronic records, and the agency clarified that 21 CFR part 11 does not apply.

COVID-19 RELATED POST MARKETING REQUIREMENT IMPLICATIONS

The FDA clarified that this guidance, as revised, applies to all clinical trials including drug and biological product post marketing clinical trials and where relevant, post market device studies. For sponsors of trials and applicants that have related established milestones and due dates, the FDA encourages reporting of anticipated COVID-19-related delays as soon as reasonable, including proposing feasible revisions to the original schedules. These entities should also provide an explanation to FDA of how COVID-19 impacts the ability to meet the original schedules. The FDA considers this information in determining compliance. Lastly, the FDA provides additional considerations specific to drug and biological product post marketing requirements.

CONCLUSION

The COVID-19 public health emergency continues to impact the conduct of clinical trials of medical products, including drugs, devices, and biological products in unprecedented ways. The FDA is acting quickly to consider how challenges posed by quarantines, site closures, travel limitations, interruptions to the supply chain for the investigational product, and other considerations can be addressed.

If you have any questions about these pharmacy measures, please contact a member of the Life Sciences team. For any other concerns arising from the pandemic, please contact a member of our COVID-19 Task Force.