United States Senate
WASHINGTON, DC 20510

May 1, 2014

Margaret A. Hamburg, MD
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Commissioner Hamburg:

We write today out of concern regarding the increasing opioid abuse epidemic and how the Food and Drug Administration's (FDA) work is affecting regulatory certainty with respect to opioid products, specifically the consideration of branded and generic abuse-deterrent opioid products. It is critical that Congress, the pharmaceutical industry, patients, and health care professionals have a better understanding of how FDA will approach these products. Clear and consistent application of the agency's policies with respect to brand and generic opioid products will assist the manufacturers of these products as they develop new methods to protect their opioid products from potential abuse.

We are concerned that the FDA has yet to release final guidance to address the issues of approval and labeling of brand versions of abuse-deterrent opioid formulations or issue any comparable guidance with respect to generic opioid abuse-deterrent products. We strongly urge the agency to finalize its January 2013 draft guidance regarding the approval and labeling of abuse-deterrent opioid drug formulations. Finalizing this guidance should provide greater regulatory certainty with respect to innovator opioid products.

Moreover, the same concerns are of no less importance to the generic market. It is essential to preserve the incentives for innovators to develop and improve their products, while providing generic manufacturers with a clear understanding of what standards will be applied to their products as they go through the review process. You have stated previously that the FDA has the current legal authority "to require generic versions of [an abuse-deterrent branded] product to have abuse-deterrent formulations as well."[1] It is important, however, to ensure that the FDA does not apply a less stringent abuse standard for generic products or approve products. Unclear or ineffective guidance would undermine the development of innovative products as well as efforts to combat our nation's opioid abuse epidemic.

[1] Letter from Commissioner Hamburg to Chairman Upton and Senator Coburn, January 8, 2013.

We understand that the agency is studying this critical issue, as noted in Dr. Janet Woodcock's recent response to a citizen petition.[2] Dr. Woodcock's letter described the agency's plan to issue guidance on generic abuse-deterrent products that will be available for public comment.[3] The letter also described a number of agency investigations to further understand the characteristics of abuse-deterrent formulations and appropriate test methods.[4] However, Dr. Woodcock's response does not reveal whether the methodology or results of any studies will be used to formulate draft guidance.

As we continue our oversight of this issue, we respectfully ask you to provide complete answers to the following questions within 30 days:

1. When does FDA plan to finalize the January 2013 guidance concerning the evaluation and labeling of innovator abuse-deterrent opioids?

2. Please describe in detail the timeline of FDA's current and planned work in formulating guidance on the testing and evaluation of generic versions of opioid products with abuse-deterrent properties.

3. Does FDA intend to hold any public forums such as workshops, hearings, or meetings at which proposed testing standards and data generated in studies may be discussed, before releasing such guidance? If so, please describe any such plans.

4. How will FDA ensure timely issuance of draft and final guidance with respect to generic abuse-deterrent opioid products? How does the Agency plan to approach the review of these products from now until the issuance of such final guidance to ensure regulatory certainty and consistency with respect to the consideration and review of such generic products?

5. Does FDA intend to require generic versions of abuse-deterrent drug products to show they perform at least as well as innovator products on all relevant measures of abuse deterrence?

6. Please describe in detail how the FDA will ensure that any guidance for generic abuse-deterrent opioids is consistent with the requirements of the Hatch-Waxman Act.

Providing pharmaceutical manufacturers, patients, and health care professionals with a clear understanding of the agency's review process for brand and generic abuse-deterrent opioid

[2] Letter from Dr. Janet Woodcock to Peter R. Mathers, Docket No. FDA-2013-P-1375.
[3] Letter from Dr. Janet Woodcock to Peter R. Mathers, Docket No. FDA-2013-P-1375.
[4] Letter from Dr. Janet Woodcock to Peter R. Mathers, Docket No. FDA-2013-P-1375.

products will go a long way toward ensuring that patients have timely access to the medical products they need. We look forward to working with the agency toward this important end.

Sincerely,

Tom A. Coburn, M.D.
U.S. Senator

Michael B. Enzi
U.S. Senator

Richard Burr
U.S. Senator

Kelly Ayotte
U.S. Senator