



Welcome to today's **FDA/CDRH Webinar**

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Postmarket Surveillance under 522 Section of the Food, Drugs and Cosmetic (FD&C) Act

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Outline

- Background - Section 522 FD&C Act
- FDA 522 Guidance Document published May 16, 2016
- Concluding Remarks
- Questions

Postmarket Surveillance Definitions

- 21 CFR 822.3(i)
 - *Postmarket Surveillance* means the active, systematic, scientifically valid collection, analysis and interpretation of data or other information about a marketed device.
- 21 CFR 822.3(j)
 - *Prospective Surveillance* means that the subjects are identified at the beginning of the surveillance and data or other information will be collected from that time forward (as opposed to retrospective surveillance).

Postmarket Surveillance

Section 522 of FD&C Act

- The FDA has authority to order postmarket surveillance for Class II or Class III medical devices that meet any of the statutory criteria.
- Data collected via postmarket surveillance study can reveal unforeseen adverse events, the actual rate of anticipated adverse events, or other information necessary to protect the public health.

Section 522 of the Act

Section 522 of the Act, 21 U.S.C. § 360I, authorizes FDA to require postmarket surveillance on a class II or III device in the following instances:

Statutory Criterion 1

Failure of the device would be reasonably likely to have a serious adverse health consequence

- Per 21 CFR 822.3(k), *serious adverse health consequences* means any significant adverse experience related to a device, including device-related events that are life-threatening or that involve permanent or long-term injuries or illnesses.

Statutory Criterion 2

Expected to have significant use in pediatric populations

- New provision as of Food and Drug Administration Amendments Act (FDAAA) 2007
- “Significant” pediatric use is defined on a case-by-case basis
- Leeway written into the statute to allow for studying devices not specifically labeled for pediatrics

Statutory Criteria 3 and 4

Intended to be implanted in the body for more than one year

Intended to be a life-supporting device used outside of a user facility

- Per 21 CFR 822.3(g), *life-supporting or life-sustaining device used outside a device user facility* means that a device is essential to, or yields information essential to, the restoration or continuation of a bodily function important to the continuation of human life and is used outside a hospital, nursing home, ambulatory surgical facility, or diagnostic or outpatient treatment facility. A physician's office is not a device user facility.

Section 522 of FD&C Act (cont.)

- Prospective surveillance up to 36 months for non-pediatric studies
- The Food and Drug Administration Safety and Innovation Act (FDASIA) 2012
 - 522 order can be issued at the time of approval or clearance of a device or at any time thereafter.
 - Postmarket surveillance must commence no later than 15 months from the date of order.

Failure to Comply with 522 Order

- **21 CFR 822.20**

Prohibited act under section 301(q)(1)(C) of the act

Device misbranded (under section 502(t)(3) of FD&C Act)

- Warning Letter
- Seizure of device
- Civil Money Penalties
- Prosecution

522 Studies Program

Division of Epidemiology (DEPI) provides oversight of all aspects of the program

- Pre-522 process, issuance of orders, tracking of the requirements, public webpage, internal SOPs, guidance document
- Leads pre-522 review teams, assessing the need for postmarket surveillance, questions, recommendations on most appropriate methodologies to address the order

The Pre-522 Process



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graph LR; A[Identification of Issue] --> B[Cross-Center Evaluation]; B --> C[Determination]; C --> D[Issue Order]
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Identification of Issue

Cross-Center Evaluation

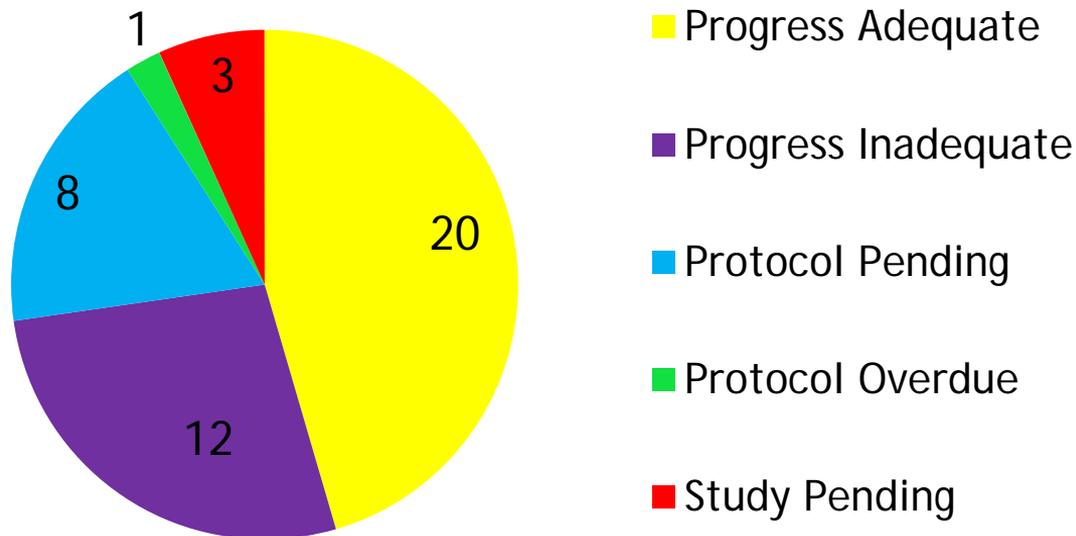
Determination

Issue Order

Examples of Device Types Under 522 Surveillance

- Urogynecology Surgical Mesh
- Metal-on-Metal Hips
- Dynamic Stabilization Devices
- Needleless Connectors
- Temporomandibular Joints
- Duodonescopes
- Contraceptive device

Status of 522 Requirements N=44



As of May 26, 2016

522 Guidance Document Includes

- Legal Background
- Process for ordering 522
- Postmarket Surveillance Plans
- Interim Reports
- Final reports
- Postmarket surveillance status
- What happens if manufacturers failure to comply
- Public disclosure
- Checklist

FDA 522 Guidance (New Additions)

- Reflects amendments to section 522 under FDASIA (2012)
 - Postmarket surveillance must commence not later than 15 months after the day the order is issued.
 - Agency may issue a postmarket surveillance order at the time of device approval or clearance or any time thereafter.

FDA 522 Guidance (New Additions)

- Added a new study status: “Noncompliant”
 - Definition - The study/surveillance fails to comply with a requirement under section 522,
 - e.g., it has been more than 15 months since the 522 order date and the study/surveillance has not commenced.”

FDA 522 Guidance (New Additions)

- Clarifies how manufacturers should request proposed changes to an approved surveillance plan and how the FDA will review such changes.
- Delineates the types of decision letters that the FDA may issue. (Listed in next slide)

Types of Decision Letters

- Not Acceptable Letter
 - Submission is administratively incomplete because it does not include the items required by 21 CFR 822.9 and 822.10.
 - Appendix 1 of guidance includes checklist for determining whether a submission is administratively complete.

- Approval Letter
 - Approval of the proposed surveillance plan as submitted.



Types of Decision Letters

- **Minor Deficiency Letter**
 - Cites specific minor deficiencies that must be addressed in order for the plan to be approved.
- **Major Deficiency Letter**
 - Cites serious deficiencies relating to whether the plan will result in the collection of useful data that will answer the surveillance questions. The manufacturer must address these deficiencies in order for the plan to be approved.

Types of Decision Letters

- Disapproval Letter
 - FDA disapproves the proposed plan because it will not result in the collection of data that will address the postmarket surveillance questions in the 522 order.
 - The letter directs the manufacturer to revise its submission by submitting an entirely new submission that proposes a new plan design to address the 522 questions in the order.

FDA 522 Guidance (New Additions) cont..

- Specifies that the FDA may post on our website or otherwise make public interim summary data and/or FDA analysis when appropriate to protect the public health, as well as final report results.
 - Final study results will continue to be posted when the study is complete.
 - Interim study results to be posted for surveillance plans approved after July 1, 2016 forward.

FDA 522 Guidance (New Additions) cont..

- Adds an additional surveillance type to the study design table:
 - Comprehensive, Linked, Registry Based Surveillance.
 - Registry-based comprehensive surveillance with shared responsibilities that leverages the national registry infrastructure linked with other data sources (e.g., claims data) for longitudinal assessment of device performance.

Concluding Remarks

- Final guidance document was released on May 16, 2016:
<http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM268141.pdf>



Questions?

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be available at: www.fda.gov/Training/CDRHLearn