Possible FDA Regulatory Actions Involving Drug Compounding

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Post Inspection

- At close of the inspection -- 483 is issued
- Documentation and evidence is prepared
- Establishment inspection report (EIR) is written
- Review and discussion between Office of Regulatory Affairs (ORA), Center for Drug Evaluation and Research (CDER) and Office of Chief Counsel (OCC) of potential charges, actions, and next steps
- Draft the documents to accomplish the action

Potential FDA Regulatory Actions

- Recall
- Warning Letter
- State Referral Letter
- Seizure
- Injunction

Factors to Consider

- Risk to public health
  - Lack of sterility assurance
  - Actual contamination
- Prior violations and likelihood of firm compliance
- How easily can the violations be corrected
- Firm's willingness to take voluntary action

Voluntary Actions

- Recalls
- Voluntary Cessation of Operation

Warning Letters vs. State Referral Letters

- Warning Letters:
  - Issued to the inspected facility for violations of the Food Drug and Cosmetic Act
  - Compounding facility manufactures drugs that do not qualify for exemptions under section 503A or 503B of the Act, or
  - Compounding facility violates a section of the Act for which there is no exemption under section 503A or 503B of the Act (e.g., insanitary conditions [21 U.S.C. section 351(a)(2)(A)]

Warning Letters

- Advisory actions – provide notice
- Communicate the Agency's position
- Issued to achieve voluntary and prompt corrective action
- Used when there is no history of repeat violations

Warning Letters vs. State Referral Letters

- State Referral Letters:
  - Sent to State Board of Pharmacy in the state in which the FDA-inspected compounder is located when a
    - Compounder apparently obtains prescriptions for identified individual patients, consistent with traditional pharmacy practice; and
    - Compounder has promised to correct deviations, and they are readily correctable

Injunctions

- To stop continued production or distribution of violative products and correct conditions that caused violations
- Often if a firm has a history of violations and has not made corrections
- Referral letter and consent decree
- Work with the Department of Justice
- Issue “sign or sue” letter
- Negotiate consent decree
- File complaint

Seizures

- Action taken to swiftly remove violative drug product from the market
- Draft Complaint
- Work with the Department of Justice
- United States Marshals execute the seizure

FDA Actions

- Over 40 firms conducted recalls, including some overseen by FDA, and some overseen by the States
- Over 25 firms voluntarily ceased sterile operations
- 7 State Referral Letters Issued
- 15 Warning Letters Issued
- 1 Consent Decree of Permanent Injunction