APhA
American Pharmacists Association

June 21, 2022

[Submitted electronically via www.regulations.gov to docket FDA-2022-N-0165]

Lauren K. Roth, JD
Associate Commissioner for Policy
U.S. Food and Drug Administration (FDA)
Attn: Dockets Management Staff
5630 Fishers Lane, Room 1061
Rockville, MD 20852

RE: Docket FDA-2022-N-0165 – Providing Mail-Back Envelopes and Education on Safe Disposal with Opioid Analgesics Dispensed in an Outpatient Setting; Establishment of a Public Docket; Request for Comments

Dear Associate Commissioner Roth:

The American Pharmacists Association (APhA) is pleased to submit our comments to FDA in response to the request for comments regarding the potential application of the Opioid Analgesic (OA) Risk Evaluation and Mitigation Strategy (REMS) to require mail-back envelopes and education on safe disposal with opioid analgesics dispensed in an outpatient setting.[1]

Introduction

APhA is the only organization advancing the entire pharmacy profession. Our expert staff, and strong volunteer leadership, including many experienced pharmacists, allow us to deliver vital leadership to help pharmacists, pharmaceutical scientists, student pharmacists and pharmacy technicians find success and satisfaction in their work, while advocating for changes that benefit them, their patients, and their communities.

Pharmacists are important providers on the patient's health care team and play a critical role in the use of medications, including opioids, for the treatment of acute, subacute, and chronic pain in the following situations, among others, in the outpatient setting:

- Caring for patients with acute, subacute, and chronic pain, and/or substance use disorder and opioid use disorder including prescribing medications, as authorized;
- Providing medication management services, including opioid tapering services;
- Educating patients about nonpharmacologic therapies;

[1] 87 Fed Reg 23869 (April 21, 2022).

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- Aiding in harm reduction efforts by furnishing the opioid overdose reversal agent naloxone; **and**
- **Dispensing and educating patients about opioid and non-opioid pain medications, including risks and safe storage and disposal.**

APhA agrees that removal of unused opioid analgesics from the home is an important public health intervention and advocates for the importance of safe disposal strategies, systems, and education for opioid analgesics. However, we strongly believe that mail-back envelopes and education on safe disposal should be an **option** that the pharmacist **may offer** but should not be required to be dispensed with every opioid prescription. Requiring dispensing of mail-back envelopes would create significant operation and workflow burdens on already understaffed and stretched pharmacy teams that continue to be engaged in the COVID-19 public health response. A new requirement under the OA REMS that requires consultation and risk assessment without appropriate time and/or reimbursement for the pharmacists' services is simply unacceptable. **Such an uncompensated mandate will take away valuable time from our nation's already overworked pharmacists that is needed for dispensing, medication counseling, medication management and other services necessary to treat our patients.**

Furthermore, FDA has failed to demonstrate that "such safe disposal packaging or system may mitigate [the] serious risk [associated with misuse or overdose] and is sufficiently available," as required under the law.[2] The studies cited in the Federal Register notice either evaluated different disposal methods or such methods were not distinguished in the studies. FDA even acknowledged this in the description of the studies.[3]

We agree that the studies demonstrate the important role that safe home disposal plays in mitigating the risk, but these studies do not specifically demonstrate that requiring dispensing of mail-back envelopes in the outpatient setting may mitigate the risk. **The nexus between the cited studies and demonstrating that this action may mitigate the risk is too broad and insufficient to warrant the significant burden on the pharmacists, pharmacies, and other drug supply chain stakeholders.**

<u>Responses to FDA's questions</u>
Below are responses to specific questions posed in the Request for Comments.

Question 3. *How pharmacies could identify those patients who are most likely to have unused opioids to optimize provision of mail-back envelopes to these patients and potentially positively impact the share of mail-back envelopes that are utilized to safely dispose of opioid analgesics.*
The prescriber is in the best position to identify and prescribe the appropriate quantity of opioids based on the patients need and educate the patient on safe disposal. A pharmacist would have to take the time to do a thorough risk assessment, which could be time consuming.

[2] 21 USC 355–1(e)(4)(B).
[3] 87 Fed Reg 23870-72.

Also, most pharmacists in pharmacies do not have access to electronic health records and diagnosis data that could help to inform the risk assessment, and patients may not have the information the pharmacist needs, which would necessitate additional time that is unavailable to conduct outreach to the prescriber, when needed. In addition, pharmacies may not be appropriately staffed to conduct these risk assessments.

Question 4. *How pharmacies could develop and implement algorithms to determine when to provide a mail-back envelope, including how feasible or practical it would be for pharmacies to do so.*
It would not be feasible for an individual pharmacy or pharmacist to develop and implement an algorithm for when to provide a mail-back envelope. We are unaware of any research or precedent to follow, however, if an evidence-based algorithm was developed, pharmacies could potentially use it in screening for when to provide a safe home disposal option and APhA strongly recommends consulting with APhA and our members.

If an evidence-based algorithm was developed (e.g., high dose Morphine Milligram Equivalents (MMEs)), pharmacies could use them—depending on appropriate resources, reimbursement, and access to diagnostic data. Pharmacists could do a patient assessment, determine if home disposal materials are indicated and if they are likely to be used by the recipient and provide those materials. It's also important that various options are considered safe home disposal.

Question 5. *Whether requiring provision of mail-back envelopes under the OA REMS should also include a requirement for patient counseling and/or provision of take-home materials on safe disposal at the point of dispensing.*
Many pharmacists already counsel patients on safe disposal or there may be information in written drug information that the patient receives. However, counseling may not be appropriate for all patients (e.g., patients who regularly receive OA prescriptions and have already been advised on home disposal, as appropriate). A key unanswered question is how would patient counseling be enforced and what would be the penalty for failure to comply? Under the OA REMS, patients already receive a Medication Guide and safe disposal information could be included, rather than provide additional paper for the patient, however, education services are not covered by payers and such an option is not environmentally friendly.

Question 7. *How a mail-back envelope requirement could be designed and implemented to help ensure that the disposal requirement minimizes burden on pharmacies while still providing the public health benefit. As discussed in the document, there is a tradeoff between the potential effectiveness of a mail-back envelope REMS requirement and the level of burden imposed on those pharmacies involved in implementing the requirement.*
As mentioned above, any program that requires mail-back envelopes and education must be supported by available resources and by working with the Centers for Medicare and Medicaid Services (CMS) on appropriate reimbursement mechanisms. Otherwise, pharmacists and pharmacies will be unable to manage the program. APhA also supports the comments submitted to this docket by the University of Illinois Chicago (UIC) College of Pharmacy on June 20, 2022 as one mechanism to minimize the burden on pharmacies.

We strongly disagree with FDA's suggested approach to require manufacturers to only distribute opioids to outpatient pharmacies certified in the REMS, focusing on training on how to counsel patients on safe storage and proper disposal. Pharmacies and pharmacists already have significant requirements and oversight by state, the Drug Enforcement Agency (DEA), FDA, and other agencies, auditors, and prescription drug monitoring programs. Adding another requirement that the pharmacy be REMS certified adds an unnecessary additional burden and could limit access for patients in need of opioid analgesics.

Question 8. *Possible challenges, including technical and logistical challenges, with the potential REMS mandate described in this notice, and what factors could impact manufacturers' ability to provide mail-back envelopes to pharmacies, or the ability of pharmacies to dispense mail-back envelopes and provide appropriate disposal education to consumers.*
Requiring dispensing of mail-back envelopes and education imposes significant workflow, logistical, and other burdens pharmacists and pharmacies. The Federal Register notice notes some burdens, but significantly underestimates the impact. In addition to any REMS pharmacy certification that, while unnecessary, might be required, there would be concern regarding documentation, reporting, storage of records, workflow slow-down, distribution of envelopes, storage and cost of envelopes, penalty for non-compliance, workload time for education and questions.

Some APhA members raised concerns about whether they trust that the envelopes are secure when they are mailed back and if they trust that the drugs will not be diverted and how pharmacists can expect the patient to trust safety of the mail-back.

Question 10. *How a mail-back envelope REMS requirement could be designed and operationalized to provide another option for patients that would complement current pharmacy disposal programs, policies, and procedures, as well as Federal, State, local, and private sector efforts on proper opioid disposal.*
As FDA notes throughout the Federal Register notice, there are many options available for safe home disposal of opioids, and the patient's pharmacist is in a position to assess the patient's risk and identify the most appropriate disposal options and education for the patient.

Mandating a specific method or system would not be a good use of the short time that the pharmacist has with the patient, and in the case of mail-back envelopes, many could likely go unused and discarded. If mail-back envelopes are a preferred voluntary option, then the cost should not be borne on the pharmacy. They should be provided by the manufacturers with an easy method for re-ordering the envelopes.

FDA could focus efforts on a widespread public service campaign for consumers that promotes the various methods of safe disposal, including home disposal of opioids. This campaign could include educating pharmacists and providing pharmacists with tools and resources that they can voluntarily choose to have or use at their pharmacy or in their communities.

Question 15. *Section 3032 of the SUPPORT Act authorizes the Agency to use its REMS authority to require that a safe disposal packaging or safe disposal system for the purposes of rendering the drug nonretrievable be dispensed to certain patients with drugs that pose a serious risk of abuse or overdose if, among other things, FDA determines that such safe disposal packaging or system may mitigate such risks and is sufficiently available (21 U.S.C. 355-1(e)(4)). We recognize that the approach described in this document is only one potential use of the Agency's REMS authority concerning disposal. Comment on other possible uses of the Agency's REMS authority concerning disposal, including providing any data or information about whether other disposal packaging or disposal systems we might consider mandating, such as commercially available in-home disposal products, would satisfy the statutory requirements at 21 U.S.C. 355-1(e)(4).*

See discussion above regarding meeting the statutory requirement under 21 U.S.C. 355-1(e)(4).

Conclusion

Thank you for the opportunity to provide comments on FDA's consideration to require mail-back envelopes and education as part of the opioid analgesic REMS. **While we agree with the intent, we strongly believe that FDA should not require such a requirement**. We welcome the opportunity to meet with FDA staff to describe in more detail the logistical and operational concerns, including meeting with our pharmacist members who can provide first-hand examples and answer FDA's questions. If you have any questions or require additional information, please contact Michael Baxter, APhA's Senior Director for Regulatory Policy at mbaxter@aphanet.org. Thanks for all you do to protect public health.

Sincerely,

Ilisa BG Bernstein, PharmD, JD, FAPhA
Interim CEO and Executive Vice President