

# FDA Seeks to Broaden Range of Use for Drugs

By GARDINER HARRIS February 16, 2008

WASHINGTON – When federal drug regulators approve a medicine for sale, they limit how drug makers sell it. A drug approved to treat only breast cancer cannot be marketed for lung cancer even if some studies suggest that the medicine may save lung patients.

But the Food and Drug Administration proposed guidelines Friday that would change this, and advocates on both sides of the issue say that lives are at stake.

The rules would allow drug and device makers to provide doctors with copies of medical journal articles that discuss product uses that have not been vetted or approved by the F.D.A. The rules also say that drug companies do not have to promise to adequately test the unapproved use discussed in the article.

Advocates of the rule say the F.D.A. is so slow in assessing drug and device benefits that companies need to be able to hand out medical journal articles so that doctors can learn immediately about life-saving uses.

“The consequence of rapid disclosure of these benefits could be measured in lives,” said Dr. Scott Gottlieb, a former F.D.A. deputy commissioner.

Ken Johnson, senior vice president for the Pharmaceutical Research and Manufacturers of America, said that “journal articles can offer physicians valuable insight that helps them make informed decisions regarding appropriate medical treatments for their patients.”

But critics of the proposal say that drug and device companies have a long history of promoting unapproved drug and device uses that later proved dangerous and that allowing companies to talk about such unapproved uses removes incentives for companies to research adequately whether the new use is actually beneficial.

“People will die if they are getting drugs that don’t have clear evidence that the benefits outweigh the risks,” said Dr. Sidney Wolfe, director of Public Citizen’s health research group.

Representative Henry Waxman, Democrat of California, said the proposed rule “caters to the industry’s desire to market their products without adequate testing or review.”

The F.D.A. will accept comments from the public on the proposal and take it up for final consideration in 60 days.

The reason for this debate is that doctors are not overseen by the F.D.A. Medicine is regulated by state medical boards, which generally let doctors prescribe drugs and devices as they see fit regardless of F.D.A. judgments.

In some cases, this is beneficial. Pediatricians for years had very few drugs approved for their use because drug makers often failed to test new medicines in children. So they prescribed drugs for children anyway, and, sometimes, saved lives.

A 2006 study estimated that more than 20 percent of all prescriptions written by doctors were for unapproved uses.

But drug makers have in the past abused doctors’ discretion by telling them that some medicines were appropriate for patients in whom the drugs may have caused more harm than good. In 2004, Pfizer paid a \$430 million fine to resolve criminal and civil charges that it marketed its epilepsy drug Neurontin for conditions in which the company’s own studies suggested that the drug was ineffective.

The F.D.A. has for years struggled to find the appropriate balance between the need to inform doctors of experimental but hopeful drug and device uses and the need to guard against hucksters promoting dangerous products as cure-alls.

To complicate the issue, the drug agency’s power to prevent companies from providing truthful, albeit uncertain, information to doctors has been questioned by federal courts as a possible infringement of commercial free-speech rights.

Congress stepped in to resolve the issue in 1997, passing a law that let drug makers hand out studies from medical journals as long as reprints were given to the F.D.A. beforehand and they promised to seek approval from the agency of the use discussed.

That law lapsed in 2006 and “questions have been raised since then about what our policy is,” said Rita Chappelle, an F.D.A. spokeswoman.

Under the proposed rule, the agency would let drug and device companies pass out articles to doctors if the articles were peer-reviewed and came from a journal with an expert editorial board. The article must be accompanied by a prominent warning that the use described is not approved or cleared by the F.D.A.

The agency abandoned the requirement that drug and device makers must provide the studies to the F.D.A. beforehand or promise to seek approval of the discussed use. An F.D.A. official said the agency did not really enforce those requirements anyway.

Diane Edquist Dorman, vice president of the National Organization for Rare Disorders, said she supported the F.D.A. position because patients with rare diseases are generally treated with unapproved drug uses about which doctors must be informed.

“And these companies are just never going to do the confirmatory trials when only a couple of hundred people have the disease,” she said.

But Dr. Steven Nissen, chairman of the department of cardiovascular medicine at the Cleveland Clinic, said the rule would stop companies from underwriting expensive trials to confirm new drug uses. “Companies could openly promote products for unapproved indications without testing these drugs,” he said. “I’m astonished that this rule would even be considered.”