AMERICAN SOCIETY OF HEMATOLOGY
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The Honorable Tom Harkin
Chair, Senate Committee on Health, Education, Labor, and Pensions
731 Hart Senate Office Building
Washington, DC 20510

The Honorable Mike Enzi
Ranking Member, Senate Committee on Health, Education, Labor, and Pensions
379A Senate Russell Office Building
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Enzi,

The American Society of Hematology (ASH) appreciates the opportunity to submit comments regarding the Senate bipartisan working group's draft legislation to address drug shortages. The increasing problem of drug shortages has, in fact, become a crisis taking a serious, sometimes life-threatening toll on hematology patients and negatively impacting the practice of hematology and the clinical research our members conduct. ASH commends the working group for developing a bipartisan draft designed to address shortages of drugs that are critical for hematology treatment and research.

ASH represents approximately 14,000 clinicians and scientists committed to the study and treatment of blood and blood-related diseases, including blood cancers such as leukemia, lymphoma, and myeloma and nonmalignant illnesses such as anemias, thrombosis, and bleeding disorders. The increasing number of drug shortages has significantly affected the practice of hematology because the standard therapies frequently used to treat many hematologic conditions are older, sterile injectable products that are particularly vulnerable to production, marketing, and other business factors that lead to shortage. Fewer firms manufacture these products, the products require complex manufacturing processes, companies may be tempted to redirect resources to more profitable products, and financial return may not justify corrective action when problems occur.

Consequently, the patients hematologists treat have been especially adversely affected by recent shortages. For example, last year there was a national shortage of cytarabine, an irreplaceable chemotherapy drug essential to the cure of acute myeloid leukemia (AML). Cytarabine cures forty percent of patients with AML; without cytarabine, the cure rate is zero percent. This shortage affected all AML patients who needed to be treated in the approximately 6-month period when cytabine was out of stock. Earlier this year, the country experienced critical shortages of additional drugs for the treatment of leukemia, including methotrexate injection and daunorubicin. In the meantime, scores of other leukemia, lymphoma and myeloma patients also faced shortages of other life-saving treatments and our sickle cell patients have struggled with a lack of access to hydroxyurea, the only approved drug used to treat this disease.

In addition, these drug shortages have affected current and future hematology clinical trials. The recent spate of drug shortages has resulted in the disruption multiple clinical trials, halting the accrual of new patients, and delaying future advances in hematology.

ASH supports many of the provisions included in the draft and believes this is a helpful first step toward ensuring that patients have access to the medications they need while not compromising safety and quality of those medications. However, the Society has the following comments and specific recommendations of ways the draft can be improved to successfully combat drug shortages:

In General

ASH thanks the Committee for including the early notification provision. The Society strongly supports a system of early notification regarding drug discontinuance or the interruption of a drug manufacturing process that could lead to a shortage of that drug. Early notification enables the Food and Drug Administration (FDA) and other federal Agencies to take action to eliminate or mitigate the impending shortage. Although in previous drafts notification was based upon a critical drug list, it has been noted that basing the reporting upon a list is administratively difficult as it must be constantly updated and maintained. The Society, therefore, understands why the Committee took the approach of using broad parameters over a specific list, however, ASH urges the Committee to work with stakeholders to ensure the parameters cannot be misinterpreted to inadvertently exclude critical hematology drugs.

ASH is particularly concerned that the reporting requirement needs to include radio pharmaceutical drug products, a human tissue replaced by a recombinant product, and products derived from human plasma protein. Many of these drugs are critical to the treatment of patients with hematologic conditions and they are at risk for being in short supply. Examples of hematologic products that fall into these categories, which have already experienced severe shortages, include: intravenous immunoglobulin (IVIG) used as part of the treatment regimen for Allogeneic bone marrow transplant, Chronic lymphocytic leukemia and Idiopathic thrombocytopenic purpura and antithymocyte globulin used in the treatment of aplastic anemia. ASH recommends the Committee ensure these products are included in the final legislation.

Expedited Inspections and Reviews

ASH supports the inclusion of provisions that provide for expedited review of a supplement to a new or abbreviated drug application when doing so could help mitigate or prevent a drug shortage. ASH also supports efforts to expedite the inspection by the FDA of an establishment when doing so could mitigate or prevent drug shortages.

Establishment of Taskforce

ASH supports the creation of a task force to promote both inter and intra agency coordination, communication, planning and decision making. The Society recommends, however, that the Secretary of Health and Human Services be required to include a hematologist as a voting member of the Task Force. ASH further recommends that patient advocates be included as voting members of the Task Force. ASH believes it is essential for FDA and other Agencies to include hematologists and patients, because they are the ones in the front line trying to manage drug shortages on a daily basis and their perspectives would be valuable to the work of the Task Force. In addition, the Society recommends the Task Force be required to consider, as part of its mission, the impact of drug shortages on federally-sponsored clinical trials.

Record Keeping and Reporting

ASH supports the provision requiring the Secretary to maintain records related to drug shortages. The Society recommends that the recordkeeping requirements include a list of federally-sponsored

hematology clinical trials that were delayed, interrupted, modified, or halted due to drug shortages as well as the strategies that have been undertaken to avoid the disruption of clinical research. ASH is also pleased that FDA would be required to collect the names of manufacturers who did not comply with the early notification requirement. The Society believes, however, that with the absence of civil monetary penalties this provision should be strengthened to require the list of non-compliant manufacturers to be publicly available. Furthermore, Congress could help ensure compliance with early notification by specifying that upon receipt of the list, leadership of the committees of jurisdiction will request justification from those manufacturers who fail to report.

Distribution of Drug Shortage Information

ASH believes the timely dissemination of information on drug shortages and discontinuations is of paramount importance to hematologists and other health care providers. Therefore, ASH recommends that this section be strengthened and the word "may" be changed to "shall" in this provision to ensure medical professionals can adequately plan for potential disruptions in patient care due to a drug shortage.

While the Society acknowledges that legislation may not be able to prevent all future drug shortages, what has become increasingly important to our hematologist members and the patients they treat is that when a shortage occurs, they are provided in a timely fashion with information about the shortage as well as information about how to obtain the drug for critical patients. Therefore, ASH recommends that the legislation also require the Secretary to develop a plan on how the FDA will improve its communication and distribution of information about drug shortages to physician and patient organizations.

ASH believes that public notification of timely and accurate information is essential so that physicians can adequately plan for potential disruptions in patient care caused by a drug shortage. As part of this enhanced communication plan, the Society urges the Committee to add provisions that would require FDA to increase its communications with medical practitioners and patients by developing specialty-specific list-serves and other means of targeted communications, such as a registry, that include: the name of the drug in shortage, the name of each manufacturer, reason for the shortage, the anticipated length of time of the shortage and options for obtaining therapies while they are in short supply.

Inclusion of Biological Products

While ASH strongly supports and appreciates the inclusion of both biologics and biosimilar products within the discussion draft, the Society does not think that this provision should be left up to the discretion of the Secretary. Some of the most important regimens for the treatment of patients with hematologic disorders (especially blood cancers such as multiple myeloma, lymphomas, and leukemias) are biologic. It would be detrimental to a patient's treatment if a hematologist is unable to access the biologic product needed for their protocol. The Society urges the Committee to require the Secretary to include all biologics and biosimilar products within the defined parameters for reporting.

Enforcement

ASH believes simply listing the names of manufacturers who fail to comply in an annual report to Congress will not serve as an effective enforcement mechanism. Given the importance and magnitude of drug shortages on treatment and research, ASH recommends that a strong enforcement mechanism be included in the final legislation that instructs the Secretary to promulgate regulations establishing a schedule of civil monetary penalties for failure to submit a required notification.

Additional Provisions:

Study Regarding National Contingency Plan

ASH believes the draft is a good first step to addressing the problem of drug shortages and the Committee has included helpful and thoughtful provisions to combat the crisis. The Society, however, encourages the Committee to consider some additional options to prevent drug shortages. ASH recommends that the Committee consider adding a provision that directs the Secretary to coordinate a study on the feasibility of developing a national contingency plan for drug shortages.

Increased Resources for FDA

Finally, given the additional authority and requirements of FDA to promulgate rules, develop guidance, strategic planning and convene a task force, ASH asks that consideration be given to the resource constraints of the Agency. ASH recommends that a separate authorization be established for the FDA's Drug Shortage Program with adequate funding levels to carry out the activities authorized by this legislation.

Thank you for your consideration of ASH's comments and recommendations. The Society hopes to continue to work with you on this critical issue and would like to schedule a meeting with your office to further discuss the draft legislation and the Society's concerns and recommendations outlined in this letter. ASH Government Relations Manager, Stephanie Kaplan will be in touch with your staff to schedule this meeting. In the meantime, please contact Stephanie (*skaplan@hematology.org* or 202-776-0544), if the Society can provide additional information or expertise.

Sincerely yours,

Armand Keating, MD
President

Cc: Members of the Senate Working Group on Drug Shortages