U.S. FOOD & DRUG ADMINISTRATION

Medical Product Communications That Are Consistent With the FDA-Required Labeling – Questions and Answers

Draft Guidance for Industry

Elizabeth Pepinsky
Health Science Policy Analyst
Office of Prescription Drug Promotion | CDER | FDA

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Agenda

- **Purpose of the Guidance**
  - **Scope: Applies to drugs and medical devices for humans, and animal drugs**
- **Description of what the guidance does/does not do**
- **Overview of guidance:**
  - **Overview of the 3-factor consistent with FDA-required labeling (CFL) analysis**
  - **Overview of considerations for truthful and non-misleading CFL presentations**

Purpose of Guidance

Provides FDA's thinking regarding when:

Communications that present information about a product that is not contained in the FDA-required labeling

Are considered to be consistent with the FDA-required labeling

What This Guidance Does

- **Describes how FDA determines whether a firm's communication is consistent with the FDA-required labeling**
- **Clarifies for firms that FDA does not view CFL communications alone as evidence of a new intended use**
- **Provides general recommendations for conveying CFL information in a truthful and non-misleading way**

What This Guidance Does Not Do

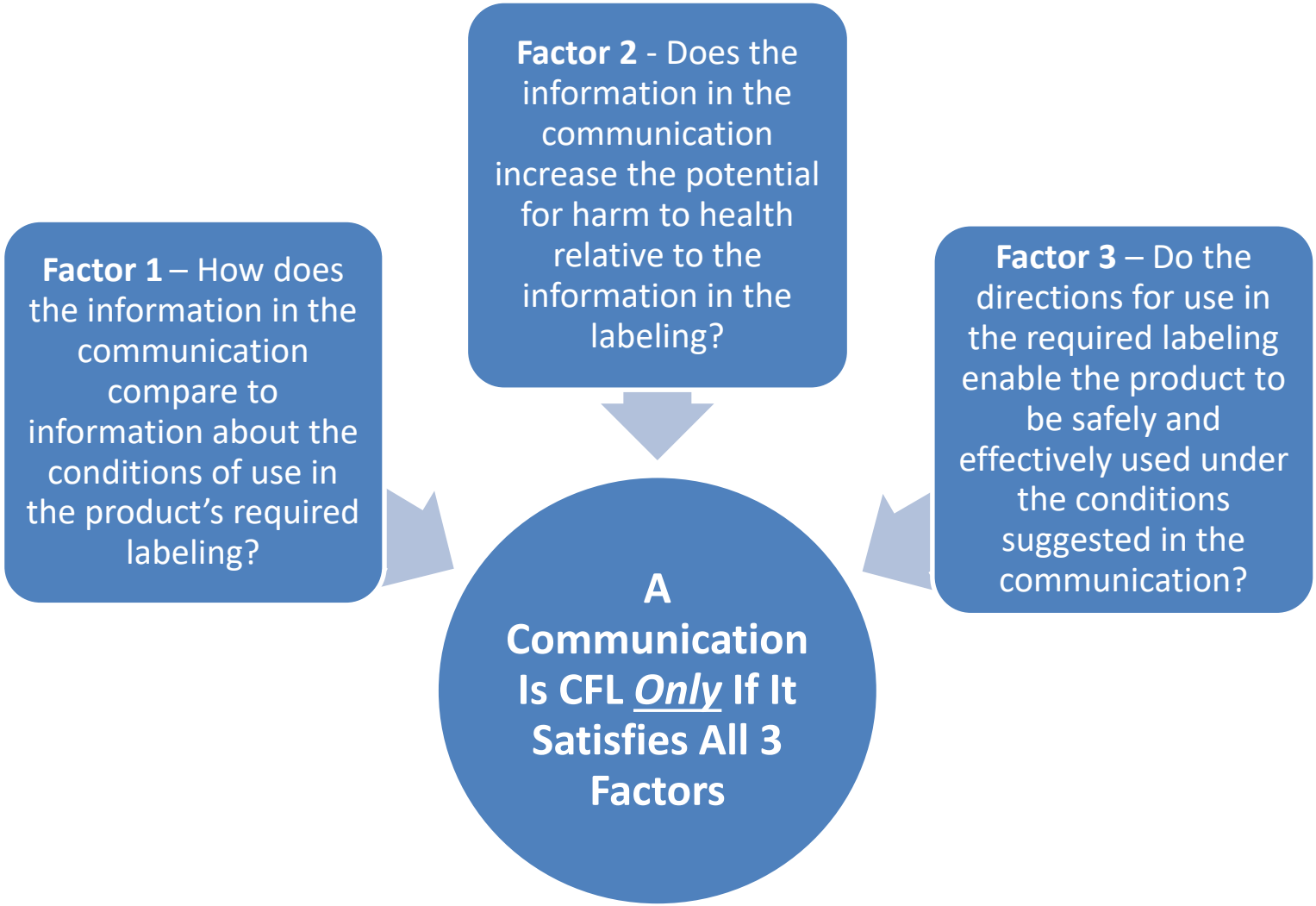
- **Provide recommendations regarding communications about unapproved uses of FDA approved or cleared medical products**
- **Relieve firms of obligations to comply with other applicable requirements**
- **Change a firm's existing obligations to update its FDA-required labeling to ensure that the labeling is not false or misleading, or for other reasons**

How Will FDA Assess Communications?

- **Guidance provides a 3-factor approach to evaluate whether a communication is consistent with the product's FDA-required labeling (CFL)**

- **FDA also evaluates whether FDA-regulated communications are truthful and non-misleading; the guidance provides recommendations for firms to consider when developing their presentations of information that is CFL**

The 3-Factor CFL Analysis



Factor 1: Comparison of Information in the Communication to the Product's FDA Labeling

Elements	If NO,	If YES,
Do the representations/suggestions in the communication relate to a different indication than the one(s) in the required labeling?	Continue analysis	Not CFL
Is the patient population represented/suggested in the communication outside of the approved/cleared patient population in the required labeling?	Continue analysis	Not CFL
Do the representations/suggestions in the communication conflict with the use limitations or directions for handling, preparing, and/or using the product reflected in the required labeling?	Continue analysis	Not CFL
Do the representations/suggestions about the product conflict with the recommended dosage or use regimen, route of administration, or strength(s) (if applicable) set forth in the required labeling?	Continue analysis	Not CFL

Factor 2: Does the Communication Increase the Potential for Harm to Health Relative to the Labeling?

- **If a communication alters the risk-benefit profile of a product in a way that may result in increased harm to health, this indicates the communication is not CFL**
  - **This includes potential for harm from abuse or misuse, or the potential for harm to the health of humans from certain animal drug uses, or the potential for harm to health from secondary exposure to certain medical products**

Factor 3: Do the Directions for Use in the Labeling Enable the Product to Be Safely and Effectively Used?

- **Does the product's required labeling provide the necessary information to use the product safely and effectively under the conditions suggested in the communication?**
  - **Adequate information about potential or expected risks?**
  - **Adequate information about the indication & population?**
  - **Adequate information about dosing & administration?**
  - **Adequate information about expected clinical effects?**

Not an Exhaustive List

General Categories of Information That *Could* Be CFL

- Comparisons of the product's safety/efficacy to another product approved/cleared for the same indication
- Additional context about adverse reactions
- Information about the product's onset of action
- Information about the long-term safety/efficacy of products approved/cleared for chronic use
- Effects or use of a product in specific patient subgroups included in its approved/cleared population
- Patient-reported outcome information about the approved/cleared use
- Product convenience information, e.g., convenient dosing schedule
- Additional context about the mechanism of action described in the approved/cleared labeling

Not an Exhaustive List

General Categories of Information That Are Not CFL

Condition/disease is different than what the product is approved/cleared to treat

Use in patients outside of the approved/cleared population

Use of product for different stage, severity, or manifestation of disease than those for which the product is approved/cleared (i.e. not a subgroup)

Use of product as a monotherapy when it is only approved/cleared for use in conjunction with one or more therapies

Different route of administration or use in different tissue type than the approved/cleared route of administration or tissue type

Different strength, dosage, or use regimen than what is approved/cleared

Use of product in different dosage form than set forth in required labeling, e.g. capsule, solution

Not an Exhaustive List

A Communication Is Determined to Be CFL… Now What?

Considerations for Truthful and Non-misleading CFL Communications

- **Recommendations for truthful and non-misleading communications of CFL information are outlined in the guidance, including recommendations regarding evidentiary support**

- **Communications that lack appropriate evidentiary support are likely to be false or misleading, and can cause patient harm**

- **FDA will not consider a communication to be misleading based only on the lack of evidence sufficient to satisfy the applicable approval/clearance evidentiary standard**

Considerations for the Evidentiary Support of CFL Communications

- **To be truthful and non-misleading, representations or suggestions need to be:**
  - **Grounded in fact and science**
  - **Presented with appropriate context**

- **Any data, studies, or analyses relied on should be scientifically appropriate and statistically sound to support the representations or suggestions made in the CFL communication**
  - **FDA would not consider representations or suggestions in a CFL communication to be false or misleading based only on the lack of evidence sufficient to satisfy the applicable approval/clearance standard**

- **If a communication relies on a study that is inadequate to support the representations/suggestions presented, disclosing the limitations of the study does not correct the misleading message**

Advice to Help Ensure that a CFL Communication is Not False or Misleading

Are the representations or suggestions in the CFL communication supported by scientifically appropriate and statistically sound data, studies, or analyses?	• Was the study adequately designed to support the information presented in the CFL communication? • Was the study appropriately powered to support claimed treatment effects in the communication?
Is the relevant information about the product accurately characterized and contextualized?	• Are study results accurately represented and are material aspects of the study design and methodology clearly and prominently presented? • Are relevant data and information from the FDA labeling clearly and prominently included in the CFL communication?
Are material limitations of the supporting evidence clearly and prominently disclosed?	• Are limitations related to study design, methodology, and results disclosed? • Are unfavorable or inconsistent findings disclosed?

Anything Else?

- **FDA-regulated promotional materials must also comply with other applicable requirements of the Food, Drug & Cosmetic Act and implementing regulations**
  - **E.g., for prescription drugs, appropriate disclosures of risk information, fair balance**

Practical Considerations

- **For firms voluntarily submitting promotional materials that contain claims or presentations that are potentially CFL for OPDP review**
  - **Follow the established advisory request process**
  - **Provide annotated references to support the claims and presentations in the promotional materials.**

Comments to the Docket

- **Total of 13 comments to the docket**
  - **Breakdown of self-reported submitters**
    - **Association (4)**
    - **Device association (1)**
    - **Device industry (1)**
    - **Drug association (1)**
    - **Drug industry (5)**
    - **Private industry (1)**

Themes From the Comments

- Clarify or revise the 3-factor analysis
- Provide additional examples
- Clarify existing examples
- Revise or clarify the evidence standard of scientifically appropriate and statistically sound
- Revise or further explain the disclosure recommendations

Contact Information

- **CDER: Catherine Gray or Elizabeth Pepinsky**
  - **(301) 796-0590 or (301) 796-8763**
- **CBER: Office of Communications, Outreach and Development**
  - **(800) 835-4709**
- **CDRH: Angela Krueger**
  - **(301) 796-6380**
- **CVM: Thomas Moskal**
  - **(240) 402-6251**
- **OC: Kristin Davis**
  - **(301) 796-0418**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