November 8, 2012

ENGELBERG CENTER for Health Care Reform at BROOKINGS

Meeting Summary

Nonprescription Medications with Conditions of Safe Use as a Novel Solution for Undertreated Diseases or Conditions

Background

Undertreatment of common diseases and conditions contributes to critical gaps in the public health of the United States (U.S.). Undertreatment is a complex problem that can result from a range of failures along the pharmaceutical care continuum, which spans from a patient deciding to seek care for a condition, through appropriate diagnosis, treatment selection, and follow-up care. Lack of regular access to medical and pharmacologic care and a failure to administer recommended therapy are among the most cited contributors to undertreatment.[1] Poor medical adherence is a significant factor, as research suggests 20% to 30% of prescription medications are never filled and 50% of medications for chronic disease are not taken as prescribed.[2] Recent research has also revealed decreasing access to, and use of health services, a problem that has greatly contributed to undertreatment for treatable conditions in the U.S.[3]

Addressing the undertreatment of common diseases and conditions will require innovative thinking about how existing practices can change, and a commitment to testing promising solutions by all health care stakeholders, including providers, payers, manufacturers, patients, and regulators. Recognizing the challenge of undertreatment, the U.S. Food and Drug Administration (FDA) is developing an initiative to address one element that may contribute to the problem of medical undertreatment: lack of access to appropriate medications. FDA is exploring how a regulatory expansion of the nonprescription drug class might increase access to appropriate pharmacologic treatment. FDA is currently investigating how Conditions of Safe Use may be incorporated into the drug regulatory framework to expand the range of medications that could be made available without a prescription. Conditions of Safe Use may include health care professionals and innovative technologies as safeguards to ensure the safe and effective self-selection and use of certain drugs without a prescription. FDA has named this potential new paradigm as the Nonprescription Safe Use Regulatory Expansion (NSURE) initiative. In March of 2012, FDA held a public meeting, "Using Innovative Technologies and Other Conditions of Safe Use to Expand Which Drug Products Can Be Considered Nonprescription," which requested input from stakeholders on the potential new paradigm for nonprescription drug expansion.[4] During this public hearing, FDA received information and public input on a variety of subjects including pharmacy, consumer, and healthcare provider issues.

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[1] McGlynn, Elizabeth A, et. al. "The Quality of Health Care Delivered to Adults in the United States." *New England Journal of Medicine.* 348 (2003): 2635-645

[2] Viswanathan, Meera, Carol E. Golin, Christine D. Jones, Mahima Ashok, Susan J. Blalock, Roberta C.M. Wines, Emmanuel J.L. Coker-Schwimmer, David L. Rosen, Priyanka Sista, Kathleen N. Lohr; "Interventions to Improve Adherence to Self-administered Medications for Chronic Diseases in the United StatesA Systematic Review." *Annals of Internal Medicine*. 2012 Dec;157(11):785-795.

[3] Kenney, Genevieve M., Stacey McMorrow, Stephen Zuckerman and Dana E. Goin. "A Decade Of Health Care Access Declines For Adults Holds Implications For Changes In The Affordable Care Act." *Health Affairs*. 31, no.5 (2012):899-908

[4] U.S. Government Printing Office. Using Innovative Technologies and Other Conditions of Safe Use To Expand Which Drug Products Can Be Considered Nonprescription; Public Hearing. Federal Register/Vol. 77, No. 39/Tuesday, February 28, 2012/Notices 12059. Retrieved March 5, 2012, http://www.gpo.gov/fdsys/pkg/FR-2012-02-28/pdf/2012-4597.pdf.

Meeting Objective and Scope

On November 8, 2012, in cooperation with the FDA, the Engelberg Center for Health Care Reform at Brookings convened an expert workshop, "Nonprescription Medications with Conditions of Safe Use as a Novel Solution for Undertreated Diseases or Conditions," to explore issues and practical considerations for the development of the NSURE initiative. Specific workshop objectives included the following:

- Clarifying the Nonprescription Safe Use Regulatory Expansion (NSURE) initiative;
- Exploring opportunities which permit expanded access to nonprescription medications; and
- Investigating the ability of health care professionals as examples of Conditions of Safe Use.

This meeting brought together a diverse set of stakeholders from both public and private sectors, including FDA and other government agencies, health care professional associations, trade associations, academic institutions, medical product developers, and patient advocacy organizations. Participants discussed major areas in need of stakeholder input, including the development of the NSURE initiative, Conditions of Safe Use, patient populations of interest, and potential new roles for health care professionals. While economic and technological factors will also influence this paradigm, these issues were not the focus of the discussion at this workshop. Subsequent workshops will explore these issues in greater depth (e.g., innovative technologies, reimbursement considerations). During the meeting, participants discussed a number of broad issues relating to a potential nonprescription regulatory expansion. This document highlights the major points of discussion.

Developing the NSURE Paradigm

Following the announcement of FDA's potential new paradigm for nonprescription drugs, stakeholders put forward a wide variety of questions and concerns relating to the initiative during the public comment period.[5] In response, FDA sought to clarify some key points concerning the scope and intent of the regulatory expansion.

FDA representatives emphasized that the NSURE paradigm is not intended to create a "third class" of drugs, but will work within the existing two-class system of prescription and nonprescription drug classes. Further, since NSURE focuses on how Conditions of Safe Use can enable a drug to be designated as nonprescription, the NSURE paradigm will not expand prescribing authorities for any health care professionals, which generally remains outside the scope of FDA's authority. FDA representatives indicated that nonprescription drug status would be granted through the existing regulatory approval processes, with each Condition of Safe Use tested as part of a comprehensive approach that ensures that the drug will be safe and effective in the over the counter setting. The regulatory approval of each nonprescription drug will remain product-specific and driven through industry application.

FDA representatives also emphasized that the main objective of the program is to reach patients who are currently undertreated or without regular access to health care providers. Recognizing the complexity of coordination of care and payment reimbursement models, FDA representatives emphasized the need to avoid unintended consequences that the implementation of this paradigm may have on patient access and appropriate care. FDA representatives stated that efforts are being made to consider how NSURE may affect reimbursement and patient care.

Participants suggested that FDA consider the implications of approving Conditions of Safe Use as a regulated product with periods of exclusivity, and how this might affect availability and access to the drug in a nonprescription setting. Workshop participants noted that an inclusion of the Office of Generic Drugs may benefit the development of Conditions of Safe Use. FDA representatives clarified that Conditions of Safe Use will

[5] Ibid.

fit within FDA's current regulatory authorities, and that the analytic framework for Conditions of Safe Use is still being developed.

Lessons from Previous Initiatives that Address Pharmaceutical Safety and Access

Workshop participants discussed existing FDA practices and policies which could inform the development of the NSURE paradigm. Participants discussed multiple aspects of FDA's current system of Risk Evaluation and Mitigation Strategies (REMS). By establishing a REMS for a prescription product, FDA is able to mitigate safety concerns by requiring postmarket safety measures (e.g., elements to assure safe use) to ensure that the benefit of a drug outweighs its risk. Participants suggested that REMS demonstrates a more flexible drug approval process, which has enhanced FDA's regulatory capability to ensure the safe use of a wide range of prescription drug products.[6] Parallels were drawn between the application of REMS for prescription drugs and the application of Conditions of Safe Use for drugs not requiring a prescription. Participants also noted that efforts underway to standardize REMS might similarly inform the implementation of Conditions of Safe Use in a nonprescription setting.

Participants drew parallels to medications used to treat pain, allergy, and heartburn that maintain a "dual status" under FDA's current regulatory framework. These medications have variations of the same or similar drug available simultaneously in both prescription and nonprescription forms. Meeting participants suggested that the NSURE paradigm might similarly increase the range of consumer options for medical treatment.

Meeting participants discussed several public and private-sector initiatives which have expanded access to pharmacologic treatment. In Massachusetts, pharmacists were granted the authority to provide 11 vaccines through pharmacy-based immunizations programs, providing widespread access to important vaccinations (Influenza, HPV, Hepatitis A & B, etc.).[7] Other initiatives, such as collaborative practice agreements, chronic disease state management programs, and OTC self-care programs, have expanded the ability of pharmacists to provide safe and effective care to patients in multiple states. Multiple state legislatures have enacted legislation which grants school nurses the authority to administer epinephrine prescriptions within schools. In addition, alternative and innovate practice settings such as acute care centers and retail medical clinics (e.g., CVS MinuteClinic) provide consumers with increased access to medical care. Many of these examples involve an expansion of prescribing authorities outside the scope of FDA regulatory authority. While these actions are not being discussed as specific models for NSURE, each program illustrates important lessons and principles from similar initiatives. Participants suggested that these initiatives can inform and guide the development of an expanded nonprescription framework.

Participants discussed international examples of expanded access to nonprescription medications, such as the availability of statin medications within the United Kingdom (U.K.). Since 2004, U.K. pharmacists have had authority to dispense low-dose simvastatin (statins) through pharmacy-based supervision and consultation services.[8] Though participants acknowledged the fundamental differences between the U.K. and U.S. health and regulatory systems, several important considerations can be drawn from these examples. While this initiative increased the availability of statin medications within retail settings, participants discussed significant challenges

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[6] U.S. Food and Drug Administration. Drug Safety and Availability (May, 2013): Approved Risk Evaluation and Mitigation Strategies (REMS). Retrieved June 3, 2013, from, http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm111350.htm

[7] Massachusetts Department of Public Health, Drug Control Program, Immunization Program, Board of Registration in Pharmacy. Joint Policy 2012-02 and FAQs on Pharmacist Administration of Vaccines. Retrieved April 18, 2012.

[8] Sood, Neeraj, Eric Sun, Xiaohui Zhuo. "Behind-the-counter statins: a silver bullet for reducing costs and increasing access?" *Health Services Research Journal*. 2012 Feb;47(1 Pt 1):174-87.

with the implementation of this program. Participants noted that pharmacists were largely reluctant to prescribe statins without knowledge of a patient's medical history, often referring patients back to the care of physicians. Workshop participants also described how time constraints limited pharmacists' ability to conduct screenings and consultations. Others remarked that additional safety measures, such as mandatory questionnaires, limited consumers' willingness to participate.

Defining the Population Focus

In their opening remarks, FDA clarified that the approval of a drug product designated as nonprescription with a Condition of Safe Use would be product-specific and is intended to undergo FDA's rigorous approval process. Participants emphasized the need for a clear understanding of which patient populations this initiative is intended to address. Participants discussed how various populations might benefit from this paradigm in different ways. For patients without regular access to a physician, this initiative may help bring them into the health care system and provide an opportunity for health care provider engagement as well as possible treatment options. For patients who are already engaged in the health care system and may have an established relationship with a provider(s) and a diagnosis, this initiative may support increased access to treatment options. Participants suggested that identification of the target populations may be an important study design consideration.

Workshop participants stressed the importance of considering patient and consumer behavior when developing Conditions of Safe Use. As this paradigm requires patients to take action (i.e., through self diagnosis, self selection), participants noted that motivated patients who are actively engaged in their own health care may benefit the most from NSURE. Experts commented, however, that motivated patients are often least in need of support. There remain significant patient populations that are less active and engaged in their own health care, and who need additional support to maintain their health. Participants noted that research needs to be done to learn how Conditions of Safe Use can help less motivated and engaged patients and consumers. Participants also discussed the need to better understand the differences in the characteristics of patients who require additional help in selecting current nonprescription medications from those who do not require additional help, as this distinction could better inform the development of Conditions of Safe Use. Participants suggested that Conditions of Safe Use should be simple, relevant, and flexible to promote and facilitate use by a wider range of patients and consumers.

Participants discussed the importance of privacy in practice settings, noting that some consumers may be reluctant to consult with health professionals outside traditional physician settings. While innovative settings such as retail medical clinics have provided patients with additional privacy measures, participants indicated that further privacy considerations may need to be addressed moving forward.

Incorporating Conditions of Safe Use

Workshop participants discussed the incorporation of Conditions of Safe Use into the health information technology (HIT) infrastructure, highlighting current challenges in tracking nonprescription drugs. As nonprescription medications are frequently under-recorded in medical records and pharmacy dispensing systems, important medication information is often unreported for providers during drug utilization reviews. This absence of a full drug history and poor coordination of care between providers can result in issues with medication reconciliation, interaction, and adherence. This is particularly true for patients with multiple chronic conditions. Some participants expressed concern that an expansion of nonprescription drugs may result in more medications being used without provider knowledge. To mitigate these concerns, participants suggested that Conditions of Safe Use be documented directly into the electronic health record (EHR). Participants noted that integration into EHR should be built on the existing HIT infrastructure.

While noting the potential benefits of using EHR systems to capture patient data and implement Conditions of Safe Use, participants also cautioned that many health care professionals have limited or no connectivity to the current EHR infrastructure. In particular, community and rural pharmacies could benefit from enhanced connectivity. This expansion of HIT would further facilitate communication and collaboration with physicians. Participants noted that technology will play an increasingly central role in the delivery of medical care. Topics relating to role of technology in facilitating the safe and effective use of nonprescription drugs will be the focus of an upcoming expert workshop hosted by the Engelberg Center for Health Care Reform.

Workshop participants also discussed the payment of medical products with Conditions of Safe Use. It was noted that insurance plans often provide little or no reimbursement for nonprescription products, leading to concerns that the NSURE paradigm may result in increased out-of-pocket payment for consumers. Participants noted that third-party insurance coverage will likely be affected and suggested that reimbursement be further explored. Participants also discussed how new services would be financed under Conditions of Safe Use. Stakeholders noted that billing mechanisms would be necessary to account for additional services under Conditions of Safe Use. It was suggested that reimbursement for new services will promote a widespread adoption of Conditions of Safe Use in practice settings. Topics relating to reimbursement will be explored in an additional expert workshop hosted by the Engelberg Center for Health Care Reform.

Establishing the Role of Health Care Professionals

Participants suggested that health care professionals are central to the NSURE initiative. It was noted that pharmacists, nurse practitioners, and physician assistants can bring patients into the healthcare system for those that are currently undertreated. NSURE should be designed with the understanding that health care professionals across different disciplines can facilitate and increase access to physicians and the healthcare system. Workshop participants identified several key characteristics of health care professionals that can support the safe and effective expansion of nonprescription medications.

- *Pharmacists*: Experts highlighted the widespread accessibility of pharmacists within pharmacies and other practice settings. Workshop participants discussed how pharmacists are able to connect patients to the health care system through consultations, recommendations, and physician referrals. Participants also noted that pharmacists are more frequently bringing patients into the healthcare system than disconnecting patients from providers.
- *Nurse Practitioners*: Participants highlighted the ability of nurse practitioners to provide access to pharmacologic treatment through traditional and innovative practice settings (e.g. retail medical clinics).
- *Physician Assistants*: Stakeholders discussed how existing education and certification requirements provide physician assistants with widespread prescribing authorities and pharmacologic training.

Participants noted that physicians will remain an important component within this nonprescription paradigm. Increased communication between physicians and other health care professionals was emphasized as a critical element in the design of Conditions of Safe Use. While the exact role of physicians under this paradigm is being informed by stakeholder input, workshop participants indicated that physicians could be used to initiate or renew certain pharmacologic treatments.

Workshop participants emphasized the need for Conditions of Safe Use to be integrated into the existing healthcare professionals' roles and healthcare workflow. Participants discussed how the incorporation of uniform and standardized processes will be a critical factor in implementation. Participants cautioned that resource constraints, such as an increase in workload, may serve as a potential roadblock.

Participants also expressed concerns that additional services performed under Conditions of Safe Use may potentially result in increased liability for healthcare professionals. Although the NSURE paradigm will not expand prescribing authorities for any health care professional, participants suggested that the possible impact of liability should be further explored.

Next Steps

This expert workshop illustrated how a regulatory expansion of nonprescription drugs may serve to increase access to important medications to alleviate the undertreatment of common conditions or diseases. Establishing this regulatory framework, however, will require a greater understanding of the health, economic, behavioral, and technological factors involved in this new paradigm. Multiple dimensions of the health care delivery system must be considered for safe and effective Conditions of Safe Use. Participants highlighted the necessity of quantitative and qualitative analysis in assessing Conditions of Safe Use, stressing the need to understand the many factors that affect consumer behaviors and the use of nonprescription products. Workshop participants suggested that the development of hypothetical "strawman" medical products with specified Conditions of Safe Use may help foster discussion and innovation, and thereby help clarify and inform the development of NSURE. Participants also suggested exploring technologies that may be used as Conditions of Safe Use. Specifically, participants emphasized the need to investigate how new technologies such as kiosks, algorithms, and diagnostic tests might be incorporated as examples of Conditions of Safe Use. FDA representatives noted the importance of understanding the implications behind such a regulatory expansion. Further topics, including novel technologies and reimbursement considerations, will be addressed in subsequent expert workshops hosted by the Engelberg Center for Health Care Reform.