AJMC.com
Managed Markets Network
http://www.ajmc.com/conferences/amcp2016-nexus/biosimilars-and-interchangeability-evolving-understanding-and-regulations

Biosimilars and Interchangeability: Evolving Understanding and Regulations

Author: Laura Joszt
Oct. 10, 2016

The FDA has already approved 4 biosimilars in the United States, but a lot of uncertainty remains with legislation and regulation. Speakers at the Academy of Managed Care Pharmacy 2016 Nexus meeting outlined the issues surrounding biosimilars from both the federal and state level.

At this point the United States is falling behind the pace of Europe when it comes to biosimilars, said Kevin M. Nelson, JD, partner of Duane Morris LLP. While Europe has had a biosimilar pathway in place since 2006, the United States didn't have one in place until 2012, and it didn't really start moving until 2015. Currently, Europe has 20 biosimilars approved.

According to Nelson, there are a few issues surrounding biosimilars that the United States still has to figure out: interchangeability, litigation, and naming/coding.

Right now, an interchangeable biosimilar does not exist, and one probably won't for a while, he said. There's a high standard to prove interchangeability: the drug maker not only has to show biosimilarity, but it must show that the biosimilar provides the same clinical result in any given patient.

But the real billion-dollar question is: "How do you show interchangeability?" Nelson asked. "Nobody knows yet."

There is pressure on the FDA to give a clear path for proving interchangeability. Not only are drug makers eager to know how to show interchangeability, but Congress is pressuring the FDA for a clear path.

And once a biosimilar is approved, litigation has been stopping them from coming to market. There are 2 key provisions in the Biologics Price Competition and Innovation Act (BPCIA) of 2009 that has led to litigation. Both have to do with the meaning of the word "shall."

For the provision "Applicant shall provide application and manufacturing details after acceptance for

review," the court ruled that "shall" means "may." But in the provision "Applicant shall give the Sponsor 180 days' notice before commercial marketing," the "shall" means "must."

"This is why companies fight: because of the language of statutes," Nelson said.

Naming is another key issue, and one that is likely to change. What is the importance of a name? CNN proved a name was very important when it polled people and found that they didn't like Obamacare, but they did like the Affordable Care Act.

The FDA draft guidance on naming was issued August 27, 2015, and it would attach a 4-character suffix to the drug substance. The naming guidance applies to both biosimilars and to the reference product, and the suffix is meant to be non-meaningful and random.

There is, predictably, controversy over the FDA's authority for requiring a new name and the draft guidance for a unique international nonproprietary name (INN). People support the guidance because it will prevent improper substitution, the products are not structurally identical, and it will prevent doctor and pharmacist confusion. However, the opposition feels there is a greater chance of confusion, the guidance divorces the biosimilar product from the reference product it relied on, and it seems unnecessary since INN has been used for biosimilars in Europe without problems.

In addition to federal guidance, about half of states have active laws related to substation of biosimilar products, Nelson said.

"What we're seeing now are attempts of regulation by states to impact interchangeability," he said. "Even though we don't have an interchangeable product."

There has been agreement that pharmacists can substitute an interchangeable product when one is available; however, there is disagreement at the state level, too. For example, states don't agree on whether there needs to be communication or notification to the prescriber or to the patient when there has been a substitution with a biosimilar. This state-level legislation also continue to evolve. There are currently 6 states that have a state substitution bill filed and pending. In addition, 15 states have not yet introduced any sort of biosimilar substitution legislation.