

used to treat infections that are strongly suspected to be bacterial. The statement that culture and susceptibility information should be considered when available captures the idea expressed by such phrases as "where applicable and practical" and "when indicated and feasible." FDA's statement also includes the idea that physicians may wish to modify antibiotic therapy after obtaining the results of susceptibility testing.

J. Practice of Medicine

(Comment 37) Many comments asserted that the proposal is outside the scope of labeling, the purpose of which is to provide the information necessary for the safe and effective use of drugs, not to tell physicians how to practice medicine. One such comment maintained that product labeling should not dictate medical practice, which requires individualized clinical assessment of the patient and the circumstances under which the patient is being treated, and that FDA's role does not include teaching medicine. Another comment asserted that the proposal interferes with the practice of medicine since the choice of antibiotic should be made by the physician after weighing the overall benefits and risks to the patient. Another comment stated that labeling should not impose a specific standard of care or practice that must be followed. Another comment maintained that there is no statutory basis for FDA to regulate physician conduct or train physicians and that the clinical knowledge gained from years of medical training and experience cannot be completely provided for in labeling.

Several comments expressed concern that the proposed labeling statements would result in legal liability for physicians because in many cases they would not be able to follow the standard of practice required by the labeling, that is, obtaining cultures to identify microorganisms and determine their susceptibility profiles.

(Response) The agency disagrees with comments maintaining that the proposed rule is outside the scope of labeling. As FDA has long recognized, its role is neither to regulate physician conduct, nor to train physicians. As FDA wrote in 1972:

Throughout the debate leading to enactment (of the 1938 Act and the drug amendments of 1962), there were repeated statements that Congress did not intend the Food and Drug Administration to interfere with medical practice and referenced to the understanding that the bill did not purport to regulate the practice of medicine as between the physician and the patient . . . 37 Fed. Reg. at 16503.

FDA's 1972 notice continues:

{A}lthough it is clear that Congress did not intend the Food and Drug Administration to regulate or interfere with the practice of medicine, it is equally clear that it did intend that the Food and Drug Administration determine those drugs for which there exists substantial evidence of safety and effectiveness and thus will be available for prescribing by the medical profession, and additionally, what information about the drugs constitutes truthful, accurate, and full disclosure to permit safe and effective prescription by the physician. As the law now stands, therefore, the Food and Drug Administration is charged with the responsibility for judging the safety and effectiveness of drugs and the truthfulness of their labeling. The physician is then responsible for making the final judgment as to which, if any, of the available drugs his patient will receive in the light of the information contained in their labeling and other adequate scientific data available to him.

Physicians have been concerned that the failure to follow the labeling of a drug may render them unduly liable for malpractice.

Although labeling, along with medical articles, tests, and expert opinion, may constitute evidence of the proper practice of medicine, it is not controlling on this issue. The labeling is not intended either to preclude the physician from using his best judgment in the interest of the patient, or to impose liability if he does not follow the package insert. A physician should recognize, however, that the package insert represents a summary of the important information on the conditions under which the drug has been shown to be safe and effective by adequate scientific data submitted to the Food and Drug Administration.

Given this framework, it is appropriate to include in labeling information necessary for the safe and effective use of the drug, including information about the context of product use. For example, labeling for anesthetic agents often includes very specific recommendations about the conditions under which the products should be used and the training of the personnel who administer them. Furthermore, many approved antibiotics already recommend that appropriate culture and susceptibility tests be performed.

FDA has adopted revised statements to address concerns expressed in the comments that the proposed rule categorically dictated medical practice and held up a standard that physicians would be unable to meet. The revised statements take into account that culture and susceptibility information are not always available. In addition, rather than stating that local epidemiology and susceptibility patterns should help direct initial selection of antibiotic therapy, the final rule provides that information from these sources may contribute to the selection of therapy.

With these changes, the agency believes that the statements required by the final rule cannot be interpreted as overly directive and thus do not interfere with the practice of medicine. The final rule is not intended to establish a standard of care. The rule is designed to provide information and context for health care providers to consider in prescribing certain medications.

K. Information for Patients

The proposed rule provided that the following statement appear in the "Precautions" section under the "Information for patients" subsection:

Patients should be counseled that (*insert name of antibacterial drug product*) should only be used to treat bacterial infections. It does not treat viral infections (e.g., the common cold).

Patients should also be told that the medication should be taken exactly as directed. Skipping doses and not completing the full course of therapy may (1) decrease the effectiveness of the immediate treatment and (2) increase the likelihood that bacteria will develop that will not be treatable by (*insert name of antibacterial drug product*) in the future.

(Comment 38) The comments were generally supportive of the proposal to educate patients. However, one comment stated that FDA's attempt to educate the public through labeling is misguided. The comment pointed to a study¹ evaluating a medication guide that found that less than 50 percent of the patients who received the guide read it; that of the patients who read the guide, only 50 percent could recall at least one issue discussed in it; and that only 20 percent of the patients who knew the contents of the guide said they had taken some action based on it. This comment stated that if the agency proceeded with the proposal to include a statement for patients, the statement should be: "Patients should be counseled to take all medicinal products exactly as directed."

(Response) The agency does not believe the medication guide study is relevant to the labeling proposal concerning antibiotic resistance because the agency has not proposed a medication guide or anything else for patients to read. The "Information for patients" subsection contains information that would be communicated to the patient by the prescriber. The agency disagrees with the suggestion that patient information be limited to advising patients to take all medications exactly as directed because that advice would not explain

¹ Chianese, C. P., "An Overview of an Initial Experience With a Medication Guide," *Drug Information Journal*, vol. 34, pp. 855-859, 2000.