

November 30, 2023

The Honorable Neal Dunn  
U.S. House of Representatives  
Washington, DC 20515-0902

Dear Representative Dunn:

Thank you for your letter of September 29, 2023, regarding the Food and Drug Administration's (FDA's or the Agency's) interim response to the Citizen Petition filed by Columbia Law School's Science, Health, and Information Clinic on behalf of Universities Allied for Essential Medicines (UAEM), Docket number FDA-2023-P-0660. The Citizen Petition requested that FDA take several actions regarding compliance and enforcement related to reporting of certain clinical trial summary results information to the ClinicalTrials.gov database under the Food and Drug Administration Amendments Act of 2007 (FDAAA).

Although FDA has not completed its review of the pending UAEM citizen petition, we note that FDA supports and shares the goal of increasing transparency of information about clinical trials through the ClinicalTrials.gov data bank, which in turn may promote more efficient allocation of research funding by identifying gaps and avoiding duplication of efforts; transparency further demonstrates respect for research participants. The data bank may also help reduce publication and outcome reporting bias. To that end, we offer some background related to your interest.

When evaluating compliance rates, it is important to recognize that not all clinical trials registered on ClinicalTrials.gov are "applicable clinical trials" (see 42 CFR 11.10(a)) subject to the clinical trial registration and summary results information submission requirements in section 402(j) of the Public Health Service Act and its implementing regulations in 42 CFR part 11. The data bank includes a substantial number of records to which these requirements do not apply, such as behavioral intervention studies and phase 1 drug trials. Indeed, the majority of trials registered on the ClinicalTrials.gov data bank are not applicable clinical trials subject to the statutory requirements.

As you noted in your letter, for trials that are subject to the statutory requirements, issuing Pre-Notice of Noncompliance letters (Pre-Notice Letters) for potential noncompliance and, where a determination of noncompliance has been made, Notices of Noncompliance, has been largely effective in securing compliance and improving submission of clinical trial information to ClinicalTrials.gov.

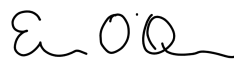
FDA's current approach to compliance and enforcement of ClinicalTrials.gov requirements is consistent with other FDA compliance programs, which generally follow a risk-based approach to prioritization of activities. FDA considers which activities are likely to have the greatest public health impact and balances resource allocation to ClinicalTrials.gov with resource needs for other compliance programs, such as evaluating inspection reports of sponsors, clinical investigators, and other establishments to determine whether there appear to be violations of the law. Examples of risk-based factors that FDA uses when evaluating potential noncompliance with the ClinicalTrials.gov requirements include:

- The vulnerability of the population under study in the clinical trial (for example, pediatric or cognitively impaired participants);
- The nature of the product involved in the trial (for example, cytotoxic, permanent implant, new molecular entities, new therapeutic biological products);
- Whether the product involved in the trial is intended to address a significant public health need (e.g., COVID-19, monkeypox);
- The risks to subjects participating in the trial;
- Whether the product involved is approved or unapproved;
- Whether ClinicalTrials.gov noncompliance exists in conjunction with noncompliance with other statutory or regulatory requirements pertaining to the conduct of the trial; and
- Whether the trials are those for which FDA requires submission of an application (e.g., investigational new drug (IND) application or investigational device exemption (IDE) application)

FDA continues to develop its ClinicalTrials.gov compliance program and is always looking at ways to refine its processes for identifying potential noncompliance and issuing Pre-Notice Letters and Notices of Noncompliance. We have taken several actions to enhance our compliance and enforcement program since the final rule for ClinicalTrials.gov registration and reporting requirements went into effect on January 18, 2017, including developing an internal analytics platform that supports Center surveillance activities related to ClinicalTrials.gov and establishing routine cross-Center compliance and enforcement policy coordination. These process improvements have increased program efficiency. We continue to explore and invest in program enhancements, including those that reduce the manual review of non-public data and information needed to verify whether the submission requirements for clinical trials registration and summary results information apply to each specific trial to facilitate compliance and enforcement.

Thank you again for contacting us regarding this important matter. Once we have completed the Agency's review of the Citizen Petition, and responded in full, we will share the response with you.

Sincerely,



Erin O'Quinn  
Acting Associate Commissioner  
for Legislative Affairs