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August 26, 2010

Dockets Management Branch
Food and Drug Administration
5630 Fishers Lane
Room 1061 (HFA-305)
Rockville, MD 20852

RE: Submission of Citizens petition on behalf of the American Cancer Society Cancer Action Network, the American Lung Association, the Campaign for Tobacco-Free Kids and the American Legacy Foundation

Dear Dockets Management Branch:

Today the American Cancer Society Cancer Action Network, the American Lung Association, the Campaign for Tobacco-Free Kids and the American Legacy Foundation filed a Citizen Petition in which we are requesting the FDA to reevaluate the way that the Food and Drug Administration is approaching the review and approval of smoking cessation products and the conditions it authorizes for the sale and distribution of these products.

At the heart of the Petition is our request that the FDA adopt an approach to the review and approval of tobacco cessation products that takes into account that for long term users of cigarettes the alternative to tobacco cessation is a fifty percent risk of premature death from the use of these products. Because the health risks of continued tobacco use are so serious, this new approach should provide an opportunity and an incentive for the development and approval of more effective smoking cessation products and beneficial revisions to current labeling requirements.

Despite all of our progress to date tobacco use remains the leading cause of preventable disease in the United States. Tobacco products kill over 400,000 Americans each year. Our goal is straightforward: to urge FDA to use the full breadth of its authority to reduce the number of people who become sick and die from the use of tobacco products.

The new legislation that gives the FDA critical new authority over the manufacture, marketing and sales of tobacco products is a critical step forward that will permit FDA to play a major role in reducing the death and disease caused by tobacco. The new Tobacco Center, however, is only once piece of the needed comprehensive approach.

Smoking cessation is also beneficial to public health. The Surgeon General has found that smokers who quit can lower their risk of smoking-caused diseases and improve their health generally. FDA already has authority over smoking cessation products because they are regulated by the Center for Drug Evaluation and Research (CDER) under FDA's authority over drugs.

We filed the Citizen Petition today because we believe that this is the right time to thoroughly examine whether there is an opportunity for FDA to take steps that will improve the success rate and the frequency of use of existing products already approved by the FDA and for encouraging and assisting in the development of products that will be even more effective in helping tobacco users successfully quit.

We look forward to working with you and will be happy to respond to any questions you may have.

Sincerely,

Matthew L. Myers
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CITIZEN PETITION

The undersigned Petitioners submit this petition pursuant to 21 C.F.R. § 10.30 to request that the Commissioner of the Food and Drugs reevaluate the way that the Food and Drug Administration is approaching the review and approval of smoking cessation products and the conditions it authorizes for the sale and distribution of these products. Specifically, Petitioners urge FDA to adopt an approach that recognizes that for long term users of cigarettes the alternative to tobacco cessation is a fifty percent risk of premature death from the use of these products.

The Public Health Groups are not suggesting that FDA should lower or in any way compromise the statutory safety and efficacy standards for tobacco cessation products that are sold as drugs. The Petitioners urge that products approved by FDA as tobacco cessation aids pursuant to its drug authority should meet the same high standards for safety as other products approved as drugs. FDA's goal should be to apply those standards in a way designed to maximize the number of lives saved based on the best available evidence and to encourage product development and marketing with those goals in mind.

Given the extraordinary death toll from the use of tobacco**,** FDA should work with companies developing these products to find strategies for improving both the success rate and the frequency of use of tobacco cessation products if FDA determines that such policies can help to reduce the number of people who die from tobacco use.

The Petitioners are 4 Public Health Groups. The Campaign for Tobacco Free Kids, the American Lung Association, the American Cancer Society Cancer Action Network, the American Legacy Foundation are leaders in the fight to reduce tobacco use in the United States and around the world. The goals of these organizations include: preventing kids from smoking, helping smokers quit, and protecting everyone from second hand smoke.

I. ACTION REQUESTED

The undersigned Public Health Groups request that FDA reevaluate the way it is evaluating applications to market smoking cessations products to ensure that its requirements and activities create appropriate incentives to develop and make available the most effective smoking cessation products and that effective products are approved so that the maximum number of lives can be saved. Specifically, the Public Health Groups request that FDA:

1. Issue a guidance that states that when reviewing applications to market new smoking cessation products and when considering changes to labels on existing products, the agency will evaluate the risks of smoking cessation products against the risks of continued tobacco use. Because the health risks of continued tobacco use are so serious and because the agency apparently currently evaluates the risks

of smoking cessation products without adequate consideration of the health risks of continued use of tobacco products, this new approach will result in the agency being open to approving more effective smoking cessation products and revising current labeling requirements.

2. Initiate a program whereby the agency will collaborate with manufacturers of smoking cessation products to identify appropriate trial design for testing of smoking cessation products.

3. In accordance with the Family Smoking Prevention and Tobacco Control Act, make the development of smoking cessation products a priority and transfer the evaluation of applications for these products from the Division of Anesthetics, Critical Care and Addiction Drug Products to the Office of Oncology Drug Products. Such a transfer would allow smoking cessation products to be evaluated by medical reviewers with expertise in cancer, which is a leading cause of death resulting from tobacco use,[1] and by regulators with experience in designing programs to encourage the development of drugs where a great need exists.

The Public Health Groups urge FDA not to lower the approval standard for smoking cessation products. The Groups firmly believe that the agency should insure that tobacco cessation products are safe and effective, as those standards are applied to a broad range of pharmaceutical products. The Groups, however, urge FDA to apply these standards in a manner that appropriately considers that these products are being used to treat an addiction that kills over 400,000 Americans annually.[2]

II. STATEMENT OF GROUNDS

A. Introduction

Tobacco use is the leading cause of preventable disease in the United States.[3] Tobacco products kill over 400,000 Americans each year. Smokers lose an average of 13 to 14 years of life because of their smoking.[4] Unless the smoking rate declines, it is estimated that more than 6 million children under the age of 18 who are alive today ultimately will die from smoking.[5] Smoking kills more people than alcohol, AIDS, car accidents, illegal drugs, murders, and

[1] U.S. Centers for Disease Control & Prevention (CDC), "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000-2004," *Morbidity and Mortality Weekly Report (MMWR)* 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/PDF/wk/mm5745.pdf.
[2] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000-2004," *MMWR* 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/PDF/wk/mm5745.pdf.
[3] U.S. Department of Health and Human Services (HHS), *The Health Consequences of Smoking: A Report of the Surgeon General*, 2004, pp. 14 and 281.
[4] CDC, Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000-2004, MMWR, 57(45):1226-1228, November 14, 2008 http://www.cdc.gov/mmwr/PDF/wk/mm5745.pdf.
[5] CDC, *Sustaining State Programs for Tobacco Control: Data Highlights*, 2006, http://www.cdc.gov/tobacco/data_statistics/state_data/data_highlights/2006/index.htm.

suicides combined.[6] In addition, in 2000, there were 8.6 million people in the United States suffering from smoking caused illness, including lung cancer, emphysema and heart disease.[7]

FDA must play a major role in the war against tobacco use in the United States. Last year, the fight to curb the devastating effects of tobacco use achieved an historic victory when Congress passed the Family Smoking Prevention and Tobacco Control Act.[8] The law gives FDA jurisdiction over the manufacture, marketing and distribution of tobacco products, and assures that there will be funding to implement an effective program. This means that, for the first time, FDA has jurisdiction over both nicotine-based products that kill (such as cigarettes and smokeless tobacco products) and products (including nicotine-containing products) that are designed to help people quit the use of dangerous tobacco-based products. FDA already had jurisdiction over smoking cessation products because they are regulated by the Center for Drug Evaluation and Research (CDER) under FDA's authority over drugs, but FDA now has broad authority to maximize the positive public health goal of reducing the number of people who die or become ill from using tobacco based products.

B. Background

Smoking cessation is extremely beneficial to public health. The Surgeon General has found that smokers who quit can lower their risk of smoking-caused diseases and improve their health generally.[9] The health benefits of quitting are immediate. For example, heart rate, which is elevated by smoking, begins to return to normal within 20 minutes of quitting.[10] Carbon monoxide blood levels begin to decline,[11] and as soon as one month after quitting smoking induced coughing and wheezing decrease. Within several months, lung function is improved.[12] In the long term, smoking cessation reduces the risk of cancer, heart and lung disease.[13]

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[6] CDC, "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000-2004," *MMWR*, 57(45):1226-1228, November 14, 2008, http://www.cdc.gov/mmwr/PDF/wk/mm5745.pdf. (AIDS) CDC, "Table 7. Estimated numbers of deaths of persons with AIDS, by year of death and selected characteristics, 2001–2005 and cumulative—United States and dependent areas," *HIV/AIDS Surveillance Report, Revised Edition* vol. 17, June 2007, http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2005report/pdf/table7.pdf. (Alcohol) Mokdad, AH, et al., "Actual Causes of Death in the United States, 2000," *Journal of the American Medical Association (JAMA)* 291(10):1238-1245, March 10, 2004 [with correction in *JAMA* 293(3):298, January 19, 2005]; (Motor vehicle) National Highway Traffic Safety Administration's National Center for Statistics and Analysis, *2006 Traffic Safety Annual Assessment – A Preview*, DOT HS 810 791, July 2007, http://www-nrd.nhtsa.dot.gov/Pubs/810791.pdf. Xu, JQ, et al., "Number of deaths from 113 selected causes and Enterocolitis due to *Clostridium difficile*, by race and sex: United States, 2007," *National Vital Statistics Reports* 58(19), Hyattsville, Maryland: National Center for Health Statistics, May 2010, ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/Provisional/nvsr58_19/table12.pdf.

[7] CDC, "Cigarette Smoking-Attributable Morbidity—United States, 2000," *MMWR* 52(35):842-844, September 5, 2003, http://www.cdc.gov/mmwr/PDF/wk/mm5235.pdf. See also, U.S. General Accounting Office, *CDC's April 2002 Report on Smoking: Estimates of Selected Health Consequences of Cigarette Smoking Were Reasonable*, letter to U.S. Rep. Richard Burr, July 16, 2003, http://www.gao.gov/new.items/d03942r.pdf.

[8] "Public Law 111-31, The Family Smoking Prevention and Tobacco Control Act" (123 Stat. 1776), June 22, 2009.

[9] HHS, *The Health Consequences of Smoking: A Report of the Surgeon General*, 2004.

[10] HHS, *The Health Consequences of Smoking: A Report of the Surgeon General*, 2004.

[11] HHS, *The Health Consequences of Smoking: Nicotine Addiction: A Report of the Surgeon General*, 1988.

[12] HHS, *The Health Benefits of Smoking Cessation: A Report of the Surgeon General*, 1990.

[13] HHS, *The Health Benefits of Smoking Cessation: A Report of the Surgeon General*, 1990. Peto R, et al., "Smoking, smoking cessation, and lung cancer in the U.K. since 1950: Combination of national statistics with two case-control studies," *British Medical Journal* 321(7257):323-329, 2000.

Smokers who quit also reduce their overall chance of dying from smoking-related disease – the earlier they quit, the greater the reduction.[14] Unfortunately, most smokers find it very difficult to quit smoking.

In the United States, there currently are seven medications approved by FDA for the treatment of smoking addiction. They include five types of nicotine replacement therapy (NRT) (nicotine gum, patch, lozenges, inhaler and nasal spray) and two non-nicotine medicines, varenicline (Chantix®) and bupropion (Zyban®). The nicotine gum, patch and lozenges are available over-the-counter and the others are available by prescription. These products have been shown to increase the likelihood of success of tobacco quit attempts by 50-70 percent.[15] Unfortunately, this does not tell the whole story.

Millions of Americans are addicted to tobacco and nicotine. More than 70 percent of American adult smokers *want to quit*.[16] Although each year 45.3 percent of smokers *try to quit*,[17] only about four to seven percent of adult smokers *succeed in quitting*.[18] Nationally, only one-third of smokers attempting to quit use pharmacological smoking cessation products.[19] There is a strong need and demand for effective smoking cessation medications used under conditions that maximize the number of people who they help to quit successfully.

C. Statutory Background

The basic purpose of the recently enacted Family Smoking Prevention and Tobacco Control Act[20] was to give FDA's jurisdiction to regulate tobacco products to "protect the public health," taking into account the population-wide impact of its actions, but Congress also addressed FDA's existing authority over smoking cessation products. One of the purposes of the act is "to promote cessation to reduce disease risk and the social costs associated with tobacco-related diseases." Section 918 of the Act provides that FDA must:

- consider designating smoking cessation products, including NRT, as fast track;
- consider approving extended use of NRT; and
- review and consider the evidence for additional indications for NRT, such as for craving relief and relapse prevention.

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[14] Kenfield, SA, et al., "Smoking and Smoking Cessation in Relation to Mortality," *JAMA* 299(17):2037-47, 2008. Doll, R, et al., "Mortality in relation to smoking: 50 years' observations on make British doctors," *British Medical Journal*, 328(7455):1519-1527, 2004.

[15] Stead, L, et al., *Nicotine replacement therapy for smoking cessation*, Cochrane Database of Systematic Review, Issue 4, January 23, 2008.

[16] Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, p. 15, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.

[17] CDC, "Cigarette Smoking Among Adults and Trends in Smoking Cessation—United States, 2008," *MMWR* 58(44):1227-32, November 13, 2009, http://www.cdc.gov/mmwr/PDF/wk/mm5844.pdf.

[18] Hughes, JR, Motivating and helping smokers to stop smoking," *Journal of General Internal Medicine* 18:1053-7, 2003. Ward, KD, et al., "Gender differences in the outcome of an unaided smoking cessation attempt," *Addictive Behaviors* 22:521-33, 1997.

[19] Shiffman, S, et al. "Use of smoking-cessation treatments in the United States," *American Journal of Preventive Medicine* 34(2):102-11, 2008.

[20] "Public Law 111-31, The Family Smoking Prevention and Tobacco Control Act" (123 Stat. 1776), June 22, 2009.

Section 918 also requires FDA to submit a report to Congress in 2012 that examines how best to regulate, promote and encourage the development of innovative products and treatments to better achieve total abstinence from tobacco use; reductions in consumption of tobacco; and reductions in the harm associated with continued tobacco use.

The actions requested in this petition will help FDA achieve the population based "public health" goals set out by Congress.

D. Discussion

When Congress enacted the Family Smoking Prevention and Tobacco Control Act, it sought to reduce the death and disease caused by tobacco and recognized that to accomplish that goal the FDA should not address tobacco products in isolation from its approach to tobacco cessation products. In this petition, the Public Health Groups urge the FDA to open an investigation to determine whether the adoption of a different approach to the review of applications to market tobacco cessation products could significantly stimulate the development of better products and increase the number of people who successfully use existing products and thereby reduce the number of people who die prematurely from tobacco use. In doing so, the Groups urge FDA to consider whether it has been applying the appropriate risk benefit analysis.

1. FDA Should Evaluate the Risk of Smoking Cessation Products Against the Risks of Continued Tobacco Use.

First and foremost, FDA's approach to smoking cessation products should take into account the effects of continued smoking. The ultimate goal should be to reduce the number of people who suffer premature death and disease from tobacco- and nicotine-based products. FDA should apply the statutory standard for drugs and assess risk not only as compared to a placebo but with the goal of reducing death and disease from tobacco use. The majority of tobacco users who quit do so without using any tobacco cessation product,[21] but their success rate is low.[22] The scientific evidence demonstrates that the use of a smoking cessation product under appropriate conditions can increase the success rate for smokers trying to quit,[23] but continued progress is needed in the treatment of tobacco use and dependence and "treatments should be even more effective and available" to more effectively help people who want to quit.[24]

People using smoking cessation products are already smoking; they are already being exposed to dangerous levels of nicotine and are at great risk of death from continued smoking. The risks and the impact of the conditions of availability as well as the labeling of any smoking cessation product, including one that contains nicotine, should be studied and examined in the context of that existing risk.

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[21] Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, p. 15, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.
[22] Hughes, J, et al. "Shape of the relapse curve and long-term abstinence rates among untreated smokers," *Addiction* 99:29-38, 2004.
[23] Stead, L, et al., *Nicotine replacement therapy for smoking cessation*, Cochrane Database of Systematic Review, Issue 4, January 23, 2008.
[24] Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, pp. 10, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.

The undersigned Public Health Groups believe that there is substantial evidence that FDA has not given adequate consideration to the risks of continued tobacco use when it evaluated, approved and established the conditions for sale and use of currently marketed products. In fact, the labels of currently approved products state the risks associated with the smoking cessation product but do not evaluate these risks in relation to the risk of continued smoking. There is evidence that some consumers believe these products are nearly as dangerous as the tobacco products that the patient is trying to quit and, therefore, are less likely to use them.[25] If patients are being warned only of the risks of the smoking cessation product, they are not getting an accurate picture. Patients and their doctors may be choosing not to use smoking cessation products because of the risks listed in the labeling without regard to the risk of continued tobacco use. Patients and their doctors should be receiving information that will help them understand the risks of continued smoking to be factored into their decision whether to quit and whether to use a smoking cessation product and that in fact the risks of these products are small when compared to the risks of continuing to smoke. FDA should re-evaluate currently approved product labels consistent with the goals of both fully and effectively informing potential users and assisting potential users to make an informed choice given the relative risks of these products and continued tobacco use.

The Petitioners want to be clear. By proposing that FDA take into account the risk tobacco users face if they don't quit, we are not suggesting that tobacco cessation products be subjected to a lesser standard than other products regulated by the FDA under its drug authority. This can be done for tobacco cessation products under FDA's drug authority without compromising FDA's high safety and efficacy standard.

Inadequate consideration of the risks of continued tobacco use may be the reason that FDA's approach to currently approved products has been more conservative than may be appropriate. This conservative approach may be a contributing factor to the inadequate use and modest success of the currently approved products. Examples[26] of how the Public Health Groups believe FDA's approach may be too conservative follows.

Use of NRT and Continued Smoking. Currently, the FDA required labeling of NRT smoking cessation products warns against smoking or tobacco use of any kind while using these products. The labeling thus warns not only against their use in the event of relapse in the use of cigarettes but also does not permit the use of these products during a prescribed period of reducing tobacco use as a process of quitting. It is worth examining whether these limitations are needed to maintain safety or whether the limitations they impose on the use of these products prevent tobacco users from using them in ways that could significantly increase the number of people who successfully quit using tobacco.

[25] Mooney, ME, Leventhal, AM, & Hatsukami, DK, "Attitudes and knowledge about nicotine and nicotine replacement therapy," *Nicotine & Tobacco Research* 8(3):435-46, June 2006.

[26] These examples are meant to be illustrative and not all inclusive. It may also be appropriate for FDA to examine other factors, such as pricing and availability issues and their impact on usage.

Studies show that incremental reduction in smoking may be beneficial and that pre-cessation NRT further increases quitting success.[27] The United Kingdom is experimenting with the use of smoking cessation products during a period of dual use as part of a program designed to increase quitting by a gradual reduction. The preliminary results do not show increased health risk.[28] FDA should be open to reviewing additional data on whether an incremental reduction in smoking will save the lives of more smokers.

In addition, the strongly worded warning against smoking while using NRT products may result in patients immediately stopping a smoking cessation product when they relapse by smoking a cigarette. This may be contributing to the number of failed attempts. Even if FDA does not find that applicants can demonstrate that quitting by gradual reduction is beneficial, it should consider data regarding whether it should revise its label with regard to the advice it provides to a consumer who relapses smoking while using a NRT product. FDA should examine this in the context of the risks associated with continued smoking.

Dose of Nicotine. There are some experts who believe that the currently approved NRT products do not deliver a high enough dose of nicotine and/or do not deliver nicotine in a rapid enough fashion to maximize its efficacy, and that more nicotine can be delivered without compromising safety. FDA should be willing to review data on whether tobacco cessation products that deliver higher doses or are calibrated to deliver doses at a different rate will improve the efficacy of these products without imposing an undue safety risk.

Length of Treatment. None of the FDA approved NRT products are approved for long term use. Unfortunately, many smokers who try to quit are unable to do so within the length of time approved for smoking cessation products. Some experts have expressed the view that smoking cessation products would have a greater success rate if they were indicated for longer periods of time. According to the HHS Guidelines, long term NRT is effective.[29] These guidelines recognize that continued use of such medicines is preferable to a return to smoking because they do not contain the non-nicotine toxins that are found in cigarettes.[30] FDA should accept data for review regarding whether the authorized use of these products for longer periods increases the success rate for these products and reduces the disease risk from continued tobacco use and whether the current limitations are justified by the safety data.

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[27] Schuurmans, M, et al., "Effect of pre-treatment with nicotine patch on withdrawal symptoms and abstinence rates in smokers subsequently quitting with the nicotine patch: a randomized trial," *Addiction* 99(5):634-640, 2004; Rose, J, et al., "Precessation treatment with nicotine skin patch facilitates smoking cessation," *Nicotine & Tobacco Research* 8(1):89-101, 2006; Bullen, C, et al., "Pre-quitting nicotine replacement therapy: findings from a pilot study," *Tobacco Induced Diseases* 3(2):35-40, 2006; Wang, D, et al., "'Cut down to quit' with nicotine replacement therapies in smoking cessation: a systematic review of effectiveness and economic analysis," *Health Technology Assessment* 12(2), February 2008. Although the HHS Clinical Guidelines acknowledge the existence of favorable studies, it does not include a recommendation, noting that the use of NRTs while smoking contradicts the package insert [Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf].

[28] Wang, D, et al., "'Cut down to quit' with nicotine replacement therapies in smoking cessation: a systematic review of effectiveness and economic analysis," *Health Technology Assessment* 12(2), February 2008.

[29] Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.

[30] Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.

Combination Therapy. The HHS Clinical Guidelines also discuss a number of studies that show that some patients benefit from the combined use of smoking cessation products, including different NRT products.[31] Again, the labeling of the FDA approved NRT products warn against combinations. FDA should consider data regarding whether some combinations of smoking cessation products would be appropriate and would increase the number of people who successfully quit using tobacco products

Although the Public Health Groups believe that many of FDA's decisions were the result of not considering the risks of the use of these products versus the risk of continued tobacco use, it is our understanding that FDA has also expressed its concern about abuse of smoking cessation products. The available evidence, however, shows that existing NRT products have not had a high abuse liability, nor have they led to undue concerns about dependence.[32] FDA should weigh concerns about potential abuse of such products in light of the evidence about their relative effectiveness in helping patients quit a habit that will otherwise substantially reduce their longevity. In addition, the Food and Drug Administration Amendments Act of 2007 gave FDA substantial additional authority to monitor and otherwise assure product safety post approval.

FDA now has sufficient post-market tools available to ensure that such products will not be abused. In addition, if FDA is concerned about the potential risk of smoking cessation products, FDA can require new products to be dispensed by prescription only while it examines their impact and risk of abuse so that a smoker's physician can monitor use of the product. This would provide a path for the introduction of new potentially more effective products, insure that the new products are being used by current smokers and would limit the ability of patients to use too much of the product.

2. FDA Should Work with the Manufacturers of Smoking Cessation Products to Encourage the Development of New Products.

It is possible that FDA's own stringent limitations on smoking cessation products and how they are used has served as an undue disincentive to would-be manufacturers of such products to invest in a new generation of treatments. If manufacturers believe that they will be prevented from marketing a product with a high success rate or that will attract a large enough consumer base to justify the development expense and risk, they will forgo such development.

FDA can most effectively implement the ideas suggested in this petition by working with the companies that develop and market smoking cessation products. FDA should offer to meet with manufacturers early in the development phase to help them develop the appropriate clinical trials with appropriate clinical endpoints. FDA should consider endpoints that look at how to maximize the number of lives saved by the product. For example, FDA should consider whether a product could be approved on the basis that it helps a smoker significantly cut back on the number of cigarettes smoked per day if the FDA concludes that such an action is likely to

[31] Fiore MC, et al., *Treating Tobacco Use and Dependence: 2008 Update*, U.S. Public Health Service Clinical Practice Guideline, May 2008, p. 120, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.
[32] West, R, et al., "A comparison of the abuse liability and dependence potential of nicotine patch, gum, spray and inhaler," *Psychopharmacology* 149(3):198-202, April 2000.

significantly reduce the risk of tobacco-related disease as opposed to whether it leads to the smoker completely quitting. There is precedent for FDA looking to alternate clinical endpoints when it is approving a drug used to treat a serious and life threatening disease. One of the mainstays of FDA's Fast Track Program, which Congress codified in 1997, is the use of surrogate endpoints that are reasonably likely to predict clinical endpoints.[33]

3. FDA Should Prioritize the Development of Smoking Cessation Products and Transfer Their Review to the Office of Oncology Products.

Over the past 25 years, FDA has, in certain areas, e.g., HIV/AIDs and oncology drugs, made a concerted effort to encourage the development of new and important products and then get those products on the market. These efforts had a tremendous impact. They invigorated research and development in those areas and resulted in the expeditious approval of important new therapies.

The Public Health Groups urge FDA to undertake similar efforts with respect to smoking cessation products. If FDA determines that better tobacco cessation products or different regulations governing the use and distribution of tobacco cessation products has the potential to significantly reduce the death and disease caused by tobacco products, FDA should send a signal to industry that it will help them ensure that currently marketed products are used effectively by smokers. Section 918 of the Family Smoking Prevention and Tobacco Control Act directed FDA to promote and encourage the development of innovative smoking cessation products and treatments.

In addition, FDA should transfer the review of smoking cessation products from the Division of Anesthetics, Critical Care and Addiction Drug Products to the Office of Oncology Products. The Office of Oncology products has the most expertise regarding the dangers of continued tobacco use, which places its officials in the best position to adequately consider the risks associated with continued tobacco use when a new product is under review. That office also has experience with efforts to encourage the development of new drugs, as it did for oncology drugs. Finally, that office has substantial experience reviewing drugs when the risks of the drug must be weighed against the risk of a deadly disease. That same analysis is required when smoking cessation products are being reviewed.

III. CONCLUSION

FDA and other public health agencies have invested significant time and energy and have made significant progress in the campaign to keep children from starting to use tobacco products and encouraging and helping tobacco users of all ages to quit. These efforts have not only reduced the percentage of Americans who use tobacco products, they have reduced the number of Americans dying from cancer, heart disease, emphysema and other diseases caused by tobacco. Nonetheless, tobacco remains this nation's number one preventable cause of premature death and disease.

[33] Section 506 of the Federal Food, Drug and Cosmetic Act describes the Fast Track program.

While there is still much work to be done in reducing the number of Americans who begin to use tobacco products, Congress recognized that FDA has another important goal: assisting cigarette smokers and others who are addicted to tobacco products and want to quit to do so, in part by assuring that they have access to best possible safe and effective smoking cessation products. Congress has directed FDA to focus on taking action to improve the nation's public health taking into account the impact of its actions on the population as whole. FDA should take the steps needed to ensure that it is taking all reasonable steps to help the 46 million smokers in the United States[34] successfully cease the habit that may otherwise kill them.

IV. ENVIRONMENTAL IMPACT

The action requested in this petition will have no impact on the environment.

V. CERTIFICATION

The undersigned certifies that, to the best knowledge and belief of the undersigned, this petition includes all information and views on which the petition relies, and that it includes representative data and information known to the petitioner that are unfavorable to the petition. A certification pursuant to section 505(q)(1)(H) of the FD&C Act is not required for this petition because it does not affect a pending application filed pursuant to section 505(j) or section 505(b)(2).

Respectfully submitted,

Christopher W. Hansen
President
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Charles D. Connor
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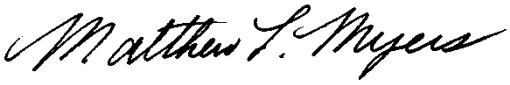

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[34] CDC, "Cigarette Smoking Among Adults and Trends in Smoking Cessation—United States, 2008," *MMWR* 58(44):1227-32, November 13, 2009. http://www.cdc.gov/mmwr/PDF/wk/mm5844.pdf.