ANDA 75-138

April 20, 1999

Mylan Pharmaceuticals, Inc.
Attention: Frank R. Sisto
P.O. Box 4310
781 Chestnut Ridge Road
Morgantown, WV 26504-4310

Dear Sir:

This is in reference to your abbreviated new drug application dated May 28, 1997, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act, for Verapamil Hydrochloride Extended-release Capsules, 120 mg, 180 mg, and 240 mg.

Reference is also made to our tentative approval letter dated February 26, 1999, and to your amendment dated April 1, 1999.

We have completed the review of this abbreviated application and have concluded that the drug product is safe and effective for use as recommended in the submitted labeling. Accordingly, the application is approved. The Division of Bioequivalence has determined that your Verapamil Hydrochloride Extended-release Capsules, 120 mg, 180 mg, and 240 mg, are bioequivalent and, therefore, therapeutically equivalent to the listed drug (Verelan Extended-release Capsules 120 mg, 180 mg, and 240 mg, respectively, of Lederle Laboratories. Your dissolution testing should be incorporated into the stability and quality control program using the same method proposed in your application. The dissolution testing should be conducted in 900 mL of 0.1N HCL at 37°C using USP 23 apparatus II (paddle) at 100 rpm. The "interim" dissolution test(s) and tolerances are:

| Time (hours) | Dissolution |
|---|---|
| 2 | |
| 4 | |
| 8 | |
| 24 | |

The "interim" dissolution tests and tolerances should be finalized by submitting dissolution data for the first three production size batches in a supplemental application. This supplemental application should be submitted under 21 CFR 314.70 (c)(1) when there are no revisions proposed for the "interim" specifications or when the final specifications are tighter than the "interim" specifications. In all other instances, the supplemental application should be submitted under 21 CFR 314.70(b)(2)(ii).

The listed drug product referenced in your application, Verelan Sustained-release Capsules of Lederle Laboratories, is subject to a period of patent protection which expires on June 19, 2007 (U.S. Patent 4,863,742 [the '742 patent]). Your application contains a patent certification under Section 505(j)(2)(A)(vii)(IV) of the Act stating that your manufacture, use, sale, offer for sale, or importation of this drug product will not infringe on the '742 patent or that patent is invalid or unenforceable. Section 505 (j)(5)(B)(iii) of the Act provides that approval of an abbreviated application shall be made effective immediately unless an action is brought for infringement of the '742 patent before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(I) is received by both the new drug application (NDA) and patent holders. You have notified the Agency that Mylan Pharmaceuticals, Inc. (Mylan) has complied with the requirements of Section 505(j)(2)(B) of the Act and that the patent and NDA holders initiated a patent infringement suit against Mylan in the United States District Court for the Western District of Pennsylvania (American Cyanamid Company and Elan Corporation, PLC. v. Mylan Pharmaceuticals, Inc., Civil Action No. 97-1741). You have also notified the Agency that on September 18, 1998, the court issued a Stipulated Order of Dismissal of Entire Action (without prejudice) terminating the litigation between the parties.

Furthermore, the Act provides that approval of an abbreviated application that contains a certification described in Section 505(j)(2)(A)(vii)(IV) (a "Paragraph IV Certification"), and that provides for approval of a drug product for which a previous abbreviated application has been submitted which also contains a Paragraph IV Certification, shall be made effective not earlier than one hundred and eighty (180) days after:

a. the date the Secretary receives notice of the first commercial marketing of the drug under the previous application, or

b. the date of a decision of a court holding the patent which is the subject of the certification to be invalid or not infringed, whichever event occurs first (Section 505(j)(5)(B)(iv).

The Office of Generic Drugs received and filed a substantially complete abbreviated application for Verapamil Hydrochloride Extended-release Capsules containing a Paragraph IV Certification to the '742 patent prior to the filing of your application. Accordingly, your application would not normally be eligible for full approval until a date that is one hundred and eighty (180) days following the earlier of either event a. or b. noted above. We refer you to the Agency's recently published guidance document entitled "180-Day Generic Drug Exclusivity Under the Hatch-Waxman Amendments" (June 1998), for additional information.

However, in a communication dated March 30, 1999, legal counsel for the holder of the ANDA referred to above as being received and filed prior to your application (the first applicant) has informed the Agency that the first applicant has relinquished its eligibility for 180-day exclusivity with respect to Verapamil Hydrochloride Extended-release Capsules, 120 mg, 180 mg, and 240 mg. Because the first applicant has relinquished its eligibility for 180-day exclusivity, the Office of Generic Drugs may approve any application for Verapamil Hydrochloride Extended-release Capsules, 120 mg, 180 mg, and 240 mg without regard to the 180-day exclusivity period specified in Section 505(j)(5)(B)(iv).

Under 21 CFR 314.70, certain changes in the conditions described in this abbreviated application require an approved supplemental application before the change may be made.

Post-marketing reporting requirements for this abbreviated application are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of this drug.

We request that you submit, in duplicate, any proposed advertising or promotional copy which you intend to use in your initial advertising or promotional campaigns. Please submit all proposed materials in draft or mock-up form, not final print. Submit both copies together with a copy of the final-printed labeling to the Division of Drug Marketing, Advertising, and Communications (HFD-40). Please do not use Form FD-2253 (Transmittal of Advertisements and Promotional Labeling for Drugs for Human Use) for this initial submission.

We call your attention to 21 CFR 314.81(b)(3) which requires that materials for any subsequent advertising or promotional campaign be submitted to our Division of Drug Marketing, Advertising, and Communications (HFD-40) with a completed Form FD-2253 at the time of their initial use.

Sincerely yours,

Douglas L. Sporn
Director
Office of Generic Drugs
Center for Drug Evaluation and Research