



ANDA 212296

ANDA APPROVAL

Slayback Pharma LLC
301 Carnegie Center, Suite 303
Princeton, NJ 08540
Attention: Praveen Subbappa
Senior Director

Dear Sir:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on July 13, 2018, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Deoxycholic Acid Injection, 20 mg/2 mL (10 mg/mL) (Single-Dose Vial).

Reference is also made to the complete response letter issued by this office on August 3, 2020, and to any amendments thereafter.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug meets the requirements for approval under the FD&C Act. Accordingly, the ANDA is **approved**, effective on the date of this letter. We have determined your Deoxycholic Acid Injection, 20 mg/2 mL (10 mg/mL) (Single-Dose Vial), to be bioequivalent and therapeutically equivalent to the reference listed drug (RLD), Kybella Injection, 10 mg/mL, of Allergan Sales, LLC (Allergan).

The RLD upon which you have based your ANDA, Allergan's Kybella Injection, 10 mg/mL, is subject to periods of patent protection. The following patents and expiration dates are currently listed in the Agency's publication titled *Approved Drug Products with Therapeutic Equivalence Evaluations* (the "Orange Book"):

<u>U.S. Patent Number</u>	<u>Expiration Date</u>
7,622,130 (the '130 patent)	December 10, 2027
7,754,230 (the '230 patent)	December 10, 2027
8,101,593 (the '593 patent)	March 2, 2030
8,242,294 (the '294 patent)	May 16, 2028

8,298,556 (the '556 patent)	August 3, 2025
8,367,649 (the '649 patent)	March 2, 2030
8,461,140 (the '140 patent)	February 21, 2028
8,546,367 (the '367 patent)	February 21, 2028
8,653,058 (the '058 patent)	March 2, 2030
8,846,066 (the '066 patent)	February 8, 2025
8,883,770 (the '770 patent)	February 21, 2028
9,522,155 (the '155 patent)	February 21, 2028
9,636,349 (the '349 patent)	February 21, 2028
9,949,986 (the '986 patent)	February 21, 2028
10,500,214 (the '214 patent)	March 2, 2030

With respect to the '130, '230, '593, '294, '556, '649, '140, '367, '058, '066, '770, '155, '349, and '986 patents, your ANDA contains paragraph IV certifications under section 505(j)(2)(A)(vii)(IV) of the FD&C Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Deoxycholic Acid Injection, 20 mg/2 mL (10 mg/mL) (Single-Dose Vial), under this ANDA. You have notified the Agency that Slayback Pharma LLC (Slayback) complied with the requirements of section 505(j)(2)(B) of the FD&C Act. Litigation was initiated within the statutory 45-day period against Slayback for infringement of the '130, '230, '593, '556, '649, '058, and '066 patents in the United States District Court for the District of New Jersey [Allergan Sales, LLC, Los Angeles Biomedical Research Institute at Harbor UCLA-Medical Center, and The Regents of the University of California v. Slayback Pharma LLC, Civil Action No. 18-16012]. You have also notified the Agency that this case was dismissed.

With respect to the '214 patent, the Agency has determined that information on this patent was submitted to the Agency by the new drug application (NDA) holder (a) after the date of the submission of your ANDA, and (b) more than 30 days after the patent was required to be submitted under 21 CFR 314.53. Therefore, under 21 CFR 314.94(a)(12)(vi), no person with an appropriate patent certification at the time of the submission of the patent was required to submit an amended patent certification to address the '214 patent. You elected not to submit an amended patent certification with respect to this patent.

With respect to 180-day generic drug exclusivity, we note that Slayback was the first ANDA applicant to submit a substantially complete ANDA with a paragraph IV

certification for Deoxycholic Acid Injection, 20 mg/2 mL (10 mg/mL) (Single-Dose Vial). Therefore, with this approval, Slayback may be eligible for 180 days of generic drug exclusivity for Deoxycholic Acid Injection, 20 mg/2 mL (10 mg/mL) (Single-Dose Vial). This exclusivity, which is provided for under 505(j)(5)(B)(iv) of the FD&C Act, would begin to run from the date of the commercial marketing identified in section 505(j)(5)(B)(iv). The Agency notes that Slayback failed to obtain tentative approval of this ANDA within 30 months after the date of which the ANDA was filed. See section 505(j)(5)(D)(i)(IV) of the FD&C Act (forfeiture of exclusivity for failure to obtain tentative approval). The Agency is not, however, making a formal determination at this time of Slayback's eligibility for 180-day generic drug exclusivity. It will do so only if a subsequent paragraph IV applicant becomes eligible for full approval (a) within 180 days after Slayback begins commercial marketing of Deoxycholic Acid Injection, 20 mg/2 mL (10 mg/mL) (Single-Dose Vial), or (b) at any time prior to the expiration of the '130, '230, '593, '294, '556, '649, '140, '367, '058, '066, '770, '155, '349, and '986 patents if Slayback has not begun commercial marketing. Please submit correspondence to this ANDA notifying the Agency within 30 days of the date of the first commercial marketing of this drug product or the RLD. If you do not notify the Agency within 30 days, the date of first commercial marketing will be deemed to be the date of the drug product's approval. See 21 CFR 314.107(c)(2).

Under section 506A of the FD&C Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

Please note that if FDA requires a Risk Evaluation and Mitigation Strategy (REMS) for a listed drug, an ANDA citing that listed drug also will be required to have a REMS. See section 505-1(i) of the FD&C Act.

REPORTING REQUIREMENTS

Postmarketing reporting requirements for this ANDA are set forth in 21 CFR 314.80-81 and 314.98 and at section 506I of the FD&C Act. The Agency should be advised of any change in the marketing status of this drug or if this drug will not be available for sale after approval. In particular, under section 506I(b) of the FD&C Act, you are required to notify the Agency in writing within 180 days from the date of this letter if this drug will not be available for sale within 180 days from the date of approval. As part of such written notification, you must include (1) the identity of the drug by established name and proprietary name (if any); (2) the ANDA number; (3) the strength of the drug; (4) the date on which the drug will be available for sale, if known; and (5) the reason for not marketing the drug after approval.

PROMOTIONAL MATERIALS

You may request advisory comments on proposed introductory advertising and promotional labeling materials prior to publication or dissemination. Please note that these submissions are voluntary. To do so, submit, in triplicate, a cover letter requesting advisory comments, the proposed materials in draft or mock-up form with

annotated references, and the package insert (PI), Medication Guide, and patient PI (as applicable) to:

OPDP Regulatory Project Manager
Food and Drug Administration
Center for Drug Evaluation and Research
Office of Prescription Drug Promotion
5901-B Ammendale Road
Beltsville, MD 20705

Alternatively, you may submit a request for advisory comments electronically in eCTD format. For more information about submitting promotional materials in eCTD format, see the draft Guidance for Industry (available at: <https://www.fda.gov/media/128163/download>).

You must also submit final promotional materials and package insert(s), accompanied by a Form FDA 2253, at the time of initial dissemination or publication [21 CFR 314.81(b)(3)(i)]. Form FDA 2253 is available at: <http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM083570.pdf>. Information and Instructions for completing the form can be found at: <http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM375154.pdf>. For more information about submission of promotional materials to the Office of Prescription Drug Promotion (OPDP), see <https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/opdp-form-fda-2253-and-request-advisory-comment-submissions>.

ANNUAL FACILITY FEES

The Generic Drug User Fee Amendments of 2012 (GDUFA) (Public Law 112-144, Title III) established certain provisions¹ with respect to self-identification of facilities and payment of annual facility fees. Your ANDA identifies at least one facility that is subject to the self-identification requirement and payment of an annual facility fee. Self-identification must occur by June 1st of each year for the next fiscal year. Facility fees must be paid each year by the date specified in the *Federal Register* notice announcing facility fee amounts.

All finished dosage forms or active pharmaceutical ingredients manufactured in a facility that has not met its obligations to self-identify or to pay fees when they are due will be deemed misbranded. This means that it will be a violation of federal law to ship these products in interstate commerce or to import them into the United States. Such violations can result in prosecution of those responsible, injunctions, or seizures of misbranded products. Products misbranded because of failure to self-identify or pay facility fees are subject to being denied entry into the United States.

CONTENT OF LABELING

As soon as possible, but no later than 14 days from the date of this letter, submit, using the FDA automated drug registration and listing system (eLIST), the content of labeling [21 CFR 314.50(l)] in structured product labeling (SPL) format, as described at:

<http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm>, that is identical in content to the approved labeling (including the package insert, and any patient package insert and/or Medication Guide that may be required). Information on submitting SPL files using eLIST may be found in the guidance for industry titled “SPL Standard for Content of Labeling Technical Qs and As” at:

<https://www.fda.gov/media/71211/download>. The SPL will be accessible via publicly available labeling repositories.

We remind you that you must continually monitor available labeling resources such as DRUGS@FDA for changes to your RLD’s labels and labeling and make any necessary revisions to your labels and labeling. More information on post-approval labeling changes may be found in the guidance for industry titled “Changes to an Approved NDA or ANDA” at <https://www.fda.gov/media/71846/download>.

Sincerely yours,

{See appended electronic signature page}

For Edward M. Sherwood
Director
Office of Regulatory Operations
Office of Generic Drugs
Center for Drug Evaluation and Research

¹ Some of these provisions were amended by the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Public Law 115-52, Title III).



Catherine
Poole

Digitally signed by Catherine Poole

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