

# Congress of the United States

Washington, DC 20510

February 12, 2019

The Honorable Scott Gottlieb, M.D.  
Commissioner  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Commissioner Gottlieb,

We write to express concern about the approval by the Food and Drug Administration (FDA) of the application for the drug Dsuvia — a new formulation of the opioid painkiller sufentanil that is 10 times more potent than fentanyl and 1,000 times more powerful than morphine<sup>1</sup> — and to request that the FDA produce documents relating to its approval process.

On November 2, 2018, in the midst of a national opioid overdose crisis, the FDA approved the Dsuvia application. Dsuvia's formulation — a small, single tablet administered sublingually — allows for rapid absorption into the blood stream. While we appreciate the FDA's intent to ensure Dsuvia is administered appropriately,<sup>2</sup> we remain concerned that Dsuvia's specific properties also make the product highly divertible. Sufentanil has been known for decades to be diverted in its current intravenous form, and whether administered intravenously or sublingually, it can deliver a potency that has been known to be lethal in small dosages.<sup>3</sup>

The FDA approval of the Dsuvia application followed the October 12, 2018 meeting of the Anesthetic and Analgesic Drug Product Advisory Committee. At that meeting, the Committee voted to approve the Dsuvia application in the absence of Dr. Raeford Brown, the Committee's Chair, who had expressed serious concerns about the safety and efficacy of the product and opposed its approval.

Dr. Brown has since raised troubling questions about the FDA approval process, including the allegation that the FDA disinvited certain members of the Drug Safety and Risk Management

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<sup>1</sup> Srihari Tella, Statement before the United States Sentencing Commission for a Public Hearing on Fentanyl and Synthetic Cannabinoids (Dec. 5, 2017), <https://www.uscc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20171205/Tella.pdf>.

<sup>2</sup> Letter to Sen. Markey from John Martin, FDA Principal Associate Commissioner for Legislative Affairs (Dec. 10, 2018).

<sup>3</sup> Letter from Dr. Raeford Brown, Professor of Anesthesiology and Pediatrics at the University of Kentucky College of Medicine and Chair of the AADPAC; Dr. Sidney Wolfe, Founder and Senior Advisor for Public Citizen's Health Research Group; Dr. Meena Aladdin, Health Researcher for Public Citizen's Health Research Group; Dr. Michael Carome, Director for Public Citizen's Health Research Group to Dr. Scott Gottlieb, FDA Commissioner; Dr. Janet Woodcock, Director of the Center for Drug Evaluation and Research (CDER) at the FDA; Dr. Sharon Hertz, CDER (Oct. 18, 2018), <https://www.citizen.org/sites/default/files/2451.pdf>.

Advisory Committee to the October 12 meeting in order to make approval more likely.<sup>4</sup> Dr. Brown has also raised serious substantive concerns about Dsuvia, including questioning FDA's rationale for approving the drug based on its purported military applications. As Dr. Brown explained in a *Washington Post* op-ed he co-authored:

Dsuvia was designed, in part, to provide pain relief for our soldiers on the battlefield. But the clinical trials for the drug did not reflect the kind of medical conditions — such as massive trauma or shock — for which it would be used in a real-world military setting. Instead, Dsuvia was tested on patients following minor surgical procedures. Dsuvia required nearly an hour, on average, to meet the standard of clinically meaningful pain relief, suggesting it would not meet the needs of injured soldiers. ... Rejecting Dsuvia should have been a no-brainer.<sup>5</sup>

Further, while we commend the agency's plan to consider the broader public health context of future opioid approvals rather than merits of the individual drug application in question,<sup>6</sup> it is difficult to understand why the FDA did not consider these questions before it approved Dsuvia. In light of these and other procedural and substantive questions surrounding the Dsuvia approval, and in order for us to engage in effective congressional oversight of the FDA, we request that, by March 5, 2019, the FDA produce the following documents:

- (1) All documents that FDA relied on in concluding that Dsuvia "fills a specific and important, but limited, unmet medical need in treating our nation's soldiers on the battlefield."<sup>6</sup>
- (2) All documents that relate to, describe, summarize, or memorialize any communication between FDA and the U.S. Army Medical Research and Materiel Command concerning FDA's consideration of the Dsuvia application. This request is limited to communications sent or received by FDA from October 12, 2017 through November 2, 2018.
- (3) All documents that relate to, describe, summarize, or memorialize any communication from FDA to any members of the Drug Safety and Risk Management Advisory Committee disinviting them from the October 12, 2018 Anesthetic and Analgesic Drug Products Advisory Committee meeting concerning Dsuvia.
- (4) All documents concerning FDA's decision to disinvite members of the Drug Safety and Risk Management Advisory Committee from the October 12,

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<sup>4</sup> Raeford Brown and Sydney Wolfe, *The FDA made the wrong call on this powerful, new opioid*, Wash. Post (Nov. 16, 2018), [https://www.washingtonpost.com/opinions/the-fda-made-the-wrong-call-on-this-powerful-new-opioid/2018/11/16/39b212e2-e464-11e8-ab2c-b31dcd53ca6b\\_story.html?noredirect=on&utm\\_term=.88d1306d839a](https://www.washingtonpost.com/opinions/the-fda-made-the-wrong-call-on-this-powerful-new-opioid/2018/11/16/39b212e2-e464-11e8-ab2c-b31dcd53ca6b_story.html?noredirect=on&utm_term=.88d1306d839a).

<sup>5</sup> *Id.*

<sup>6</sup> <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm624968.htm>.

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2018 Anesthetic and Analgesic Drug Products Advisory Committee meeting concerning Dsuvia.

(5) All documents concerning FDA's decision not to empanel the full Drug Safety and Risk Management Advisory Committee for consideration of the Dsuvia application.

Thanks you in advance for your attention to these requests. If you have any questions, please contact Andrew Cohen of Senator Markey's staff at 202-224-2742 and Michelle Greenhalgh of Representative DeGette's staff at 202-225-4431.

Sincerely,

  
Edward J. Markey  
United States Senator

  
Diana DeGette  
Member of Congress