



NDA 206110

**TENTATIVE APPROVAL**

Fresenius Kabi USA, LLC  
Attention: Jenna Holm  
Regulatory Specialist  
Three Corporate Drive  
Lake Zurich, IL 60047

Dear Ms. Holm:

Please refer to your New Drug Application (NDA) dated December 27, 2013, received December 27, 2013, and your amendments, submitted pursuant to section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act for Caspofungin Acetate for Injection.

We acknowledge receipt of your amendment dated May 27, 2015

(b) (4)

This NDA provides for the use of Caspofungin Acetate for Injection in adults and pediatric patients (3 months and older) for:

- Empirical therapy for presumed fungal infections in febrile, neutropenic patients.
- Treatment of candidemia and the following *Candida* infections: intra-abdominal abscesses, peritonitis and pleural space infections.
- Treatment of esophageal candidiasis.
- Treatment of invasive aspergillosis in patients who are refractory to or intolerant of other therapies (e.g., amphotericin B, lipid formulations of amphotericin B, itraconazole).

We have completed our review of this application, as amended. It is tentatively approved under 21 CFR 314.105 for use as recommended in the agreed-upon enclosed labeling (text for the package insert, carton and immediate container labels). This determination is based upon information available to the Agency at this time, [i.e., information in your application and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacture and testing of the drug product]. This determination is subject to change on the basis of any new information that may come to our attention.

The listed drug upon which your application relies is subject to a period of patent protection and therefore final approval of your application under section 505(c)(3) of the Act [21 U.S.C. 355(c)(3)] may not be made effective until the period has expired.

Your application contains certifications to each of the patents under section 505(b)(2)(A)(iv) of the Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of, this drug product under this application (“Paragraph IV certifications”).

Section 505(c)(3)(C) of the Act provides that approval of a new drug application submitted pursuant to section 505(b)(2) of the Act shall be made effective immediately, unless an action is brought for infringement of one or more of the patents that were the subject of the paragraph IV certifications. This action must be taken prior to the expiration of forty-five days from the date the notice provided under section 505(b)(3) is received by the patent owner/approved application holder. You notified us that you complied with the requirements of section 505(b)(3) of the Act.

In addition, you have notified the Agency that the patent owner and/or approved application holder has initiated a patent infringement suit against you with respect to patents 5,514,650 and 5,952,300 in the United States District Court for the District of New Jersey. Therefore, final approval cannot be granted until:

1. a. expiration of the 30-month period provided for in Section 505(c)(3)(C) beginning on the date of receipt of the 45-day notice required under Section 505(b)(3), unless the court has extended or reduced the period because of the failure of either party to reasonably cooperate in expediting the action, or
- b. the date the court decides that the patents are invalid or not infringed as described in section 505(c)(3)(C)(i), (ii), (iii,) or (iv) of the Act, or,
- c. the listed patents have expired, and
2. we are assured there is no new information that would affect whether final approval should be granted.

We note that patent 5,514,650 inclusive of the six month pediatric exclusivity extension expired on July 26, 2015.

To obtain final approval of this application, submit an amendment two or six months prior to the: 1.) expiration of the patents or 2.) date you believe that your NDA will be eligible for final approval, as appropriate. In your cover letter, clearly identify your amendment as **“REQUEST FOR FINAL APPROVAL”**. This amendment should provide the legal/regulatory basis for your request for final approval and should include a copy of any relevant court order or judgment settlement, or licensing agreement, as appropriate. In addition to a safety update, the amendment should also identify changes, if any, in the conditions under which your product was tentatively approved, i.e., updated labeling; chemistry, manufacturing, and controls data; and risk evaluation and mitigation strategy (REMS). If there are no changes, clearly state so in your cover letter. Any changes require our review before final approval and the goal date for our review will be set accordingly.

Until we issue a final approval letter, this NDA is not deemed approved.

Please note that this drug product may not be marketed in the United States without final agency approval under Section 505 of the Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under Section 501 of the Act and 21 U.S.C. 331(d).

**PROPRIETARY NAME**

If you intend to have a proprietary name for this product, the name and its use in the labels must conform to the specifications under 21 CFR 201.10 and 201.15. We recommend that you submit a request for a proposed proprietary name review. See the guidance for industry titled, “Contents of a Complete Submission for the Evaluation of Proprietary Names”, at <http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm075068.pdf> and “PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2008 through 2012”.

If you have any questions, call Alison Rodgers, Regulatory Project Manager, at (301) 796-0797.

Sincerely,

*{See appended electronic signature page}*

Sumathi Nambiar, MD, MPH  
Director  
Division of Anti-Infective Products  
Office of Antimicrobial Products  
Center for Drug Evaluation and Research

ENCLOSURE(S):

Content of Labeling  
Carton and Container Labeling

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**This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.**  
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/s/  
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SUMATHI NAMBIAR  
11/20/2015