



NDA 208109

TENTATIVE APPROVAL

Fresenius Kabi USA, LLC
Attention: Raja Agnihotram
Senior Regulatory Specialist
Three Corporate Drive
Lake Zurich, Illinois 60047

Dear Mr. Agnihotram:

Please refer to your New Drug Application (NDA) received June 29, 2016, and your amendments, submitted pursuant to section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act for Palonosetron Injection, 0.25 mg/5 ml.

We acknowledge receipt of your amendment dated June 10, 2016, which constituted a complete response to our April 29, 2016, action letter.

This NDA provides for the use of Palonosetron Injection, 0.25 mg/5 ml in adults for:

- Moderately emetogenic cancer chemotherapy -- prevention of acute and delayed nausea and vomiting associated with initial and repeat courses;
- Highly emetogenic cancer chemotherapy -- prevention of acute nausea and vomiting associated with initial and repeat courses;
- Palonosetron HCl Injection is indicated for prevention of postoperative nausea and vomiting (PONV) for up to 24 hours following surgery. Efficacy beyond 24 hours has not been demonstrated.

We have completed our review of this application. It is tentatively approved under 21 CFR 314.105 for use as recommended in the agreed-upon enclosed labeling (text for the package insert, text for the patient 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 patent No. 7,947,724 (“the ’724 patent”), No. 8,518,981 (“the ’981 patent”), No. 8,598,218 (“the ’218 patent”), No. 9,066,980 (“the ’980 patent”), and No. 9,125,905 (“the ’905 patent”) in the United States District Court 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.

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 Kevin Bugin, Regulatory Project Manager, at (301) 796-2302.

Sincerely,

{See appended electronic signature page}

Joyce Korvick, MD, MPH
Deputy for Safety
Division of Gastroenterology and Inborn Errors
Products
Office of Drug Evaluation III
Center for Drug Evaluation and Research

ENCLOSURE(S):

Content of Labeling
Carton and Container Labeling

This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.

/s/

JOYCE A KORVICK
07/29/2016