

**CENTER FOR DRUG EVALUATION AND  
RESEARCH**

*APPLICATION NUMBER:*

**21-168/S-007**

**ADMINISTRATIVE and CORRESPONDENCE  
DOCUMENTS**

EXCLUSIVITY SUMMARY for NDA # 21-168 SUPPL # 007

Trade Name Depakote ER Generic Name Divalproex

Applicant Name Abbott HFD- 120

Approval Date 8/14/03

**PART I: IS AN EXCLUSIVITY DETERMINATION NEEDED?**

1. An exclusivity determination will be made for all original applications, but only for certain supplements. Complete Parts II and III of this Exclusivity Summary only if you answer "YES" to one or more of the following questions about the submission.

- a) Is it an original NDA? YES/\_\_\_/ NO /x/
- b) Is it an effectiveness supplement? YES /x/ NO /\_\_\_/

If yes, what type (SE1, SE2, etc.)? SE5

- c) Did it require the review of clinical data other than to support a safety claim or change in labeling related to safety? (If it required review only of bioavailability or bioequivalence data, answer "NO.")

YES /\_\_\_/ NO /x/

If your answer is "no" because you believe the study is a bioavailability study and, therefore, not eligible for exclusivity, EXPLAIN why it is a bioavailability study, including your reasons for disagreeing with any arguments made by the applicant that the study was not simply a bioavailability study.

M01-313 was a Phase I multiple-dose, non-fasting, open-label, multiple center study designed to characterize the pharmacokinetics of Depakote ER in children (8-11 years; N=14) and adolescents (12-17 years; N=12). The pediatric pharmacokinetic profile was compared to a historical adult control group (Study M95-376). We concluded that the results of M01-313 are valid and support the proposed use of Depakote ER in children 10 years of age and older using the same dosing recommendations (on a mg/kg basis) used in adults.

If it is a supplement requiring the review of clinical data but it is not an effectiveness supplement, describe

the change or claim that is supported by the clinical data:

d) Did the applicant request exclusivity?

YES /\_\_\_/ NO / x /

If the answer to (d) is "yes," how many years of exclusivity did the applicant request?

e) Has pediatric exclusivity been granted for this Active Moiety?

YES /\_\_\_/ NO / x /

**IF YOU HAVE ANSWERED "NO" TO ALL OF THE ABOVE QUESTIONS, GO DIRECTLY TO THE SIGNATURE BLOCKS ON Page 9.**

2. Has a product with the same active ingredient(s), dosage form, strength, route of administration, and dosing schedule previously been approved by FDA for the same use? (Rx to OTC Switches should be answered No - Please indicate as such).

YES /\_\_\_/ NO / x /

If yes, NDA # \_\_\_\_\_ Drug Name

**IF THE ANSWER TO QUESTION 2 IS "YES," GO DIRECTLY TO THE SIGNATURE BLOCKS ON Page 9.**

3. Is this drug product or indication a DESI upgrade?

YES /\_\_\_/ NO / x /

**IF THE ANSWER TO QUESTION 3 IS "YES," GO DIRECTLY TO THE SIGNATURE BLOCKS ON Page 9 (even if a study was required for the**

upgrade) .

**PART II: FIVE-YEAR EXCLUSIVITY FOR NEW CHEMICAL ENTITIES**

(Answer either #1 or #2, as appropriate)

1. Single active ingredient product.

Has FDA previously approved under section 505 of the Act any drug product containing the same active moiety as the drug under consideration? Answer "yes" if the active moiety (including other esterified forms, salts, complexes, chelates or clathrates) has been previously approved, but this particular form of the active moiety, e.g., this particular ester or salt (including salts with hydrogen or coordination bonding) or other non-covalent derivative (such as a complex, chelate, or clathrate) has not been approved. Answer "no" if the compound requires metabolic conversion (other than deesterification of an esterified form of the drug) to produce an already approved active moiety.

YES / x / NO / \_\_\_ /

If "yes," identify the approved drug product(s) containing the active moiety, and, if known, the NDA #(s).

NDA # 21-168

NDA #

NDA #

2. Combination product.

If the product contains more than one active moiety (as defined in Part II, #1), has FDA previously approved an application under section 505 containing any one of the active moieties in the drug product? If, for example, the combination contains one never-before-approved active moiety and one previously approved active moiety, answer "yes." (An active moiety that is marketed under an OTC monograph, but that was never approved under an NDA, is considered not

previously approved.)

YES /\_\_\_/ NO /\_\_\_/

If "yes," identify the approved drug product(s) containing the active moiety, and, if known, the NDA #(s).

NDA #

NDA #

NDA #

**IF THE ANSWER TO QUESTION 1 OR 2 UNDER PART II IS "NO," GO DIRECTLY TO THE SIGNATURE BLOCKS ON Page 9. IF "YES," GO TO PART III.**

**PART III: THREE-YEAR EXCLUSIVITY FOR NDA'S AND SUPPLEMENTS**

To qualify for three years of exclusivity, an application or supplement must contain "reports of new clinical investigations (other than bioavailability studies) essential to the approval of the application and conducted or sponsored by the applicant." This section should be completed only if the answer to PART II, Question 1 or 2, was "yes."

1. Does the application contain reports of clinical investigations? (The Agency interprets "clinical investigations" to mean investigations conducted on humans other than bioavailability studies.) If the application contains clinical investigations only by virtue of a right of reference to clinical investigations in another application, answer "yes," then skip to question 3(a). If the answer to 3(a) is "yes" for any investigation referred to in another application, do not complete remainder of summary for that investigation.

YES /\_\_\_/ NO / x /

**IF "NO," GO DIRECTLY TO THE SIGNATURE BLOCKS ON Page 9.**

2. A clinical investigation is "essential to the approval" if the Agency could not have approved the application or supplement without relying on that investigation. Thus, the investigation is not essential to the approval if 1) no clinical investigation is necessary to support the supplement

or application in light of previously approved applications (i.e., information other than clinical trials, such as bioavailability data, would be sufficient to provide a basis for approval as an ANDA or 505(b)(2) application because of what is already known about a previously approved product), or 2) there are published reports of studies (other than those conducted or sponsored by the applicant) or other publicly available data that independently would have been sufficient to support approval of the application, without reference to the clinical investigation submitted in the application.

For the purposes of this section, studies comparing two products with the same ingredient(s) are considered to be bioavailability studies.

- (a) In light of previously approved applications, is a clinical investigation (either conducted by the applicant or available from some other source, including the published literature) necessary to support approval of the application or supplement?

YES /\_\_\_/      NO /\_\_\_/

If "no," state the basis for your conclusion that a clinical trial is not necessary for approval **AND GO DIRECTLY TO SIGNATURE BLOCK ON Page 9:**

- (b) Did the applicant submit a list of published studies relevant to the safety and effectiveness of this drug product and a statement that the publicly available data would not independently support approval of the application?

YES /\_\_\_/      NO /\_\_\_/

- (1) If the answer to 2(b) is "yes," do you personally know of any reason to disagree with the applicant's conclusion? If not applicable, answer NO.

YES /\_\_\_/      NO /\_\_\_/

If yes, explain:

(2) If the answer to 2(b) is "no," are you aware of published studies not conducted or sponsored by the applicant or other publicly available data that could independently demonstrate the safety and effectiveness of this drug product?

YES /\_\_\_/ NO /\_\_\_/

If yes, explain:

(c) If the answers to (b)(1) and (b)(2) were both "no," identify the clinical investigations submitted in the application that are essential to the approval:

Investigation #1, Study #

Investigation #2, Study #

Investigation #3, Study #

3. In addition to being essential, investigations must be "new" to support exclusivity. The agency interprets "new clinical investigation" to mean an investigation that 1) has not been relied on by the agency to demonstrate the effectiveness of a previously approved drug for any indication and 2) does not duplicate the results of another investigation that was relied on by the agency to demonstrate the effectiveness of a previously approved drug product, i.e., does not redemonstrate something the agency considers to have been demonstrated in an already approved application.

(a) For each investigation identified as "essential to the approval," has the investigation been relied on by the agency to demonstrate the effectiveness of a previously approved drug product? (If the investigation was relied on only to support the safety of a previously approved drug, answer "no.")

Investigation #1 YES /\_\_\_/ NO /\_\_\_/

Investigation #2 YES /\_\_\_/ NO /\_\_\_/

Investigation #3 YES /\_\_\_/ NO /\_\_\_/

If you have answered "yes" for one or more investigations, identify each such investigation and the NDA in which each was relied upon:

NDA # \_\_\_\_\_ Study #  
NDA # \_\_\_\_\_ Study #  
NDA # \_\_\_\_\_ Study #

- (b) For each investigation identified as "essential to the approval," does the investigation duplicate the results of another investigation that was relied on by the agency to support the effectiveness of a previously approved drug product?

Investigation #1                      YES /\_\_\_/                      NO /\_\_\_/  
Investigation #2                      YES /\_\_\_/                      NO /\_\_\_/  
Investigation #3                      YES /\_\_\_/                      NO /\_\_\_/

If you have answered "yes" for one or more investigations, identify the NDA in which a similar investigation was relied on:

NDA # \_\_\_\_\_ Study #  
NDA # \_\_\_\_\_ Study #  
NDA # \_\_\_\_\_ Study #

- (c) If the answers to 3(a) and 3(b) are no, identify each "new" investigation in the application or supplement that is essential to the approval (i.e., the investigations listed in #2(c), less any that are not "new"):

Investigation #\_\_, Study #  
Investigation #\_\_, Study #  
Investigation #\_\_, Study #

4. To be eligible for exclusivity, a new investigation that is essential to approval must also have been conducted or sponsored by the applicant. An investigation was "conducted or sponsored by" the applicant if, before or during the conduct of the investigation, 1) the applicant was the sponsor of the IND named in the form FDA 1571 filed with the Agency, or 2) the applicant (or its predecessor in interest) provided substantial support for the study. Ordinarily, substantial support will mean providing 50 percent or more of the cost of the study.

(a) For each investigation identified in response to question 3(c): if the investigation was carried out under an IND, was the applicant identified on the FDA 1571 as the sponsor?

Investigation #1 !  
!  
IND # \_\_\_\_\_ YES /\_\_\_/ ! NO /\_\_\_/ Explain:  
!  
!  
!

Investigation #2 !  
!  
IND # \_\_\_\_\_ YES /\_\_\_/ ! NO /\_\_\_/ Explain:  
!  
!  
!  
!

(b) For each investigation not carried out under an IND or for which the applicant was not identified as the sponsor, did the applicant certify that it or the applicant's predecessor in interest provided substantial support for the study?

Investigation #1 !  
!  
YES /\_\_\_/ Explain \_\_\_\_\_ ! NO /\_\_\_/ Explain \_\_\_\_\_  
!  
\_\_\_\_\_  
!  
\_\_\_\_\_  
!  
!

Investigation #2 !  
!  
YES /\_\_\_/ Explain \_\_\_\_\_ ! NO /\_\_\_/ Explain \_\_\_\_\_  
!  
\_\_\_\_\_  
!  
\_\_\_\_\_  
!  
!

(c) Notwithstanding an answer of "yes" to (a) or (b), are there other reasons to believe that the applicant should not be credited with having "conducted or sponsored" the study? (Purchased studies may not be used as the basis for exclusivity. However, if all rights to the drug are purchased (not just studies on the drug), the applicant may be considered to have sponsored or conducted the studies sponsored or conducted by its predecessor in interest.)

YES /\_\_\_/                      NO /\_\_\_/

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Preparer  
Title:

Date

Signature of Office or Division Director

Date

cc:  
Archival NDA  
HFD- /Division File  
HFD- /RPM  
HFD-610/Mary Ann Holovac  
HFD-104/PEDS/T.Crescenzi

Form OGD-011347  
Revised 8/7/95; edited 8/8/95; revised 8/25/98, edited 3/6/00

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/s/

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Russell Katz  
9/30/03 03:58:56 PM



NDA 21-168/S-007

Abbott Laboratories  
Attention: Lee M. Muraoka, BSPharm, MS  
200 Abbott Park Road  
D-491, AP30-1E  
Abbott Park, IL 60064-6157

Dear Mr. Muraoka :

Please refer to your New Drug Application (NDA) submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act for Depakote ER (divalproex) tablets.

We refer to our approval letter and labeling for NDA 21-168/S-007 dated August 14, 2003. Finally, we refer to our teleconference held on August 15, 2003.

As you communicated in a phone conversation to Lana Chen of this division on August 15, 2003, we note that that approval labeling inadvertently omitted the text under the CLINICAL TRIALS, Epilepsy section.

To correct this error, we will issue a corrected approval letter. The date of this approval letter will be unchanged, but the signature time will be one minute later to permit differentiation between letters.

If you have any questions, call Lana Chen, Regulatory Management Officer, at (301) 594-2850.

Sincerely,

*{See appended electronic signature page}*

Russell Katz, M.D.  
Director  
Division of Neuropharmacological Drug Products  
Office of Drug Evaluation I  
Center for Drug Evaluation and Research

**MEMORANDUM OF TELEPHONE CONVERSATION**  
**NDA 21-168/S-007**

**Drug:** Depakote ER (divalproex)

**Sponsor:** Abbott Laboratories

**Date:** August 15, 2003

**Conversation Between:**

FDA: Lana Chen, RPh

and

Sponsor: Lee Muraoka, BSPHarm, MS

**Subject:** Approval Letter and Labeling

Mr. Muraoka left me a voice mail message indicating that the Sponsor had received the approval letter and labeling dated August 14, 2003 via fax. He indicated, however, that the approval labeling omitted the text under the CLINICAL TRIALS, Epilepsy section and sought guidance as to how to rectify this problem.

I responded via a voice mail message indicating that we had verified that this omission was made, and was inadvertent. I also responded that we would issue 1) a corrected action letter and 2) an advice letter providing documentation of the replaced (original) letter.

Note: I discussed the options for correcting this situation w/ Colleen Lociero, ODE1 ADDRA and Gail Stone, Operations Research, OIM. I will use the procedures outlined in the Document Processing Manual, (draft dated July 9, 2003, see attached) "A. If the Incorrect Letter's Decision and Date Can Be Retained for the Corrected Letter".

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Lana Yan Chen, R.Ph.  
Project Manager  
DNDP, HFD-120

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**This is a representation of an electronic record that was signed electronically and  
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/s/

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Lana Chen  
8/20/03 01:35:30 PM  
CSO