The Focal Point: Advocacy & Legislative Update

July 7, 2020

COVID-19 Update

Global COVID-19 cases surged past 11.5 million, with a record daily high case number – 212,326 reported to the WHO on July 4.

The global total rose to 11,679,808 confirmed cases, and 539,764 people have died from their infections, according to the Johns Hopkins online dashboard. The United States reported 2,953,808 confirmed cases and 130,546 deaths.

For the 28th day in a row, the country's rolling seven-day average of daily new cases shattered all previous records, although the number of deaths has remained relatively stable. At least 32 states have reported increasing case counts, while 14 are holding steady.

It's crucial that Americans continue to wear a face mask, maintain physical distancing and wash their hands regularly to stop COVID-19's spread, the American Medical Association, American Hospital Association and American Nurses Association wrote in an open letter to the public. "What is certain — and what the science and evidence are telling us — is that COVID-19 is not behind us and we must resist confusing reopening with returning to normalcy."

FDA Releases Updated Information for HCT/P Establishments Regarding COVID-19

FDA continues to closely monitor the COVID-19 pandemic and has released updated information for HCT/P establishments. Respiratory viruses, in general, are not known to be transmitted by implantation, transplantation, infusion, or transfer of human cells, tissues, or cellular or tissue-based products (HCT/Ps). To date, there have been no reported cases of transmission of COVID-19 via these products.

Routine screening measures are already in place for evaluating clinical evidence of infection in HCT/P donors. FDA is aware that some HCT/P establishments in the U.S. are considering additional donor screening and testing measures in response to the COVID-19 pandemic.

FDA does not recommend using laboratory tests to screen asymptomatic HCT/P donors. The HCT/P establishment's responsible person must determine and document the eligibility of a cell or tissue donor (21 CFR 1271.50). Based on information available at this time, establishments may wish to consider, whether, in the 28 days prior to HCT/P recovery, the donor:

- cared for, lived with, or otherwise had close contact with individuals diagnosed with or suspected of having COVID-19 infection; or
- had been diagnosed with or suspected of having COVID-19 infection; or
- had a positive diagnostic test (e.g., nasopharyngeal swab) for SARS-CoV-2 but never developed symptoms.

CDC Expands List of Coronavirus Symptoms

The Centers for Disease Control and Prevention (CDC) now lists 11 potential symptoms that a person could have COVID-19. People with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear **2-14 days after exposure to the virus.** People with these symptoms may have COVID-19:

- Fever or chills
- Cough
- Shortness of breath or difficulty breathing
- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or vomiting
- Diarrhea

New Study Shows Absence of SARS-CoV-2 RNA in Human Corneal Tissues

A pre-publication study in *Cornea* showed the absence the SARS-CoV-2 viral RNA in corneal tissues obtained from COVID-19 postmortem donors using quantitative (q)RT-PCR-testing. The study was undertaken to examine corneal tissue for SARS-CoV-2 positivity with regard to implications for tissue procurement, processing, corneal transplantation.

German researchers performed (q)RT-PCR-testing on corneal stroma and endothelium, bulbar conjunctiva, conjunctival fluid swabs, anterior chamber fluid and corneal epithelium from 5 patients who expired from COVID-19 with ARDS and multiorgan dysfunction.

In this study no SARS-CoV-2-RNA was detected in conjunctiva, anterior chamber fluid and corneal tissues (endothelium, stroma and epithelium) of COVID-19 donors. This implicates that the risk for SARS-CoV-2 infection via corneal or conjunctival tissue is very low. However, further studies on a higher number of COVID-19 patients are necessary to confirm these results.

Excess Deaths is 28% Higher than Official Tally of U.S. COVID-19 Deaths

A study, published in *JAMA Network Open*, used data from the National Center for Health Statistics to evaluate the numbers of U.S. deaths from any cause, along with deaths from pneumonia, the flu and/or COVID-19. These numbers were compared to those from the same

period in previous years. Deaths due to all causes were 28 percent higher than the reported number of COVID-19 deaths, leading researchers to believe official COVID-19 death counts underestimate deaths tied to the pandemic.

The 781,000 total deaths in the United States in the three months through May 30 were about 122,300, or nearly 19% higher, than what would normally be expected, according to the researchers. Of the 122,300 excess deaths, 95,235 were attributed to COVID-19. Most of the rest of the excess deaths, researchers said, were likely related to or directly caused by the coronavirus.

The estimated number of excess deaths varied significantly among states. The gap between reported COVID-19 deaths and excess deaths can be influenced by several factors, including the intensity of testing; guidelines on the recording of deaths that are suspected to be related to COVID-19 but do not have a laboratory confirmation; and the location of death (e.g., hospital, nursing home, or unattended death at home).

The reported increase in excess deaths could also reflect increased numbers of deaths directly caused by the virus, avoidance of visiting the healthcare setting, and declines in deaths due to automobile crashes or air pollution.

CDC Expands List of Individuals At-Risk of Severe COVID-19 Illness

The CDC has updated and expanded the list of who is at increased risk for getting severely ill from COVID-19. CDC has removed the specific age threshold from the older adult classification. CDC now warns that among adults, risk increases steadily as you age, and it is not just those over the age of 65 who are at increased risk for severe illness.

CDC also updated the list of underlying medical conditions that place individuals (of any age) at an increased risk of severe COVID-19 illness.

Populations at risk of severe illness based on the strongest evidence now include those with cardiovascular disease, chronic kidney disease, chronic obstructive pulmonary disease, obesity (BMI over 30), any immunosuppressive condition, a history of organ transplant, and type 2 diabetes.

CDC also clarified the list of other conditions that might increase a person's risk of severe illness, including additions such as asthma, high blood pressure, neurologic conditions such as dementia, cerebrovascular disease such as stroke, and pregnancy.

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1 in 2 COVID-19 Patients Could Not Identify a COVID Contact

In a multistate telephone survey of 350 adult inpatients and outpatients who tested positive for SARS-CoV-2 infection, only 46% reported recent contact with a COVID-19 patient. Most participants' contacts were a family member (45%) or a work colleague (34%). Two thirds of participants were employed; only 17% were able to telework.

Outpatients reported being employed more often than inpatients (70% vs. 42%, respectively), and 25% of employed participants worked in health care. Just 46% were aware of close contact with a COVID-19 patient, underlining "a need for increased screening, case

investigation, contact tracing and isolation of infected persons during periods of community transmission," according the authors wrote.

COVID-19 Cases May Be 10 Times Higher Than Reported

The number of people in the United States who have been infected with the coronavirus is likely to be 10 times as high as the 2.4 million confirmed cases, based on antibody tests, the head of the CDC said during a press briefing. Based on serologic surveys, Redfield said he believes 5 to 8 percent of the population has been infected so far.

U.S. officials believe as many as 20 million Americans have contracted the coronavirus, - about 6% of the nation's 331 million people - leaving a majority of the population still susceptible to the virus. Previously, officials at the CDC and Dr. Anthony Fauci have said that as many as 25% of infected people might not have symptoms.

The new estimate is based on CDC studies of blood samples collected nationwide. Many infections were not caught in early testing, when supplies were limited, and federal officials prioritized testing for those with symptoms.

FDA Issues COVID-19 Vaccine Guidance

New FDA guidance for COVID-19 vaccine approval states that a candidate must be at least 50% better than placebo.

The FDA has released an immediately effective guidance which sets its expectations for the development and licensure of vaccines to prevent COVID-19, noting it must prevent or reduce disease severity in at least 50% of those inoculated in a placebo-controlled trial.

The guidance provides an overview of key considerations to satisfy regulatory requirements set forth in the investigational new drug application (IND) regulations and licensing regulations, including considerations for manufacturing, nonclinical and clinical studies, and post-licensure requirements

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FDA Issues Updated 2020 Guidance Agenda

FDA's Center for Biologics Evaluation and Research (CBER) issued its mid-year update to the 2020 Guidance Agenda.

In the category of blood and blood components, CBER included the previously released CJD, malaria, HIV, HTLV I/II and convalescent plasma guidance documents that were made available for immediate implementation without prior public comment due to the COVID-19 public health emergency.

In a footnote to the April 2020 Creutzfeldt-Jakob Disease guidance, FDA noted that the agency intends to issue a Level 2 guidance with "minor changes intended to clarify FDA's permanent donor deferral recommendation for individuals who have received cadaveric pituitary human growth hormone." FDA also plans to revise the 2014 syphilis guidance for

blood donors, to make the syphilis recommendations consistent with the April 2020 HIV guidance.

FDA added no additional guidance documents in the category of tissues and advanced therapies. Guidance documents that remain on this list that have not already been issued include draft guidance on human gene therapy for neurodegenerative diseases, draft guidance on human gene therapy products incorporating genome editing, and draft guidance on chimeric antigen receptor (CAR) T-cell therapies.

In the vaccines category, FDA intends to release a guidance on the development and licensure of vaccines to prevent COVID-19.

CBER also plans to release guidance on interacting with the FDA on complex and innovative clinical trial designs for drugs and biological products and chemistry, manufacturing, and controls changes to an approved application for certain biological products.

U.S. Public Health Service Releases New Organ Transplant Guideline

The U.S. Public Health Service published a new guideline, U.S. PHS Guideline, Assessing Solid Organ Donors and Monitoring Transplant Recipients for Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus Infection. These recommendations supersede the 2013 PHS guideline.

The new recommendations include updated criteria for identifying donors at risk for undetected donor HIV, HBV, or HCV infection; the removal of any specific term to characterize donors with HIV, HBV, or HCV infection risk factors; universal organ donor HIV, HBV, and HCV nucleic acid testing; and universal posttransplant monitoring of transplant recipients for HIV, HBV, and HCV infections.

The recommendations are to be used by organ procurement organization and transplant programs and are intended to apply only to solid organ donors and recipients. These recommendations have not yet been implemented into Organ Procurement and Transplantation Network (OPTN) policies for organ procurement organizations and transplant centers.

Assessing Solid Organ Donors and Monitoring Transplant Recipients for Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus Infection — U.S. Public Health Service Guideline, 2020

FDA Issues Final Guidance on Inspections of Medical Device Establishments

FDA published final guidance entitled ‘‘Review and Update of Device Establishment Inspection Processes and Standards.’’

FDA is issuing this guidance to comply with requirements of the FDA Reauthorization Act of 2017 (FDARA). The FDARA provision directs FDA to issue guidance specifying how it will implement uniform processes and standards that apply to inspections (other than for-cause) of domestic and foreign medical device establishments in place as of August 18, 2017.

This draft guidance also describes standardized methods of communication during the inspection process and identifies practices for investigators and device establishments to facilitate the continuity of inspections of such establishments.

FDA Extends UDI Compliance Dates for Certain Devices

FDA issued a final guidance for unique device identification compliance dates for Class I and unclassified medical devices. The immediately effective guidance also clarifies agency policy regarding compliance dates for certain devices requiring direct marking.

In the guidance, FDA clarifies that it does not currently intend to enforce standard date formatting, unique device identification (UDI) labeling, or Global Unique Device Identification Database (GUDID) data submission requirements for class I and unclassified devices until September 24, 2022. The intent not to enforce does not apply to implantable, life-supporting or life-sustaining devices.

WHO Announces the End of the 10th Ebola Outbreak in the Democratic Republic of the Congo

The Congolese Ministry of Health announced the end of the 10th Ebola outbreak in the Democratic Republic of the Congo (DRC) on June 25th after two full incubation periods of the highly deadly virus passed without new confirmed cases.

The outbreak, declared in North Kivu on 1 August 2018, was the second largest in the world, and was particularly challenging as it took place an active conflict zone. There were 3470 cases, 2287 deaths and 1171 survivors. The 22-month-long response involved training thousands of health workers, registering 250,000 contacts, testing 220,000 samples, providing patients with equitable access to advanced therapeutics, vaccinating more than 303,000 people with the rVSV-ZEBOV-GP vaccine and offering care for all survivors after their recovery.

WHO emphasized that while the outbreak in Eastern DRC has ended, an 11th outbreak began June 1st in the Mbandaka city and neighboring Bikoro Health Zone in Équateur Province, DRC. To date, there have been 33 confirmed cases and 13 deaths.

Gene Therapy Trial Halted After Second Patient Death

Two patients in the ASPIRO clinical trial of a high-dose gene therapy for a rare muscle disorder have died, heightening concerns about the safety of potent treatments under development for other diseases.

The patients, born with x-linked myotubular myopathy, developed liver problems that apparently led to sepsis, according to a 23 June letter to patient groups from trial sponsor Audentes Therapeutics. They were older patients and had existing liver disease; several younger patients who got lower doses of the treatment have done well and now breathe on their own without a ventilator.

The FDA has put the trial on hold. Audentes, which had stopped enrollment before the deaths, has postponed plans to seek FDA approval for the drug this year.

False Positive Results with BD SARS-CoV-2 Reagents for the BD Max System

The FDA is alerting clinical laboratory staff and health care providers of an increased risk of a false positive result with BD SARS-CoV-2 Reagents for the BD Max System test. In one study, the manufacturer found approximately three percent (3%) of results were false positive results.

The Letter to Clinical Laboratory Staff and Health Care Providers includes recommendations for laboratory staff and health care providers and instructions for reporting problems with tests using the BD SARS-CoV-2 Reagents for the BD Max System.

FDA Warns of Increase in Hand Sanitizers Containing Methanol

The FDA is warning consumers and healthcare providers that the agency has seen a sharp increase in hand sanitizer products that are labeled to contain ethanol (also known as ethyl alcohol) but that have tested positive for methanol contamination. Methanol, or wood alcohol, can be toxic when absorbed through the skin or ingested and can be life-threatening when ingested. Read the FDA safety alert, including a list of products that have been found to contain methanol.

FDA Warns Curativa Bay Corp about Fraudulent Products

The FDA sent a warning letter to Curativa Bay Corporation to cease sale of Advanced Hypochlorous Skin Spray, a topical hypochlorous acid-containing product which is intended to mitigate, prevent, treat, diagnose, or cure COVID-19. FDA reminds consumers that there are currently no FDA-approved products to prevent or treat COVID-19. Read the FDA warning letter.

Congress Passes Short-Term Extension of PPP

President Donald Trump on Saturday signed into law a temporary extension of a subsidy program for small businesses battered by the coronavirus. Both the Senate and the House passed legislation by unanimous consent to extend the June 30 deadline for eligible businesses to apply for Paycheck Protection Program (PPP) loans to August 8.

The PPP, which was created to help small businesses weather the COVID-19 pandemic, has more than $130 billion in loan money unspent.