

Congress of the United States
Washington, DC 20515

August 11, 2022

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

Speaker Pelosi and Leader McCarthy,

We are writing to urge you to prevent the inclusion of controversial legislative provisions on dietary supplements from any final legislation reauthorizing the user fee programs at the Food and Drug Administration (FDA) that will undermine the hard work of leadership and the Energy and Commerce Committee to keep the reauthorization bipartisan, as was the case with the Food and Drug Amendments Act of 2022, which passed the House of Representatives with an overwhelming bipartisan majority.

As you know, the bill introduced by Senators Murray and Burr includes provisions based on the “Dietary Supplement Listing Act of 2022.” According to the sponsors, the bill’s purpose is to “require dietary supplement manufacturers to list their products” with the government and to direct FDA to create a public database of the submitted information.

The Dietary Supplement Listing Act has no House companion and was introduced only a few weeks ago. There have been no hearings on the bill or even the concept of “mandatory product listing.” The reauthorization of the FDA user fee programs is not the appropriate vehicle to advance this controversial legislation, especially since it has not undergone the appropriate committee review and debate.

Our concerns, however, go well beyond process. For instance, the bill would make it a new “prohibited act” to introduce into interstate commerce “any product marketed as a dietary supplement that does not meet the definition of a dietary supplement under Section 201(ff).” This provision has nothing to do with the ostensible purposes of the bill. What it would do is give FDA an administrative excuse to reject ingredients like CBD (cannabidiol) and NAC (N-acetyl-L-cysteine) from being marketed as dietary supplements, regardless of the science or history involved.

The Senate provisions also would compromise the security of the supply chain by requiring FDA to maintain a “publicly accessible” database of detailed information related to supplements, ingredients, and formulations. Currently, this type of information is available to FDA but is

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shielded from public disclosure under the Bioterrorism Act to protect it from falling into the hands of malicious actors seeking to introduce contaminants into the nation's food supply. The Senate bill would undermine these carefully crafted protections.

Finally, the Senate bill would authorize \$33,000,000 over the next five years for FDA's Center for Food Safety and Applied Nutrition (CFSAN) to carry out this new regulatory mandate. Giving CFSAN a new regulatory mandate for which there is no compelling rationale is an irresponsible use of tax dollars, especially when there are more pertinent public health priorities the FDA should be addressing.

Including this "mandatory product listing" language would undermine efforts to keep a bipartisan FDA user fee program reauthorization and distract FDA from addressing concerns of much higher priority at this time. The question of whether this authority is necessary should be part of broader hearings and discussions about reforming FDA's food center to better serve consumers. We urge its rejection during our discussions with the Senate on a final agreement.

Respectfully,



Jeff Duncan
Member of Congress



Tony Cardenas
Member of Congress



John Curtis
Member of Congress



Diana Harshbarger
Member of Congress



Gus Bilirakis
Member of Congress



Barry Moore
Member of Congress

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Markwayne Mullin
Member of Congress



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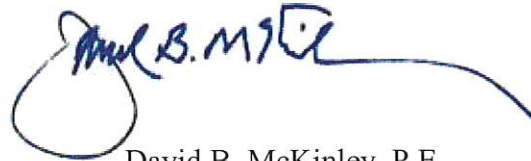
Earl L. "Buddy" Carter
Member of Congress



Jeff Van Drew, D.M.D.
Member of Congress



Dan Crenshaw
Member of Congress



David B. McKinley, P.E.
Member of Congress



Debbie Lesko
Member of Congress

CC: Chairman Frank Pallone and Ranking Member Cathy McMorris Rodgers, House Energy and Commerce Committee