FEDERAL AGENCIES

PANEL PONDERS INDEPENDENCE FOR FDA

WASHINGTON, D.C.—Should the Food and Drug Administration (FDA, Bethesda, MD) remain within Department of Health and Human Services (HHS)? Or could greater independence help clear up some of the agency's serious problems and boost its efficiency in approving new products? Posing these questions are both Congressional committees and a special Advisory Committee on the FDA, appointed by HHS Secretary Louis Sullivan in the aftermath of the generic drug scandals. Following investigations of several FDA officials for taking bribes, Sullivan established the committee to examine the "mission, responsibilities, and structure" of FDA.

Removing FDA from his department is a bad idea, Sullivan recently told a Congressional committee, though he acknowledged the need for reforms. And other, less radical changes also are being considered. At its July meeting, the Advisory Committee panel invited several federal officials, including Lawrence Thompson from the U.S. General Accounting Office (GAO) and Bryan Mitchell, who is deputy Inspector General at HHS. The committee also heard the views of Peter Barton Hutt, a former FDA chief counsel now in private law practice, Mark Novitch, a former deputy commissioner who is an executive vice president of Upjohn (Kalamazoo, MI), and William Schultz, senior counsel to the Subcommittee on Health and the Environment of the U.S. House of Representatives.

In general, "FDA is one of the most highly trusted federal agencies," says GAO's Thompson. Hutt escalates this tribute, calling FDA "the most important regulatory agency the world has ever seen." Both, however, doubt the adequacy of FDA resources and question whether what the agency *does* have is being "squandered." In terms of high-level management, Thompson says, FDA lacks the means to monitor employee performance and to conduct strategic planning on an agency-wide basis. Recruiting and retaining qualified staff members also represent challenges the agency is failing to meet, particularly as new developments change the nature of product evaluations, he notes. "Biotechnology...creates a need for better educated staff [who] are competed for by private industry."

Questions directed by the panel to Mitchell about the agency's diluted investigatory authority led to a more general inquiry about FDA autonomy. "What advantage does the agency get from being part of HHS?" asks committee member Rita Colwell, director of the Maryland Biotechnology Institute at the University of Maryland (College Park). Though no conclusive answer was offered, the issues of authority lines and of FDA's position within HHS loomed large in discussions between the committee members and other speakers. Echoing these thoughts, Representative John Dingell (D—MI), chairman of the House Committee on Energy and Commerce, argued at a Congressional hearing in July that FDA cannot solve its problems because it is so lost in the HHS bureaucracy.

Upjohn's Novitch, who spoke before the special committee, specifically blamed "too much meddling" in FDA business by other federal players, including HHS, Congress, and the Office of Management and Budget (OMB). But, he says, "although removal [of FDA] from HHS has been suggested, I think some renewal of authority would be [enough]." Schultz is even more critical of the so-called meddlers, saying: "I can't think of a single instance where OMB and HHS review has improved a regulation. The scientific base of the FDA is being eroded as decisions become more political. Decisions are reviewed by the Assistant Secretary of Health, HHS, and OMB....And in routine dealings with Congress, the agency can't do its job because of politics, [which]...is undermining morale." Schultz therefore suggests making FDA a free-standing agency.

Members of the committee seem to agree that FDA's independence should somehow be strengthened. "We should articulate principles of independence, not the details of form, content, and mechanisms," says committee member Frank Samuel, former president of the Health Industry Manufacturers Association (Washington, D.C.). "The FDA Commissioner ought to have the authority to correct the problems for which he takes the blame," adds committee member Richard Merrill, a professor at the University of Virginia School of Law (Charlottesville) and former FDA general counsel of FDA. **—JLF**

HUMAN GENE THERAPY

NIHRAC GIVES CLINICAL GO-AHEAD

WASHINGTON, D.C.—Late in July, the National Institutes of Health (NIH, Bethesda, MD) Recombinant DNA Advisory Committee (NIHRAC) for the first time recommended approving gene therapy clinical trials. The two clinical trials still must be approved by the NIH director and by the Food and Drug Administration (FDA, Bethesda, MD). The sentiment of NIHRAC appears to have shifted dramatically: Earlier this year, committee members gingerly postponed action on one of the now-approved proposals, which calls for treating young individuals with severe combined immunodeficiency disease (SCID) by introducing the gene for the enzyme adenosine deaminase into lymphocytes of SCID patients (*Bio/Technology* **8**:388, May '90).

The second proposal, developed by Steven Rosenberg and his collaborators at NIH, involves use of tumor-infiltrating lymphocytes that are genetically modified to overproduce tumor necrosis factor (*Bio/Technology* **8**:710, Aug. '90). The modified cells will be used to treat patients with malignant melanoma. Remarkably, Rosenberg's proposal came before the NIHRAC Human Gene Therapy Subcommittee for the first time just before the full committee meeting and was accepted by both groups with barely a hitch. "It went through very, very fast in one sitting," says NIHRAC executive secretary Nelson Wivel, who added that Rosenberg "paid his dues at the local level where [the protocol] was rejected by the local committee the first time."

Even though NIHRAC moved quickly, some fine tuning of policy choices must occur before the malignant melanoma treatment test begins. At stake is the wording of patient consent forms. The proposed test generally corresponds to what FDA designates a Phase I clinical trial—to test safety and potentially toxic dosage levels rather than an experimental treatment's efficacy. If safety is to be studied, however, the consent form cannot properly refer to gene *therapy* because that would mislead patients enrolled in the study.

Rosenberg, of course, would like the experimental procedure to prove therapeutic, but the initial trial is too small and otherwise too rudimentary to readily prove that possibility. Had he designed the test to prove efficacy, the committee would have been considerably less likely to approve it, insiders say. Ironically, such reluctance apparently springs from the current scarcity of data. **—Jeffrey L. Fox**