March 13, 2023

Celia Lourenco
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Health Products and Food Branch
Health Canada
Ottawa, Ontario, K1A 0H9
By email only: atp-ptn@hc-sc.gc.ca

Dear Ms. Lourenco,

On behalf of Innovative Medicines Canada (IMC) and its membership, I am writing with respect to the *Draft guidance on advanced therapeutic products framework* released for comments on December 28, 2022.

IMC is the national association representing the voice of Canada's innovative pharmaceutical industry. The association advocates for policies that enable the discovery, development, and delivery of innovative medicines and vaccines to improve the lives of all Canadians and supports the members' commitment to being a valued partner in the Canadian healthcare system. The association represents companies which support 107,000 high-quality, well-paying jobs in Canada and invest $2.4 billion in R&D every year. Collectively, our members contribute $15.9 billion per year to Canada's knowledge-based economy.

IMC supports Health Canada's efforts to provide further guidance on the proposed processes to enable Canadians access to Advanced Therapeutic Products (ATP) as outlined in the *Food and Drugs Act*.

We are pleased to share our comments on the guidance document in Appendix A below.

We would also like to raise few additional points for your consideration:

- While we appreciate that the process to be undertaken by Health Canada after an ATP is selected to proceed to the next step would be transparent and involves engaging early and often with interested and affected parties, we strongly recommend including language assuring the protection of intellectual property and the confidentiality of business information throughout this process to encourage innovators of patented or protected ATPs.
- IMC continues to receive interest and questions with respect to the ATP framework and its future use. Members remain interested in understanding how Canada is positioned on the international stage, particularly as key competitors such as Europe are now pursuing similar mechanisms to help bring promising innovations to patients in an appropriately regulated manner. Given that Health Canada is just starting to implement this tool, we recommend that Health Canada identify a suitable future opportunity for reflection and assessment of lessons learned from the experience with this mechanism, including benefits, challenges and opportunities for future adjustments to the pathway and its administration.

IMC thanks Health Canada for the opportunity to respond to this guidance document and welcome any additional opportunity to engage on this file. Please do not hesitate to contact us should you have any questions or comments.

With Kind Regards,

Declan Hamill
Vice President, Policy, Regulatory and Legal Affairs

APPENDIX A

Line number	Current language	Comment/proposal
General 46-47	Reference to: "In 2019, the Food and Drugs Act (act) was amended to enable the regulation of advanced therapeutic products (ATPs)."	The Advanced Therapeutic Products provisions in the act make several references to "subject to the regulations". While having a draft of the guidance document is helpful, it would be more appropriate to also have the draft language of the regulations. The Guidance Document should not be finalized and should accommodate future comment periods at the time draft regulation language is available for review and comment.
Scope and application 71-84	In this section the scope of activities related to ATPs is listed. The conduct of clinical trials is not included in this list. Similarly, there is no guidance on how clinical trials for ATP products on Schedule G will be regulated.	Add language in the guidance documents confirming that clinical trials proposed for ATPs are managed under C.08, Division 5 of the Food and Drug Regulations or Part 3 of the Medical Device regulations and that these regulations are sufficient to manage clinical trial/Investigational testing for ATPs. Or Consider including considerations for the conduct of clinical trials for the ATP products as part of the draft guidelines for the ATP and embed this concept into the process.
Collaboration with interested and affected parties 141-144	Original Text: "Health care delivery is a shared responsibility in Canada. Health Canada intends to regularly engage with innovators and health care system partners, such as provinces, territories, health technology assessment bodies and international regulators."	Recommended revision: "Health care delivery is a shared responsibility in Canada. Health Canada intends to regularly engage with innovators and health care system partners, such as provinces, territories, health technology assessment bodies and international regulators. Interested parties can also engage with Health Canada to propose and identify ATP candidates"

Line number	Current language	Comment/proposal
	As written, the reader may interpret that engagement is only initiated by Health Canada, whereas it should be a reciprocal process.	
Decision-making 161-162	Original Text: "Decisions to issue an ATP licence will be based upon science and driven by evidence that is well-analyzed and well-documented." The evolution around the rigor and applicability of RWD and RWE is rapid and gaining more relevance. The concept of using RWD and RWE should be enabled in the language of the guidance document.	Recommended revision: "Decisions to issue an ATP licence will be based upon science and driven by evidence that is well-analyzed and well-documented, including evidence emanating from high-quality RWD/RWE."
Environmental Scans 251-252	Original text: "Environmental scans on emerging or innovative technological, scientific or medical developments can help identify and select advanced therapeutic products (ATPs)."	Editorial suggestion: "Environmental scans on emerging or innovative technological, scientific or medical developments can help identify and select advanced therapeutic ~~products~~ (ATPs) candidates."
Collaborative and iterative approach 355-356	Original text: "This process is transparent and involves engaging early and often with interested and affected parties."	Recommended addition: "Once an ATP candidate is selected and is included in the process, maintenance of confidentiality of intellectual property and confidential business information will be assured. NDA or confidentiality agreements may be required."

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	To encourage innovators of patented or protected ATPs, we strongly recommend including language assuring the protection of Intellectual Property during transparency efforts.	
In-depth Candidate Analysis 328-330	Original Text: "After a preliminary analysis, Health Canada may conduct a more comprehensive analysis of ATP candidates that are eligible. We do this to determine whether a flexible framework is appropriate for the ATP candidate in question." The interpretation of this language is that Health Canada makes independent and final decisions regarding the appropriate framework. There may be instances where the innovators or interested partners may not agree with Health Canada's position.	Recommend adding a process by which Innovators or Interested partners can participate in a fair re-evaluation/appeal of Health Canada's decision.
Application and issuance of an ATP licence 470-472	Original Text: "The ATP-specific guidance document will contain the application form, as well as information on such items as the management of applications, fees and performance standards." It seems appropriate that the ATP-specific guidance would also contain detailed information	Recommended revision. "The ATP-specific guidance document will contain the application form, as well as information on such items as the management of applications, fees and performance standards. <u>The ATP-specific guidance document will outline important requirements/expectations of an ATP licence holder, including clinical and product quality requirements".</u>

Line number	Current language	Comment/proposal
	regarding requirements of the ATP licence, such as clinical and quality requirements.	
Application and issuance of an ATP licence 470-472	Original text: "The ATP-specific guidance document will contain the application form, as well as information on such items as the management of applications, fees and performance standards."	Fees and performance standards are currently established by a formal process that pre-defines submission types and fee structure. It seems inappropriate to create a fee structure and performance standard in a product-specific guidance document. A formal process and pre-defined fee structure for ATPs should be established.
Application and issuance of an ATP licence 482	Original Text: "Once issued, the holder of the ATP licence may be subject to terms and conditions imposed on the licence. These could include, for example, requirements relating to clinical information, quality information, labelling and risk management plans." This represents a very broad description of where terms and conditions can be added without any context of the trigger for requiring Terms and Conditions. Recommend that to be consistent with the proposed Terms and Conditions in the AGILE regulations, that terms and conditions for ATP licence are considered when there are significant uncertainties relating to the benefits or risks associated with the product	Recommended revision: "Once issued, the holder of the ATP licence may be subject to terms and conditions imposed on the licence <u>if there are significant uncertainties relating to the benefits or risks associated with the ATP</u>. These could include, for example, requirements relating to clinical information, quality information, labelling and risk management plans."

Line number	Current language	Comment/proposal
Terms and Conditions imposed on an ATP licence 531-532	ATP licence holders must comply with all terms and conditions listed on their ATP licence in the allotted time stated. Failure to comply with the terms and conditions is a contravention of section 21.7 of the act and an offence under section 31.2.	The guidance document should include instructions on how an ATP licence holder or Individuals subject to an Order of Permissions may seek to amend or modify Terms and Conditions. There can be valid reasons why a term or condition may not be met in the prescribed timeline and licence holders should have the opportunity to request changes to the terms and conditions.
Suspension and revocation of an ATP licence 555-556	Original text: "If we believe there are grounds to propose a partial or full suspension of an ATP licence…, we will notify the licence holder in writing. We will give the reason for and the proposed date of the suspension." In addition to Health Canada providing the "reason" for the action, Health Canada must provide written justification with references to allow the licence holder to have a full understanding of the rationale for taking this extreme action.	Recommended revision: "If we believe there are grounds to propose a partial or full suspension of an ATP licence…, we will notify the licence holder in writing, providing a complete justification with references as required. We will give the reason for and the proposed date of the suspension."
Suspension and revocation of an ATP licence 557-558	Original text: "The licence holder will be given an opportunity to be heard." Without further detail, this expectation is vague in terms of process and fairness. It is recommended that the regulations include the right of a licence holder to make	Recommended revision: "The licence holder will have the right to make representations (appeal) the decision in a fair and transparent process." The ability to make representations should be included in regulations.

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	representations and that a written process be created.	
Fees 633-635	Original text: "We will consult interested and affected parties to develop the fees for each specific ATP if we determine that fees are appropriate for regulated activities related to a tailored ATP pathway." Without further detail, this concept is vague and makes it challenging for innovators and stakeholders to evaluate the potential financial repercussions and the fairness of the process.	Recommendation: Develop a clear and fair process for the development of fees for ATP products, following consultation with stakeholders.
Post-market surveillance 674-676	Original text: "We may ask ATP licence holders and persons subject to an order of permission to provide additional information prior to authorization if we have specific concerns about the safety and/or efficacy of the therapeutic product." As written, it is unclear the meaning of "prior to authorization" as the request is after the licence is issued or the order of permissions made. Recommend to strike-out "prior to authorization".	Proposed revision: "We may ask ATP licence holders and persons subject to an order of permission to provide additional information ~~prior to authorization~~ if we have specific concerns about the safety and/or efficacy of the therapeutic product."