

**(g) Required Actions**

Except as specified in paragraphs (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with European Union Aviation Safety Agency (EASA) AD 2022–0244, dated December 8, 2022 (EASA AD 2022–0244).

**(h) Exceptions to EASA AD 2022–0244**

(1) Where EASA AD 2022–0244 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the “Remarks” section of EASA AD 2022–0244.

(3) Although the service information referenced in EASA AD 2022–0244 specifies to discard any removed fire detectors, this AD requires removing those parts from service.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2022–0244 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD and email to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(k) Additional Information**

For more information about this AD, contact Kevin Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; email: [kevin.m.clark@faa.gov](mailto:kevin.m.clark@faa.gov).

**(l) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2022–0244, dated December 8, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0244, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu). You may find this material on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District

Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued on January 13, 2023.

**Gaetano A. Sciortino,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023–01101 Filed 1–18–23; 11:15 am]

**BILLING CODE 4910–13–P**

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**
**Food and Drug Administration**
**21 CFR Part 876**

[Docket No. FDA–2022–N–3255]

**Medical Devices; Gastroenterology-Urology Devices; Classification of the Computerized Behavioral Therapy Device for Treating Symptoms of Gastrointestinal Conditions**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final amendment; final order.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is classifying the computerized behavioral therapy device for treating symptoms of gastrointestinal conditions into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the computerized behavioral therapy device for treating symptoms of gastrointestinal conditions’ classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients’ access to beneficial innovative devices.

**DATES:** This order is effective January 20, 2023. The classification was applicable on November 25, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Stephanie Cole, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2536, Silver Spring, MD 20993–0002, 301–796–8587, [Stephanie.Cole@fda.hhs.gov](mailto:Stephanie.Cole@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Upon request, FDA has classified the computerized behavioral therapy device for treating symptoms of gastrointestinal conditions as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients’ access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as “postamendments devices” because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through “De Novo” classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval

application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining “substantial equivalence”). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

**II. De Novo Classification**

On April 30, 2020, FDA received Mahana Therapeutics, Inc.’s request for De Novo classification of the Parallel. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be

classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on November 25, 2020, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 876.5960.<sup>1</sup> We have named the generic type of device computerized behavioral therapy device for treating symptoms of gastrointestinal conditions, and it is identified as a prescription device intended to provide a computerized version of condition-specific therapy as an adjunct to standard of care treatments to patients with gastrointestinal conditions.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

**TABLE 1—COMPUTERIZED BEHAVIORAL THERAPY DEVICE FOR TREATING SYMPTOMS OF GASTROINTESTINAL CONDITIONS RISKS AND MITIGATION MEASURES**

Identified risks	Mitigation measures
Worsening of condition due to device providing ineffective treatment ....	Clinical data, and Labeling.
Delayed access to treatment due to device software failure .....	Software verification, validation, and hazard analysis, and Labeling.
Ineffective treatment due to use error/improper use of device .....	Usability assessment, and Labeling.
Treatment results in anxiety, depressed mood, depression, mental disorder (unspecified), stress or suicidal ideation.	Clinical data, and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

At the time of classification, computerized behavioral therapy devices for treating symptoms of gastrointestinal conditions are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as

the conditions of 21 CFR 801.109 are met.

**III. Analysis of Environmental Impact**

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**IV. Paperwork Reduction Act of 1995**

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR

part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR parts 801, regarding labeling, have been approved under OMB control number 0910–0485.

**List of Subjects in 21 CFR Part 876**

Medical devices.

<sup>1</sup> FDA notes that the “ACTION” caption for this final order is styled as “Final amendment; final order,” rather than “Final order.” Beginning in December 2019, this editorial change was made to

indicate that the document “amends” the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register’s (OFR) interpretations of the Federal Register Act (44

U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

## **PART 876—GASTROENTEROLOGY-UROLOGY DEVICES**

■ 1. The authority citation for part 876 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 876.5960 to subpart F to read as follows:

### **§ 876.5960 Computerized behavioral therapy device for treating symptoms of gastrointestinal conditions.**

(a) *Identification.* A computerized behavioral therapy device for treating symptoms of gastrointestinal conditions is a prescription device intended to provide a computerized version of condition-specific therapy as an adjunct to standard of care treatments to patients with gastrointestinal conditions.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Clinical data must be provided to fulfill the following:

(i) Describe a model of therapy for the indicated gastrointestinal conditions;

(ii) Validate the model of therapy as implemented by the device using a clinically defined endpoint; and

(iii) Evaluate all adverse events.

(2) Software must be described in detail in the software requirements specification and software design specification. Software verification, validation, and hazard analysis must be performed. Software documentation must demonstrate that the device effectively implements the behavioral therapy model.

(3) Usability assessment must demonstrate that the intended user(s) can safely and correctly use the device.

(4) Labeling:

(i) Labeling must include instructions for use, including images that demonstrate how to interact with the device;

(ii) Patient and physician labeling must list the minimum operating system requirements that support the software of the device;

(iii) Patient and physician labeling must include a warning that the device is not intended for use in lieu of a standard therapeutic intervention or to represent a substitution for the patient's medication;

(iv) Patient and physician labeling must include a warning to seek medical care if a patient has feelings or thoughts of harming themselves or others; and

(v) Physician and patient labeling must include a summary of the clinical testing with the device.

Dated: January 17, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023-01048 Filed 1-19-23; 8:45 am]

**BILLING CODE 4164-01-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Part 886**

[Docket No. FDA-2022-N-3256]

### **Medical Devices; Ophthalmic Devices; Classification of the Intense Pulsed Light Device for Managing Dry Eye**

**AGENCY:** Food and Drug Administration, Department of Health and Human Services (HHS).

**ACTION:** Final amendment; final order.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is classifying the intense pulsed light device for managing dry eye into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the intense pulsed light device for managing dry eye's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

**DATES:** This order is effective January 20, 2023. The classification was applicable on February 23, 2021.

#### **FOR FURTHER INFORMATION CONTACT:**

Arkady Kaplan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1568, Silver Spring, MD 20993-0002, 301-796-6365, [Morris.Kaplan@fda.hhs.gov](mailto:Morris.Kaplan@fda.hhs.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Upon request, FDA has classified the intense pulsed light device for managing dry eye as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as "postamendments devices" because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through "De Novo" classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105-115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112-144). A device sponsor may utilize either procedure for De Novo classification.

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Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under