

# **Inspections, Compliance, Enforcement, and Criminal Investigations**

## **Christus St. Patrick Hospital IRB 7/2/09**



Department of Health and Human Services

Public Health Service  
Food and Drug  
Administration  
Center for Devices and  
Radiological Health  
9200 Corporate Blvd  
Rockville, MD 20850

**July 2, 2009**

### **WARNING LETTER**

#### **VIA FEDERAL EXPRESS**

Ms. Ellen Jones  
Chief Executive Officer  
Christus St. Patrick Hospital  
524 Dr. Michael DeBakey Drive  
Lake Charles, LA 70601

Dear Ms. Jones:

This Warning Letter is to inform you of objectionable conditions observed during the Food and Drug Administration (FDA) inspection of your Institutional Review Board (IRB) from March 9 to March 19, 2009, by an investigator from the FDA New Orleans District Office. The purpose of this inspection was to determine whether your IRB is in compliance with applicable federal regulations. IRBs that review investigations of devices must comply with applicable provisions of Title 21, Code of Federal Regulations (21 C.F.R.) Part 50-Protection of Human Subjects, Part 56-Institutional Review Boards, and Part 812-Investigational Device

Exemptions. This letter also requests prompt corrective action to address the violations cited, many of which are recurrences or continuations of violations cited in a Warning Letter FDA sent to your IRB on August 29, 2000, and a Regulatory Follow-up Letter FDA sent to your IRB on August 22, 2006.

The inspection was conducted under a program designed to ensure that data and information contained in requests for Investigational Device Exemptions (IDE), Premarket Approval (PMA) applications, and Premarket Notification submissions (510(k)) are scientifically valid and accurate. Another objective of the program is to ensure that human subjects are protected from undue hazard or risk during the course of scientific investigations.

Our review of the inspection report prepared by the district office revealed several violations of Title 21, Code of Federal Regulations (21 C.F.R.) Part 56-Institutional Review Boards. At the close of the inspection, the FDA investigator presented an inspectional observations form FDA 483 for your review and discussed the observations listed on the form with you. The deviations noted on the FDA 483, and our subsequent review of the inspection report are discussed below:

I) Failure to follow written procedures for conducting initial and continuing review of research [21 CFR 56.108(a)].

For example:

a) Your IRB Policy and Procedures state, in Section XIV, Procedures for Submission of Study/Protocol, Subsection 2, that **(b)(4)**

i) The initial submission for the **(b)(4)** was submitted for review on **(b)(4)**, and reviewed by the IRB four days later, on **(b)(4)**

ii) The initial submission for the **(b)(4)** was submitted for review on **(b)(4)**, and reviewed by the IRB 13 days later, on **(b)(4)**

b) Your IRB Policy and Procedures state, in Section XIV, Subsection 13, Continuing Review, that **(b)(4)**

i) A quarterly progress report for the **(b)(4)** was submitted for review on **(b)(4)**, and reviewed by the IRB that same day, **(b)(4)**. The 2008 annual progress report was submitted for review on **(b)(4)** and was reviewed by the IRB two days later, on **(b)(4)**

ii) A quarterly progress report for the **(b)(4)** was submitted for review on **(b)(4)** and reviewed by the IRB the next day, **(b)(4)**. The **(b)(4)** annual progress report was submitted for review on **(b)(4)** and was reviewed by the IRB the next day, **(b)(4)**

c) Your IRB Policy and Procedures state, in Section XIV, Subsection 13a, under Continuing Review, that for annual review, "a copy of the current Informed Consent Form [ICF] must be forwarded to the IRB." Furthermore, Subsection 13f contains a list of issues that will be reviewed and documented in the meeting minutes. This list includes: reassessment of risk-benefit ratio, review of the ICF document, discussion of adverse reactions, equitable selection of patients, and whether new knowledge from the study or other studies impacts the risk-benefit ratio.

i) The **(b)(4)**, IRB meeting minutes indicate that the **(b)(4)** annual report was reviewed and approved without an ICF being forwarded to the IRB. Moreover, the meeting minutes do not include a reassessment of risk-benefit ratio, review of the ICF document, equitable selection of patients, or whether new knowledge from the study or other studies impacts the risk-benefit ratio.

ii) The **(b)(4)**, IRB meeting minutes indicate that the **(b)(4)** annual report was reviewed and approved without an ICF being forwarded to the IRB. Moreover, the meeting minutes do not include a reassessment of risk-benefit ratio, review of the ICF document, equitable selection of patients, or whether new knowledge from the study or other studies impacts the risk-benefit ratio.

**2) Failure to review proposed research at convened meetings at which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting. [21 CFR 56.108(c)].**

The IRB meeting minutes from **(b)(4)**, through **(b)(4)**, document that the IRB did not have a majority of the members present at three meetings. At two of these three meetings, the IRB approved research. For example:

a) During the **(b)(4)**, meeting, eight out of **(b)(4)** members were present when the **(b)(4)** was initially approved and the **(b)(4)** was granted a one year re-approval.

b) During the **(b)(4)** meeting, six out of **(b)(4)** members were present when the **(b)(4)** was granted a one year re-approval and a protocol amendment for the **(b)(4)** was approved.

**3) Failure to prepare and maintain adequate documentation of IRB activities. Such documentation must include minutes of IRB meetings which shall be in sufficient detail to show the vote on actions taken by the IRB, including the number of members voting for, against, and**

**abstaining. Such documentation also must include a list of IRB members identified by name, earned degrees, representative capacity, indications of experience, and any employment or other relationship between each member and the institution [21 CFR 56.115(a)(2) and (a)(5)].**

For example;

- a) The IRB meeting minutes fail to provide the number of members voting when the vote was "carried unanimously."
- b) The IRB rosters do not show which members are scientific or nonscientific, and which members are affiliated or not affiliated with the institution.

The violations described above are not intended to be an all inclusive list of problems that may exist at your IRB. Your IRB is responsible for ensuring compliance with the Federal Food, Drug, and Cosmetic Act (the Act) and applicable regulations.

The violations discussed above are recurrences or continuations of violations cited in FDA's August 29, 2000, Warning Letter and August 22, 2006, Regulatory Follow-up Letter. Your IRB has failed to implement and follow all of the corrective and preventative actions that your IRB promised after the previous inspections and letters, to assure future compliance with the Act and FDA regulations. Please provide proposed trainings, policies, and/or procedures developed to implement the promised corrective and preventative actions, along with expected completion dates.

In addition, please note that your IRB Policy and Procedures state that a Primary Reviewer may be designated to review the complete protocol. However, there is no documentation that the Primary Reviewer system is used at your IRB. In addition, your IRB Policy and Procedures state that IRB members receive a summary of the protocol prior to the meeting, but not the complete protocol. Without at least one IRB member reviewing the complete protocol, an IRB lacks the necessary study information to fully evaluate the research. As a result, an IRB could not appropriately and adequately make the determinations necessary under 21 CFR 56.111 to approve research.

Within fifteen (15) working days of receiving this letter, please submit a preventative action plan, and notify this office of your availability to meet and discuss specific steps you have taken or will take to prevent violations from recurring in current or future studies. Failure to respond to this letter and take appropriate corrective action could result in the FDA taking regulatory action without further notice to you. Send your response to: Attention: Anne T. Hawthorn, JD, Food and Drug Administration, Center for Devices and Radiological Health, Office of Compliance, Division of Bioresearch Monitoring, 10903 New

Hampshire Ave., Bldg. 66, Rm. 3510, Silver Spring, MD, 20993-0002.

*A copy of this letter has been sent to the New Orleans District Office, 404 BNA Drive, Bldg. 200, Suite 500, Nashville, TN 37217. Please send a copy of your response to that office.*

If you have any questions, please contact Catherine Parker at 301-796-5490 or at Catherine.Parker@fda.hhs.gov.

Sincerely yours,

/s/

Timonthy A. Ulatowski

Director  
Office of Compliance  
Center for Devices and  
Radiological Health