Inspections, Compliance, Enforcement, and Criminal Investigations

Wayne State University IRB 4/15/10

Department of Health and Human Services

Public Health Service
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

WARNING LETTER

VIA UPS EXPRESS

APR 15 2010

Jay Noren, M.D.
President
Office of the President
Wayne State University
4200 Faculty/Administration Building
Detroit, MI 48202

Dear Dr. Noren:

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 January 19 to February 2,2010 by investigators from the FDA Detroit 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 CFR) Part 56 - Institutional Review Boards, Part 50 - Protection of Human Subjects, and Part 812 - Investigational Device Exemptions. This letter also requests prompt corrective action to address the violations cited and discusses your written response, dated February 19, 2010, to the noted violations.

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 CFR), 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 Dorothy Nelson, M.D., Associate Vice President for Research. The deviations noted on the Form FDA 483, the IRB's written response, and our subsequent review of the inspection report are discussed below:

1. 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 21 CFR 56.115(a)(5)]

Examples of this failure include, but are not limited to, the following:

a. The Clinical and Translational Sciences (CTS1) - rapid review Board did not prepare minutes for the 8

convened meetings held between May 21, 2008 and October 2009.

Your response states that you were aware that the Research Compliance Administrator who was responsible for this task did not generate the minutes as required and this has been resolved in that they no longer work for Wayne State University. Your response is inadequate in that you have not provided a corrective action to prevent this violation from reoccurrence. Please provide evidence of the corrective actions that you have implemented (e.g. SOPs, copies of recent meeting minutes) and the prospective dates of implementation for such changes.

b. The following studies were approved without documenting the number of IRB members voting.

i. The Adult Medical (M1) meeting minutes for November 6, 2008 reflect approval of **(b)(4)**

ii. The Adult Medical/Pediatric IRB (MP2) meeting minutes for January 15, 2009 reflect the approval of **(b)(4)** and

iii. The Adult Medical/Pediatric IRB (MP4) meeting minutes for November 20, 2008 reflect the approval of **(b)(4)**

Your response indicates that you were aware of this problem prior to inspection and that the Office of the Vice President for Research Information, Technology Department is working with the software developer to determine the cause of the problem in order to create a solution.

c. The membership list for the CTS1 IRB that was in effect May 1, 2008 through May 1, 2009, and for the M1 IRB that was in effect October 1, 2008 through September 30, 2009, describe **(b)(4)** as an UP Consultant; however, this list is incorrect because **(b)(4)** does not serve as a consultant, but is instead a voting member of both boards.

Your response indicates that your IT department will create dynamic IRB membership reports, namely Membership Rosters and Membership Attendance from the **(b)(4)** database. In addition, the response acknowledges that your IRB rosters were incorrect and that the new Associate Director will take responsibility for managing the IRB membership rosters, ensuring updates are made in **(b)(4)**, and developing a standard operating procedure for these processes.

Your response is inadequate in that you state that you are relying on reports generated by the **(b)(4)** database though you have also acknowledged that the **(b)(4)** database is currently experiencing "programming problems". In your response, please let us know what specific measures you took or plan to take to assure that your electronic record keeping system creates, maintains, or archives accurate and complete documentation of your IRB activities. Additionally, please include a formal job description for the Associate Director, as well as the procedure that is being developed by the Associate Director to address this violation.

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 is in nonscientific areas. [21 CFR 56.108(c)]

The MP4 IRB reviewed and voted on FDA-regulated research when less than a majority of the members were present and granted initial approval. Examples of this failure include, but are not limited to, the following:

a. Meeting minutes for July 26, 2007 indicate only eight out of 16 members were present and voted on the study entitled **(b)(4)**

b. Meeting minutes for February 28, 2008 indicate only seven out of 16 voting members were present and voted on the study entitled **(b)(4)**

c. Meeting minutes for November 20, 2008 indicate only seven out of 17 voting members were present and voted on the study entitled
(b)(4)

Your response indicates an additional HIC staff member will attend the IRB meetings to ensure a majority of members are present, verify attendance, and the accuracy of vote counts. Your response is inadequate in that you have not designated who will be responsible for this task. Please submit a description of their duties, qualifications, and records of his/her training.

The violations described above are not intended to be an all inclusive list of problems that may exist at the IRB. The inspectional history of your IRB documents that the above listed violations are recurring at your IRB. You have previously submitted corrective action plans that if implemented and executed appropriately would have addressed the violations documented previously, however, similar violations have been documented during this inspection. As a result of your continued noncompliance with the Act and applicable regulations, we are requesting a regulatory meeting to be conducted at our office, or by phone, with your institution. Please contact Linda Godfrey, Branch Chief of Program Enforcement Branch A at the contact information listed below in order to arrange a meeting to discuss your proposed corrective actions.

Within fifteen (15) working days of receiving this letter, please provide written documentation of the additional actions you have taken or will take to correct these violations and prevent the recurrence of similar violations. 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: Linda Godfrey, Food and Drug Administration, Center for Devices and Radiological Health, Office of Compliance, Division of Bioresearch Monitoring, 10903 New Hampshire Avenue, W066-3462, Silver Spring, Maryland, 20993-0002.

A copy of this letter has been sent to the Detroit District Office, 300 River Place, Suite 5900, Detroit, MI 48207. Please send a copy of your response to that office.

The Division of Bioresearch Monitoring has developed introductory training modules in FDA regulated device clinical research practices, which are available on the FDA website. The modules are for persons involved in FDA regulated device clinical research activities. These modules are located at the following website address: http://www.fda.gov/Training/CDRHLearn/ucmI62015.htm

If you have any questions, please contact Linda Godfrey at (301) 796-5490 or via e-mail at Linda.Godfrey@fda.hhs.gov.

Sincerely yours,

/s/

Michael E. Marcarelli, Pharm.D., M.S.
Director
Division of Bioresearch Monitoring
Office of Compliance
Center for Devices and
Radiological Health

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