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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

FEDERAL EXPRESS

DEC 23 1997

Food and Drug Administration
2098 Gaither Road
Rockville MD 20850

WARNING LETTER

W. Glenn Hurt, M.D.
Professor, Department of Obstetrics and Gynecology
Medical College of Virginia
P.O. Box 980034
Richmond, Virginia 23298-0034

Dear Dr. Hurt:

You were inspected May 8-13, 1997, by Gerald Mierle, an investigator with the Food and Drug Administration (FDA), Baltimore District Office, Richmond Resident Post. The purpose of that inspection was to determine whether your activities as a clinical investigator for the investigational study [redacted] of the [redacted] sponsored by [redacted] complied with applicable FDA regulations. This product is a device as that term is defined in section 201(h) of the Federal Food, Drug and Cosmetic Act (the Act).

Our review of the inspection report submitted by the district office revealed violations of Title 21, Code of Federal Regulations (21 CFR), Part 812 - Investigational Device Exemptions and Part 50 - Informed Consent of Human Subjects. These items were listed as observations on the Form FDA-483, Inspectional Observations, which was presented to and discussed with you at the conclusion of the inspection. The following list of violations is not intended to be an all-inclusive list of deficiencies in the above referenced clinical study.

1) **Failure to obtain IRB approval before conducting the investigational study as required by 21 CFR 812.110(a).**

[redacted] the reviewing Institutional Review Board (IRB), did not approve the study protocols and the informed consent documents you used in the above referenced study.

You allowed Drs. Edward Gill and Christine Hunter to serve as co-investigators without obtaining IRB approval for their participation in the study.

2) **Failure to conduct an investigation in accordance with the investigational plan, conditions of approval imposed by the IRB, sponsor's investigator agreement, and applicable FDA regulations as required by 21 CFR 812.110(b).**

In your December 28, 1996, memorandum to [redacted] you stated that none of your patients developed a urinary tract infection while using the device. You also stated that the use of the device was not associated with any urethral or periurethral skin irritations, fissures, callous formations, and the development of vulvitis or vaginitis.

In your communications to the IRB, on September 20, 1996, and May 9, 1997, you stated that there were no significant complications or complaints. Also, you stated that there were no urinary tract infections resulting from the device.

[redacted] patients, identified as [redacted] experienced adverse device events (irritation, discomfort, bleeding, urinary tract infection and vaginitis) which were not reported to the sponsor and the reviewing IRB.

There was no evidence that the sponsor or the IRB was notified that subjects [redacted] allowed to alter the physical characteristics of the device (trimming). Federal regulation 21 CFR 812.150(a)(4) requires that all deviations from the protocol be reported to the sponsor and reviewing IRB.

In a faxed memo addressed to you dated April 24, 1996, the sponsor notified you of changes in the risk status of the study and recommended changes in the protocol that you did not disclose to the reviewing IRB for their approval.

On December 14, 1995, you submitted only one of three advertisements to the IRB for approval. Also, on February 26, 1996, the sponsor notified you about their advertisement and announcement to 2,000 physicians in the Greater Richmond area. You failed to inform the IRB about this action.

3) **Failure to ensure that proper informed consent is obtained as required in 21 CFR 812.100, 21 CFR 50.25 [redacted] and 21 CFR 50.27.**

You did not obtain IRB approval for the informed consent document that you used during the study. The informed consent document (Research Consent Form) did not contain the basic elements of informed consent in that it did not include correct information about study duration and the information which the IRB requested on November 16, 1995. Although the informed consent specified the length of participation to be 30 days, some subjects remained in the study after 90 days.

Also, the informed consent document signed by study subjects appears inconsistent with the information you provided the study subjects. Your informed consent form states that the devices were available at no charge. However, the information (device description and directions for use) which you provided the patients includes a form to order replacement kits directly from the sponsor for $30.00 with a credit card.

4) **Failure to keep accurate records of the receipt, use, or disposition of the investigational device as required by 21 CFR 812.140(a)(2).**

Your records were inadequate to meet the requirements of this section. The only available records at the site were incomplete device dispensation forms. The forms listed the subjects, the dates when devices were dispensed to subjects, and the device serial numbers. Some dates were changed from 1996 to 1997 and vice versa. Device serial numbers were not given for all devices. The forms did not include unused devices and devices returned to the sponsor.

5) **Failure to maintain accurate, complete and current records of all correspondence with the sponsor, monitor, the IRB, and another investigator as required in 21 CFR 812.140(a)(1).**

You failed to maintain the signed investigator agreements for you and your co-investigators, Drs. Edward Gill and Christine Hunter. There was no documentation to verify that these co-investigators' curriculum vitas were sent to the sponsor and to the IRB.

Your records were inadequate in that you failed to maintain records indicating why Drs. Hunter and Richards received devices for purposes other than demonstrations. There was no documentation to verify that the sponsor and IRB were aware of these activities.

It is your responsibility to assure adherence to each requirement of the Act and regulations. This includes adequate and accurate record-keeping, as well as the reporting of all adverse device events and effects.

Within fifteen (15) working days of receipt of this letter, please provide this office with written documentation of any specific steps you have taken or will be taking to bring any future studies into compliance with FDA regulations. Should you require additional time to respond, please contact Mr. Hopson at the telephone number provided below.

A copy of this Warning Letter has been sent to the Food and Drug Administration, Baltimore District Office, 900 Madison Avenue, Baltimore, Maryland 21201. We request that a copy of any correspondence also be sent to the Baltimore District Office and to the Food and Drug Administration, Center for Devices and Radiological Health, Office of Compliance, Division of Bioresearch Monitoring, Program Enforcement Branch I (HFZ-311), 2098 Gaither Road, Rockville, Maryland 20850, Attention: Kevin M. Hopson.

Please direct all questions concerning this matter to Mr. Hopson at (301) 594-4720, extension #128.

Sincerely yours,

for Lillian J. Gill
Director
Office of Compliance
Center for Devices
and Radiological Health