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483

WARNING LETTER

Food and Drug Administration  
Rockville MD 20857

OVERNIGHT DELIVERY

Ref: No. 97-HFD-340-0701

Mr. Wayne Lowe  
Chairman of the Board  
Healthcare, Inc.  
1701 East 23rd Street  
Hutchinson, Kansas 67502

**AUG 1 1997**

Dear Mr. Lowe:

On December 9 - 11, 1996, Ms. Kara L. Roden, an investigator with the Kansas City District Office of the Food and Drug Administration (FDA), inspected the Institutional Review Committee (IRC) at Hutchinson Hospital Corp., Inc. The purpose of this inspection was to determine whether your procedures for the protection of human subjects complied with Title 21 of the Code of Federal Regulations (CFR) Parts 50 and 56 (enclosure #1). These regulations apply to clinical studies of products regulated by FDA.

At the completion of the inspection, Ms. Roden gave a Form FDA 483 (enclosure #2) to Bruce E. Klosterhoff, M.D., IRC Chairman, describing the deficiencies identified during this inspection. Also present was Mr. Alvin I. Penner, Executive Vice President and IRC member.

The Agency has reviewed the documents and records relating to the IRC's responsibilities for the protection of human subjects of research contained in Ms. Roden's inspection report and the objectionable conditions and practices listed in the Form FDA 483. The evidence shows that the IRC has failed to adhere to pertinent federal regulations as contained in 21 CFR 50 and 56. The Agency's findings represent significant violations of the Federal Food, Drug, and Cosmetic Act.

SUMMARY OF IRC'S FUNCTIONS AND OPERATIONS VIOLATIONS [21 CFR 56.108(a)(b) and (c)]:

1. The IRC's written procedures are based upon the requirements of 21 CFR 813, Intraocular Lenses Investigation Device Exemption Requirements and deal solely with the review of intraocular lenses (IOL). Since October 1993, approximately 110 studies approved by the IRC have been pharmaceutical in nature. The IOL regulations were superseded on July 27, 1981, with the exception of IOL studies ongoing at the time, by 21 CFR

56, Standards for Institutional Review Boards. The IRC's procedures are based on regulations inappropriate for the studies being reviewed and do not meet the requirements of 21 CFR 56.108 (a) and (b). (Form FDA 483 Items 11 and 12)

2. The IRC has failed to provide adequate initial and continuing review of research as required by 21 CFR 56.108(a)(1). Initial and continuing review of research is performed at the clinical investigator's request for a meeting. The clinical investigator will provide the protocol and informed consent document for initial review at the meeting while he makes a presentation. Continuing review is also an oral presentation with no written documentation. The August 29, 1996 meeting is typical where, in a one-hour meeting, three new protocols and sixty (60) continuing reviews were approved. (Form FDA 483 Item 1)

3. The IRC has failed to ensure that any change in research activity is promptly reported to the IRC as required by 21 CFR 56.108(a)(3).

4. The IRC has failed to ensure that any changes in approved research may not be initiated without IRC review and approval except where necessary to eliminate apparent immediate hazards to the human subjects as required by 21 CFR 56.108(a)(4). (Form FDA 483 Item 6)

5. The IRC has failed to require prompt reporting of any unanticipated problems involving risks to the subjects or others as required by 21 CFR 56.108(b)(1).

6. As required by 21 CFR 56.108(c), the IRC has failed to have a majority of the IRC's membership, including a non-scientist, present at meetings to review research at four of the nine meetings held since November 1993. Research studies were approved at improperly convened meetings. (Form FDA 483 Item 3)

SUMMARY OF REVIEW VIOLATIONS [21 CFR 56.109(b) and (f)]:

7. The IRC has failed to review informed consent documents to assure that the information given subjects is in accordance with 21 CFR 50. (Form FDA 483 Item 2)

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8. As required by 21 CFR 56.109(f), the IRC has failed to conduct continuing review at intervals appropriate to the degree of risk for at least 49 of the approximately 110 studies approved since October 1993. Continuing review occurs only when the clinical investigator(s) request it. (Form FDA 483 Items 4, 5 and 7)

SUMMARY OF RECORD VIOLATION [21 CFR 56.115(a)(1)]:

9. With the exception of the [REDACTED] study, the IRC has failed to maintain copies of protocols, informed consent documents, and progress reports for studies reviewed and approved by the IRC as required by 21 CFR 56.115(a)(1). (Form FDA 483 Item 8)

SUMMARY OF INFORMED CONSENT VIOLATIONS [21 CFR 50.25]:

10. The IRC has failed to ensure that all informed consent documents include all the required elements of informed consent and information specific to the Hutchinson Hospital, such as local investigators' names and contacts for information. (Form FDA 483 Items 9 and 10).

The above cited violations may not be all inclusive of the deficiencies in your IRC operation.

We have no assurance that your IRC activities and responsibilities are in compliance with FDA regulations for insuring the care of research subjects, and we are concerned that your procedures and operations will not adequately protect the rights and welfare of human subjects of research. Therefore, in accordance with 21 CFR 56.120(b)(1) and (2) we are invoking the following sanctions against your IRC:

- a) You are to withhold approval of all new studies, subject to the requirements of 21 CFR Parts 50 and 56, that are conducted at your IRC's institution, or other clinical studies that are under review and pending approval by the IRC.
- b) You are further directed not to allow any new subjects to enter in or be added to approved studies that are subject to 21 CFR Parts 50 and 56.

Please inform this office, in writing, within fifteen (15) working days from the date of receipt of this letter, of the corrective actions you have taken or plan to take to

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bring your IRC into compliance with FDA's regulations. If your response is not adequate, we may take further administrative sanctions as authorized by 21 CFR 56.120 and 56.121. These sanctions may include, but are not limited to, the termination of all previous studies approved by your IRC and disqualification of your IRC.

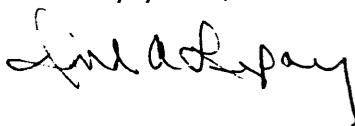
You should also include the following:

- a) any actions taken to turn over responsibility of any future IRC review to another IRC until such a time as the Hutchinson Hospital IRC has demonstrated that the Hutchinson Hospital IRC can meet the requirements of 21 CFR 50 and 56; and
- b) documentation of actions taken.

We are enclosing a copy of the *FDA Information Sheets for IRBs and Clinical Investigators* for your information (enclosure 3). If you have any questions, please contact Mr. Anthony E. Rodgers at (301) 594-1026 or Fax (301) 594-1204. Your response should be addressed to the following:

Anthony E. Rodgers, Acting Team Leader  
Human Subject Protection Team, HFD-343  
Division of Scientific Investigations  
Center for Drug Evaluation and Research  
7520 Standish Place  
Rockville, Maryland 20855

Sincerely yours,



David A. Lepay, M.D., Ph.D.  
Director  
Division of Scientific Investigations  
Office of Compliance  
Center for Drug Evaluation and Research

Enclosure #1 FDA Regulations Parts 50 and 56

Enclosure #2 Form FDA 483

Enclosure #3 FDA Information Sheets (to IRC Chairman)

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cc:

Mr. Gene Schmidt  
President  
Hutchinson Hospital Corp., Inc.  
1701 East 23rd. Street  
Hutchinson, Kansas 67502

Bruce E. Klosterhoff, M.D.  
Chairman  
Institutional Review Committee  
Hutchinson Hospital Corp., Inc.  
1701 East 23rd Street  
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