DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

MEMORANDUM

DATE: November 9, 2005

TO: Sheila Dearybury Walcoff, Esq.
Associate Commissioner for External Relations
Food and Drug Administration

THROUGH: Jenny Slaughter
Director, Ethics and Integrity Staff
Office of Management Programs, OMS

FROM: Norris Alderson, Ph.D.
Associate Commissioner for Science

SUBJECT: Conflict of Interest Waiver for Paul Boepple, M.D.

I am writing to request a waiver for Paul Boepple, M.D., a consultant to the Pediatric Ethics Subcommittee, from the conflict of interest prohibitions of 18 U.S.C. section 208(a). Waivers under section 208(b)(3) may be granted by the appointing official where "the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved" and where the individual has made a disclosure of the financial interests at issue. We have determined that you are the appointing official for purposes of section 208. Therefore, you have the authority to grant Dr. Boepple a waiver under section 208(b)(3).

Section 208(a) prohibits Federal executive branch employees, including special Government employees, from participating personally and substantially in matters in which the employee or his employer has a financial interest. Since Dr. Boepple is a special Government employee, he is under a statutory obligation to refrain from participating in any deliberations that involve a particular matter having a direct and predictable effect on a financial interest attributable to him or his employer.

The function of the Pediatric Ethics Subcommittee is to advise and make recommendations to the Pediatric Advisory Committee pursuant to 45 CFR 46.407 on research involving children as subjects that is conducted or supported by the Department of Health and Human Services, when that research is also regulated by FDA.

Dr. Beopple has been asked to participate on November 15, 2005 when the Subcommittee will meet to discuss a referral by an Institutional Review Board (IRB) of a proposed clinical investigation that involves both an FDA regulated product and research involving children as subjects that may be supported by the Department of Health and Human Services (HHS). The proposed clinical investigation is entitled "Gonadotropin Releasing Hormone (GnRH) Agonist Test in Disorders of Puberty." Because the proposed clinical investigation would be regulated by FDA, and conducted or supported by HHS, both FDA and the Office for Human Research Protections, HHS, will participate in the meeting.

After presenting the overview of the IRB referral process, background information on disorders of puberty and hormonal actions of leuprolide, an overview of the protocol and the referring IRB's deliberations on the protocol, and a summary of public comments received concerning whether the protocol should proceed, the subcommittee will discuss the proposed protocol and develop a recommendation regarding whether the protocol should proceed. The subcommittee's recommendation will then be presented to the FDA Pediatric Advisory Committee on November 16, 2005.

Dr. Beopple has advised the Food and Drug Administration (FDA) that he has a financial interest which could potentially be affected by his participation in the matter described above. Dr. Beopple received income from [redacted]s for speaking and writing for issues related to precocious puberty from 1985 to the present. In addition Dr. Beopple participated in a steering committee meeting on July 2005 with [redacted] for a product [redacted]) similar to the product being discussed on November 15, 2005. However [redacted] is used for treatment of precocious puberty and not as a diagnostic tool, which is the intended use in the protocol involving leuprolide being reviewied at the meeting on November 15, 2005.

As a member of the Pediatric Advisory Subcommittee, Dr. Beopple potentially could become involved in matters that could affect him or his spouse's financial interests. Under section 208, he is prohibited from participating in such matters. However, as noted above, you have the authority under 18 U.S.C. section 208(b)(3) to grant a waiver permitting Dr. Beopple to participate in such matters as you deem appropriate.

For the following reasons, I believe that it would be appropriate for you to grant a waiver to Dr. Beopple that would allow him to participate fully in the matter described below because the need for his services greatly outweighs the conflict of interest created by this financial interest.

Dr. Beopple's imputed financial interests in [redacted] are not so substantial as to preclude him participation in this matter. The consulting income from [redacted] represents a nominal financial interest. The FDA is not asking for any advice on specific regulatory action and the subcommittee will not be asked to consider any recommendations for any product-specific regulatory action. The questions being put to the subcommittee are stricktly related to ethical questions concerning the use of pediatric patients in a specific research protocol. The questions being asked of the subcommittee are:

(1) What are the potential benefits of the research, if any, to the subjects and to children in general;

(2) What are the types and degrees of risk that this research presents to the subjects;

(3) Are the risks to the subjects reasonable in relation to the anticipated benefits, and is the research likely to result in generalizable knowledge about the subjects disorder or condition; and

(4) Does the research present a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children?

Therefore it is highly unlikely that the outcome of this meeting will have any impact on the product, the company, or their share values.

Moreover, the Federal Advisory Committee Act requires that committee memberships be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory subcommittee. Also, the subcommittee's intended purpose would be significantly impaired if the agency could not call upon experts who have become eminent in their fields, notwithstanding the financial interests and affiliations they may have acquired as a result of their demonstrated abilities.

Dr. Beopple specializes in Pediatric Endocrinology. Dr. Beopple's broad professional experience as demonstrated by his positions at Harvard Medical School and Massachusetts General Hospital. Because of the broad spectrum of drugs typically included in the BPCA-mandated adverse event reports, it is important to include broadly qualified pediatricians on the panel. I believe that Dr. Beopple's participation in the subcommittee's deliberations will contribute to the diversity of opinions and expertise represented on the subcommittee.

Accordingly, I recommend that you grant Dr. Paul Beopple a waiver that would allow him to participate in all official matters when the Subcommittee will meet to discuss a referral by an Institutional Review Board (IRB) of a proposed clinical investigation that involves both an FDA regulated product and research involving children as subjects that may be supported by the Department of Health and Human Services (HHS).

I believe that a waiver is appropriate for Dr. Beopple, because the need for his services outweighs the potential for a conflict of interest created by the financial interest attributed to him.

CONCURRENCE: _____ 11-9-05

for Jenny Slaughter — Date
Director, Ethics and Integrity Staff
Office of Management Programs, OMS

DECISION:

✓ Waiver granted based on my determination, made in accordance with 18 U.S.C. 208(b)(3), that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest attributable to the individual.

_____ Waiver denied.

_____ 11-10-05

Sheila Dearybury Walcoff, Esq. — Date
Associate Commissioner for External Relations
Food and Drug Administration

Acknowledgment and Consent for Disclosure of a
Food and Drug Administration Waiver

Name of Advisory Committee Member: Paul Boepple, M.D.

Committee: Pediatric Ethics Subcommittee of the Pediatric Advisory Committee

Meeting Date: November 15, 2005

I acknowledge that contingent upon public disclosure of the following financial interest submitted on my FDA Form 3410 and related to the agenda item: On November 15, 2005, the Pediatric Ethics Subcommittee of the Pediatric Advisory Committee will discuss a referral by an Institutional Review Board of a proposed clinical investigation that involves both an FDA-regulated product and research involving children as subjects that may be supported by the Department of Health and Human Services, entitled **"Gonadotropin Releasing Hormone (GnRH) Agonist Test in Disorders of Puberty"**

| Type of Interest | Nature | Magnitude |
|---|---|---|
| Consultation/speaking | with an affected firm | less than $10,000 |

I hereby request that FDA make this information publicly available on my behalf at the start of the advisory committee meeting by reading this acknowledgment into the record.

Statement to be read: In accordance with 18 USC 208(b)(3), a full waiver has been granted to Dr. Paul Boepple for consulting and speaking for a company with a product at issue, with an aggregate value of less than $10,000.

Paul Boepple, M.D.

11/15/05
Date