DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

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March 23, 2004

Chester M. Edelmann, Jr., M.D.
Chairman, Committee on Clinical Investigations
Albert Einstein College of Medicine
of Yeshiva University
Belfer Educational Center for Health Sciences, Room 1002
1300 Morris Park Avenue,
Bronx, NY 10461

Subject: Secretary's Determination under Department of Health and Human Services Regulations at 45 CFR 46.407 on the Research Protocol Entitled "Sleep Mechanisms in Children: Role in Metabolism" (1 R01 HL 070919-01); Principal Investigator Gabriel G. Haddad, M.D.

Dear Dr. Edelmann:

This letter is written on behalf of the Assistant Secretary for Health (ASH), Department of Health and Human Services (HHS). In November 2002, the Albert Einstein College of Medicine Committee on Clinical Investigation forwarded the above-referenced protocol to the Office for Human Research Protections (OHRP) for consideration pursuant to requirements of the HHS regulations at 45 CFR 46.407 (i.e., research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children). The proposed research protocol would be funded by the National Heart, Lung and Blood Institute (NHLBI) under grant number 1 R01 HL 070919-01.

In accordance with the requirements of 45 CFR 46.407, HHS solicited opinions regarding the proposed study from experts in relevant disciplines in May 2003. On June 13, 2003, a Federal Register Notice was published soliciting public review and comment, pursuant to the requirements of 45 CFR 46.407, for a period of 45 days. Documents related to the protocol were made available on the OHRP website, including the grant proposal, IRB protocol application, assent/permission documents, and IRB deliberations on the proposed research. In addition, individual expert reports were made

available. No public comments were received in response to the Federal Register Notice.

Following consideration of the research protocol involving the enrollment of 13- to 17-year old subjects, recommendations by the experts, and the report of the NHLBI Special Emphasis Report, the ASH found that HHS would not support the proposed research protocol at this time, because there is a lack of data regarding the safety and feasibility of the proposed study procedures in adults or children.

The principal investigator acknowledged that none of the proposed studies have been done in adults or children and only a few have been done in animals. Although the above-cited study proposes to perform the protocol procedures on five adults before enrolling adolescents, the ASH believes that data from five adults could be inadequate to determine the safety or feasibility of performing these procedures on adolescents. Furthermore, the findings from the adult study may lead to changes in the protocol involving adolescents, which would need to be considered before determining whether the study is approvable under 45 CFR 46.407.

If data from the adult studies indicate that the protocol procedures are feasible and safe, then your institution may consider resubmitting this study involving 13-17 year old subjects, after making any necessary changes in the protocol based on results from the adult studies.

For your reference, the ASH's decision memorandum is enclosed with this correspondence.

Please contact me if you have any questions regarding this matter. Thank you for your continuing commitment to the protection of human subjects.

Sincerely,

/s/ Bernard A. Schwetz

Bernard A. Schwetz, D.V.M., Ph.D.
Acting Director
Office for Human Research Protections

Enclosure

cc: Dr. Gabriel Haddad, Albert Einstein
Dr. Lana Skirboll, NIH
Dr. Michael Twery, NIH
Dr. Melody Lin, OHRP
Dr. Michael Carome, OHRP
Dr. Irene Stith-Coleman, OHRP