

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Isaq Suhail  
BioCell Technology, LLC  
2931 E. La Jolla Street  
Anaheim, CA 92806

January 28, 2005

Ref. No. CL-04-HFS-810-125

Dear Mr. Suhail:

This is to advise you that the Food and Drug Administration (FDA) has reviewed your web site at the Internet address <http://www.biocelltechnology.com> and has determined that the product BioCell Collagen II is promoted for conditions that cause the product to be a drug under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) [21 U.S.C. § 321(g)(1)]. The therapeutic claims on your web site establish that the product is a drug because it is intended for use in the cure, mitigation, treatment, or prevention of disease. The marketing of this product with these claims violates the Act. Examples of some of the claims observed on your web site include:

“BioCell Technology LLC ... is pleased to announce ... the use of Hydrolyzed Chicken Collagen Type II for the treatment of connective tissue disorder, osteoarthritis, degenerative joint disease, joint defects, vascular disease, and cartilage injuries.”

“Hydrolyzed Chicken Collagen Type II is the next generation in the treatment of arthritis and joint disease.”

“A novel dietary supplement derived from sternum collagen improves the pain, stiffness, and quality of life in persons with osteoarthritis (OA) ....”

Your web site also contains disease claims in the form of personal testimonials, including:

“I have been dealing with osteoarthritis [sic] for over 10 years .... After receipt of the BioCell Collagen II. [sic] I took 2 capsules at bedtime and for the first time in many months I had no joint pain during the night. I have been taking two capsules in the AM and PM with excellent relief all day and night.... The BioCell Collagen even eases my carpal tunnel pain.... I have also discontinued ASA, Ibuprofen and Etodolac for pain. I have also observed a smoothing or rounding of the arthritic spurs in the joints of my fingers.”

Furthermore, your product is not generally recognized as safe and effective for the above referenced conditions and therefore, this product is also a “new drug” under section 201(p) of the Act [21 U.S.C. § 321(p)]. New drugs may not be legally marketed in the U.S. without prior approval from FDA as described in section 505(a) of the Act [21 U.S.C. § 355(a)]. FDA

approves new drugs on the basis of scientific data submitted by a drug sponsor to demonstrate that the drugs are safe and effective.

FDA is aware that Internet distributors may not know that the products they offer are regulated as drugs or that these drugs are not in compliance with the law. Many of these products may be legally marketed as dietary supplements if claims about diagnosis, cure, mitigation, treatment, or prevention are removed from the promotional materials and the products otherwise comply with all applicable provisions of the Act and FDA regulations.

Under the Act, as amended by the Dietary Supplement Health and Education Act, dietary supplements may be legally marketed with truthful and non-misleading claims to affect the structure or function of the body (structure/function claims), if certain conditions are met. However, claims that dietary supplements are intended to prevent, diagnose, mitigate, treat, or cure disease (disease claims), excepting health claims authorized for use by FDA, cause the products to be drugs. The intended use of a product may be established through product labels and labeling, catalogs, brochures, audio and videotapes, Internet sites, or other circumstances surrounding the distribution of the product. FDA has published a final rule intended to clarify the distinction between structure/function claims and disease claims. This document is available on the Internet at <http://vm.cfsan.fda.gov/~lrd/fr000106.html> (codified at 21 C.F.R. § 101.93(g)).

In addition, only products that are intended for ingestion may be lawfully marketed as dietary supplements. Topical products and products intended to enter the body directly through the skin or mucosal tissues, such as transdermal or sublingual products, are not dietary supplements. For these products, both disease and structure/function claims may cause them to be new drugs.

Certain over-the-counter drugs are not new drugs and may be legally marketed without prior approval from FDA. Additional information is available in Title 21 of the Code of Federal Regulations (21 C.F.R.) Parts 310 and 330-358, which contain FDA's regulations on over-the-counter drugs.

This letter is not intended to be an all-inclusive review of your web site and products your firm markets. It is your responsibility to ensure that all products marketed by your firm comply with the Act and its implementing regulations.

If you need additional information or have questions concerning any products distributed through your web site, please contact FDA. You may reach FDA electronically (e-mail) at [Kenneth.Taylor@CFSAN.FDA.GOV](mailto:Kenneth.Taylor@CFSAN.FDA.GOV), or you may respond in writing to Kenneth M. P. Taylor, Ph.D., Chemist, Food and Drug Administration, Division of Dietary Supplement Programs, 5100 Paint Branch Parkway, College Park, Maryland 20740-3835.

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If you have any questions concerning this letter, please contact Dr. Taylor at (301) 436-1439.

Sincerely,

/s/

Susan J. Walker, M.D.  
Director  
Division of Dietary Supplement Programs  
Office of Nutritional Products, Labeling  
and Dietary Supplements  
Center for Food Safety  
and Applied Nutrition