DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

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December 22 2004

Timothy F. Hawkins
Vice President, Clinical Services
Baptist Hospital of Miami, Inc.
8900 North Kendall Drive
Miami, FL 33176

RE: Human Research Subject Protections Under Federalwide Assurance FWA-1752

Research Projects: Children's Oncology Group Research

Project Numbers: NCI Code Number FL078
Children's Oncology Group (COG) protocols:
3961, 9494, 9673, 9720, 9904, 9905, 9754, 9440

Principal Investigator: Doured Daghistani, M.D.

Dear Mr. Hawkins:

The Office for Human Research Protections (OHRP) has reviewed the Baptist Hospital of Miami's (BHM) December 14, 2004 response to OHRP's November 4, 2004 letter.

In its November 4, 2004 letter, OHRP made the following determinations of noncompliance and raised the following concerns:

(1) OHRP found that BHM did not have written IRB procedures that adequately describe the following activities, as required by HHS regulations at 45 CFR 46.103(a) and 46.103(b)(4) and (5):

(a) The procedures which the IRB will follow for determining which projects require review more often than annually.

(b) The procedures which the IRB will follow for determining which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review.

(c) The procedures which the IRB will follow for ensuring prompt reporting to the IRB of proposed changes in a research activity, and for ensuring that such changes in approved research, during the period for which IRB approval has already been given, may not be initiated without IRB review and approval except when necessary to eliminate apparent immediate hazards to the subject.

(d) The procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, any department or agency head, and OHRP of: (i) any unanticipated problems involving risks to subjects or others; (ii) any serious or continuing noncompliance with 45 CFR part 46 or the requirements or determinations of the IRB; and (iii) any suspension or termination of IRB approval.

OHRP noted the following deficiencies in the IRB written procedures regarding reporting requirements:

(i) OHRP was unable to find any reference in the BHM procedures to the reporting requirements referenced in 45 CFR 46.103(a) and (b)(5)(i), which state that an institution must have written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and the department or agency head (OHRP) of any unanticipated problems involving risks to subjects or others.

(ii) OHRP was also unable to find any reference in the procedures to the reporting requirements referenced in 45 CFR 46.103(b)(5)(ii) for any serious or continuing noncompliance with this policy or the requirements or determinations of the IRB.

(iii) OHRP notes the addition of OHRP and the funding department or agency to the sentence that lists the parties to whom suspensions and terminations will be reported. However, the paragraph begins with a reference to FDA regulations at 21 CFR 56.113 and contains no reference to 45 CFR 46.103(b)(5)(iii).

Corrective Action: OHRP notes that BHM policies were amended to address the above deficiencies.

(2) OHRP expressed concern that there is no evidence in the IRB minutes, the IRB application, or the reviewer checklists that the IRB considered the requirements of HHS regulations at 45 CFR 46.401-409 (Subpart D) in its review of pediatric research.

Corrective Action: BHM stated that it will be careful to ensure that the minutes reflect the IRB's deliberations and resulting findings, as required in 45 CFR 46.111 and Subpart D (45 CFR 46.404-409). OHRP notes that BHM Policy No. 833.06, "Pediatric

Research," and the "IRB Reviewer Worksheet - Supplemental for Pediatric Research" were revised to include the requirements of 45 CFR 46.408(a).

(3) HHS regulations at 45 CFR 46.115(a)(2) require that minutes of IRB meetings be in sufficient detail to show, in pertinent part, the actions taken by the IRB; and to show the vote on these actions, including the number of members voting for, against, and abstaining. OHRP expressed concern that the minutes failed to meet these requirements.

Corrective Action: BHM states that it has enhanced its review and documentation of IRB actions in the minutes.

OHRP finds that the corrective actions above address OHRP's findings, questions, and concerns adequately. As a result, there should be no need for further involvement of OHRP in this matter. Of course, OHRP must be notified should new information be identified which might alter this determination.

OHRP appreciates your institution's continued commitment to the protection of human research subjects. Do not hesitate to contact OHRP if you have any questions regarding this matter.

Sincerely,

Karena Cooper, J.D., M.S.W.
Compliance Oversight Coordinator
Office for Human Research Protections

cc: Dr. Harold S. Goldstein, IRB Chair, BHM
Ms. Kelly A. Cohn, Clinical Research Manager, BHM
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