DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

Office for Human Research Protections
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May 30, 2003

Theodore Krontiris, M.D., Ph.D.
Interim Institutional Official
Clinical and Scientific Executive Team
City of Hope National Medical Center and
the Beckman Research Institute
1500 East Duarte Road
Duarte, CA 91010-3000

RE: Human Research Subject Protections Under Multiple Project Assurance (MPA) M-1043

Research Project:	**McGhan Medical Corporation Silicone-Filled Breast Implant Core Clinical Study**
P.I.:	**James S. Anderson, M.D., F.A.C.S.**
Protocol Number:	**IRB #99037**

Dear Dr. Krontiris:

The Office for Human Research Protections (OHRP) has reviewed the City of Hope National Medical Center's reports dated July 20, 2001 and March 24, 2003 regarding the above-referenced research. In OHRP's May 29, 2001 letter, OHRP presented the following allegations:

> (1) It was alleged that a subject was enrolled into a clinical trial of breast implants before signing a consent form, and consent was not sought under circumstances that provided her with sufficient opportunity to consider whether or not to participate in the study, in contravention of the requirements of Department of Health and Human Services (HHS) regulations at 45 CFR 46.116.

(2) It was alleged that a subject was not provided with disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject, as required by HHS regulations at 45 CFR 46.116(a)(4).

(3) HHS regulations at 45 CFR 46.111(a)(1) require risks to subjects be minimized: (i) by using procedures which are consistent with sound research design and which do not unnecessarily expose subjects to risk and (ii) whenever appropriate by using procedures already being performed on the subjects for diagnostic or treatment purposes. It was alleged that a subject was harmed by the tissue expander procedure when she was rapidly prepared to meet the inclusion criteria used to prepare her for breast implant surgery.

Based on its review of your reports regarding the allegations presented in OHRP's May 29, 2001 letter, OHRP finds no evidence to substantiate the above allegations. In particular, OHRP acknowledges that in response to OHRP's February 25, 2003 letter, Dr. Krontiris stated that both the insertion and expansion of tissue expanders in the complainant were dictated by the standard of care for implant-based reconstruction, rather than by the study's closing date. OHRP acknowledges that the complainant made the decision to have implant-based reconstruction – regardless of whether the implants were silicone or saline – independent of the research protocol prior to her mastectomy and prior to being informed of the above-referenced research project.

As a result of the above determination, 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 the continued commitment of your institution to the protection of human subjects. Please do not hesitate to contact me should you have any questions.

Sincerely,

Kristina C. Borror, Ph.D.
Director
Division of Compliance Oversight

cc:
Dr. John Zaia, Institutional Review Board
Ms. Gwenn Oki, Director of Research Subject Protections
Commissioner, FDA
Dr. David Lepay, FDA
Dr. Bernard Schwetz, OHRP
Dr. Melody Lin, OHRP

Dr. Michael Carome, OHRP
Ms. Yvonne Higgins, OHRP
Ms. Shirley Hicks, OHRP
Dr. Kamal Mittal, OHRP
Ms. Melinda Hill, OHRP