From: Ebrahim S. Delpassand [redacted]

Sent: Friday, April 24, 2015 6:34 PM
To: Keegan, Patricia
Cc: White, Zerita; Ali Hamidi; Libeg, Meredith
Subject: FW: URGENT --IND 78256 - Potential for getting 483 for the following issue
Attachments: Email chain- RE Amendment request IND 78256.txt

Importance: High
Sensitivity: Confidential

Dear Dr. Patricia Keegan:

We have had Mrs. Zerita White , consumer safety officer from FDA at our institution since Thursday April 16th , 2015. She has diligently and professionally reviewed our regulatory binders and patient charts related to IND 78,256 for more than a week. I am glad that the agency decided to inspect us to see how diligently we have worked in the last 5 years to comply with all the rules and regulations of the FDA. My utmost goal has always been to protect the safety and welfare of my patients and I have done this to the best of my knowledge and capabilities. To my surprise, I was recently told by Mrs. White that she has to give us a 483 citation due to the fact that I have enrolled 7 patients after March 17th, 2015. This is the date that we had a phone call with the following members of the agency:

Suzanne Demko PA-C, Clinical Team Leader, DOP2
Ruthann Giusti, M.D., Medical Officer, DOP2
Meredith Libeg, B.S. Senior Regulatory Health Project Manager

The purpose of the above call was: "RE: Amendment Request IND 78256" to inform me that my amendment request dated February 19th, 2015 for enrolling 100 more patients after 150 subjects (that was previously authorized by the agency) was denied. During this phone call I discussed the following facts with the above members:

1. Our enrollment after 150 subjects will not jeopardize commercialization of drug Lu-177 DOTATATE because Netter-1 project, IND 77,219 sponsored by Advanced Accelerator Application (AAA) which is for regulatory approval of this drug, has already completed recruitment.
2. If you deny our request to enroll after 150 patients , our future patients will have no other alternative for receiving this treatment in the United States and they will be forced to travel overseas to get their treatments! I also elaborated that many of our patients financially or physically will not be capable of doing this!
3. After a lengthy discussion regarding the above points, I was told that "I guess we have to agree to disagree".

During the above discussion I was NEVER told that I cannot enroll up to number 150 (Which was previously approved by the agency. Presently, we have not reached patient 150 and we are at number 144 not 147 per our previous email). Following the phone conference , I requested a letter regarding the denial of my request dated February 19th, 2015 and I was told that I will get it in 30 days. (Attached, please see email trail) .

On April 14th , Mrs. Meredith Libeg was nice enough to email me a courtesy copy of the FDA decisions regarding my February 19th request. (As of today I have not received the letter in the mail yet). After I read the letter, I noticed that you informed me of the following:

"you may not enroll or treat any new additional patients on this expanded access program after March 17, 2015; and you may not administer additional doses of LU^{177}-DOTA- Octreotate in patients Who completed planned treatment prior to March 17, 2015, treat any patients previously treated patients, and you may not increase the accrual ceiling for this trial".

This obviously was a huge surprise to me and my colleague Dr. Hamidi who was present at the TCON on March 17th. In that phone call I was never told that I have to stop enrollment on that day while I have not reached to 150 enrollees (previously approved by the agency). In addition to that I was never told that I cannot administer additional doses of Lu-177 DOTATATE to treat any previously treated patients! All of these points have retrospectively been added to the conversation and should not have been effective as of the date of the March 17th telephone conversation. As soon as I received the PDF copy of the letter, I stopped the enrollment immediately.

As a result of this miscommunication and overreach by the agency, Mrs. White has informed me that she has no choice but to issue 483 citation. This is a major disappointment for me and my team. We have worked hard to have a law abiding and quality clinical research program at Excel Nuclear Oncology Center. I have worked for more than 3 years to get approval for this IND before I was able to enroll our first patient. My goal was to create a world class clinical trial site and I have achieved it. Our patient satisfaction rate is at 99%. The above miscommunication is ruining my reputation and tarnishes our institution's credibility.

Dear Dr. Keegan: I did not get in to this practice to break any laws! If I had been told clearly that I have to stop enrollment for new patients on March 17th, regardless of the 150 quota, I would have done that promptly. I would highly appreciate it if you inform Mrs. White that enrollment on the above IND should cease as of the receipt date of the following email (April 14th, 2015), to prevent an unnecessary 483 citation.

Thank you so much for your courtesy, consideration, and prompt attention.

Best Regards;

Ebrahim S. Delpassand, M.D.
Principle Investigator, IND 78,256
Chairman & Medical Director
Excel Diagnostics & Nuclear Oncology Center
Clinical Professor, Department of Radiation Oncology
University of Texas, Medical Branch
[redacted]

From: Ebrahim S. Delpassand
Sent: Tuesday, April 14, 2015 4:05 PM

To: 'Libeg, Meredith'
Cc: Ali Hamidi; 'patricia.keegan@fda.hhs.gov'
Subject: RE: IND 78256 - Dr. Delpassand - Partial Hold Letter (Courtesy Copy)
Sensitivity: Confidential

Hi Meredith:

I am surprised to hear that we had to stop the recruitment after telephone call of March 17th, 2015! Both Dr. Hamidi and my own impression after that call was that the agency is denying our request for amendment submitted on February 19th, 2015 under FDA 1571 serial number 0053, requesting **to increase the number of our enrollments from 150 to 250 patients**!! Since we previously had approval for 150 patients, we thought the purpose of the call was that we cannot pass number 150. I need to inform you that we just reviewed our records and noticed that six patients have been enrolled and received the first cycle of the treatment since March 17th, 2015, and our last patient is number 147, therefore we are still below our previously approved number of 150! I wish we had received your letter earlier to prevent this miscommunication.

Our team just finished an emergency meeting to address the points mentioned in letter of 4/13/2015 signed by Dr. Keegan. We will do our best to respond to the letter point by point, as soon as possible! **My most difficult task will be to talk to the patients who are hopeful and are anxiously waiting to get their treatment and had already sent their medical records, that I will not be able to help them, at this point!!**

Sincerely;

Ebrahim S. Delpassand, M.D.
Chairman & Medical Director
Excel Diagnostics & Nuclear Oncology Center
Clinical Professor, Department of Radiation Oncology
University of Texas, Medical Branch
[redacted]

From: Libeg, Meredith [redacted]
Sent: Tuesday, April 14, 2015 12:56 PM
To: Ebrahim S. Delpassand
Cc: Ali Hamidi
Subject: RE: IND 78256 - Dr. Delpassand - Partial Hold Letter (Courtesy Copy)
Sensitivity: Confidential

Hi Dr. Delpassand,
As noted in the letter and as indicated in our March 17th call, you may not enroll or treat any new additional patients on this expanded access program after March 17, 2015; and you may not administer additional doses of LU177-DOTA-Octreotate in patients who completed planned treatment prior to March 17, 2015, treat any patients previously treated patients, and you may not increase the accrual ceiling for this trial. You may complete planned treatment for patients enrolled prior to March 17, 2015, and complete protocol-specified monitoring and data collection in all patients who received LU177-DOTA- Octreotate under this expanded access program.

Hope this clarifies.

Best regards,
Meredith

Meredith Libeg, P.M.P, R.A.C. (US), C.C.R.P.
Regulatory Project Manager
Division of Oncology Products 2
Office of Hematology and Oncology Products
Center for Drug Evaluation and Research
Phone: 301-796-1721

From: Ebrahim S. Delpassand [redacted]
Sent: Tuesday, April 14, 2015 1:30 PM
To: Libeg, Meredith
Cc: Ali Hamidi
Subject: RE: IND 78256 - Dr. Delpassand - Partial Hold Letter (Courtesy Copy)
Importance: High
Sensitivity: Confidential

Hi Meredith:

We will immediately start working to respond to the attached letter. We will stop recruiting any NEW patient on IND 78,256, immediately. Please confirm that we can continue treating the patients who are in the middle of their treatment regimen.,

Best Regards;

Ebrahim S. Delpassand, M.D.
Principle Investigator, IND 78,256
Chairman & Medical Director
Excel Diagnostics & Nuclear Oncology Center
Clinical Professor, Department of Radiation Oncology
University of Texas, Medical Branch
[redacted]

From: Libeg, Meredith [redacted]
Sent: Tuesday, April 14, 2015 12:04 PM
To: Ebrahim S. Delpassand
Cc: Ali Hamidi
Subject: IND 78256 - Dr. Delpassand - Partial Hold Letter (Courtesy Copy)

Hi Dr. Delpassand,

Please find attached the courtesy copy of the partial hold letter for IND 78256 for your referencing. In addition to this courtesy copy, the official copy will be received via US Postal Service.

Should you have any questions, please don't hesitate to contact me; and kindly confirm receipt of this email.

Best regards,
Meredith

Meredith Libeg, P.M.P, R.A.C. (US), C.C.R.P.

Regulatory Project Manager
Division of Oncology Products 2
Office of Hematology and Oncology Products
Center for Drug Evaluation and Research
Phone: [redacted]