Liberty Drug & Surgical 3/14/16

Department of Health and Human Services

Public Health Service
Food and Drug
Administration
New Jersey District Office
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Parsippany, NJ 07054
Telephone: (973) 331-4900
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WARNING LETTER

March 14, 2016

VIA UNITED PARCEL SERVICE
Mr. Allen Brown, President
Liberty Drug and Surgical
195 Main Street
Chatham, NJ 07928-2405

16-NWJ-05

Dear Mr. Brown:

Between March 30, 2015, and May 22, 2015, U.S. Food and Drug Administration (FDA) investigators conducted an inspection of your facility, Liberty Drug & Surgical, located at 195 Main St., Chatham, NJ 07928-2405. During this inspection, the investigators noted that you were not receiving valid prescriptions for individually-identified patients for a portion of the drug products you were producing. In addition, the investigators observed serious deficiencies in your practices for producing sterile drug products, which put patients at risk. For example, our investigators observed component bags cleaned with non-sterile wipes in an unclassified room, then transferred to the ISO 7 anteroom and placed on a potable water sink, before being transferred to the ISO 5 area with no additional disinfection steps. Investigators also observed operators placing gowning items on top of the anteroom potable water sink, opening the sliding door between the anteroom and the buffer room to don shoe covers, and entering the buffer room without wearing gloves, surgical mask or hair

net. Our investigators observed operators wiping the outside of IV bag ports with non-sterile **(b)(4)** swabs inside the ISO 5 hood prior to injection with the drug product. In addition, your firm uses non-sterile wipes that are stored out of their original container on a wire cart before transferring them into the ISO 5 hood. Furthermore, your firm failed to demonstrate, through appropriate studies, that your hoods are able to provide adequate protection of the ISO 5 areas in which sterile products are processed. Therefore, your products may be produced in an environment that poses a significant contamination risk.

FDA investigators collected environmental samples from multiple locations in your facility, including the aseptic processing area, surrounding cleanroom area, sink, and equipment, such as the oven and bin on a wire cart. Testing results of the samples identified microbial contamination, including spore-forming bacteria.

FDA issued a Form FDA 483 to your firm on May 22, 2015. We acknowledge your action taken to voluntarily recall all aseptically filled sterile drug products produced within expiry as indicated in a letter dated June 15, 2015. Based on this inspection, it appears that you are producing drugs that violate the Federal Food, Drug, and Cosmetic Act (FDCA).

A. Compounded Drugs Under the FDCA

Section 503A of the FDCA [21 U.S.C. § 353a] describes the conditions under which certain compounded human drug products qualify for exemptions from three sections of the FDCA: compliance with current good manufacturing practice (CGMP) (section 501(a)(2)(B)); labeling with adequate directions for use (section 502(f)(1)); and FDA approval prior to marketing (section 505) [21 U.S.C. §§ 351(a)(2)(B), 352(f)(1) and 355(a)]. Receipt of valid prescriptions for individually-identified patients is one of the conditions for the exemptions under section 503A of the FDCA.

During the FDA inspection, the investigators observed that your firm does not receive valid prescriptions for individually-identified patients for a portion of the drug products you produce. Accordingly, the drugs you compound without valid prescriptions for individually identified patients are not entitled to the exemptions in section 503A of the FDCA.

In addition, we remind you there are a number of other conditions which must be satisfied to qualify for the exemptions in Section 503A of the FDCA. 1

B. Violations of the FDCA

Because the drug products that you manufacture and distribute without valid prescriptions for individually-identified patients are not the subject of approved applications, they are unapproved new drugs and misbranded drugs in violation of sections 505(a) and 502(f)(1) of the FDCA, respectively.

In addition, drug products that are intended or expected to be sterile were prepared, packed, or held under insanitary conditions whereby they may have been contaminated with filth, or rendered injurious to health, causing them to be adulterated within the meaning of section 501(a)(2)(A) of the FDCA [21 USC§ 35

1(a)(2)(A)]. Furthermore, because you manufacture and distribute a portion of your drugs without valid prescriptions for individually-identified patients, the manufacture of those drugs is subject to FDA's CGMP regulations for Finished Pharmaceuticals, Title 21, Code of Federal Regulations (CFR), Parts 210 and 211. FDA investigators observed significant CGMP violations at your facility, causing such drug product(s) to be adulterated within the meaning of section 501 (a)(2)(B) of the FDCA.

Unapproved New Drug Products

You do not have any FDA-approved applications on file for the drug products for which you have not obtained valid prescriptions for individually-identified patients.2 Under sections 505(a) and 301(d) of the FDCA [21 U.S.C. §§ 331(d)], a new drug may not be introduced into or delivered for introduction into interstate commerce unless an application approved by FDA under section 505 of the FDCA is in effect for the drug. Your marketing of these products, or other applicable products, without an approved application violates these provisions of the FDCA.

Misbranded Drug Products

Because the drug products for which you have not obtained valid prescriptions for individually-identified patients are intended for conditions that are not amenable to self-diagnosis and treatment by individuals who are not medical practitioners, adequate directions cannot be written for them so that a layman can use these products safely for their intended uses. Consequently, their labeling fails to bear adequate directions for their intended uses, causing them to be misbranded under section 502(f)(1) of the FDCA, and they are not exempt from the requirements of section 502(f)(1) of the FDCA (see, e.g., 21 CFR § 201.115).

The introduction or delivery for introduction into interstate commerce of these products therefore violates sections 301(a) of the FDCA [21 U.S.C. § 331(a)]. It is also a prohibited act under section 301(k) of the FDCA [21 U.S.C. § 331(k)] to do any act with respect to a drug, if such act is done while the drug is held for sale after shipment in interstate commerce of the components used to make the drug and results in the drug being misbranded.

Adulterated Drug Products

The FDA investigators noted the drug products in your facility that were intended or expected to be sterile were prepared, packed, or held under insanitary conditions, whereby they may have become contaminated with filth or rendered injurious to health, causing the drug products to be adulterated under section 501(a)(2)(A) of the FDCA. For example, FDA investigators noted that:

1. Your facility was inadequately designed to prevent contamination. Specifically, components and gowning items are brought into the ISO 7 anteroom and placed on top of the potable water sink with no additional disinfection step prior to being transferred to the ISO 5 area. Also, operators open the sliding door between the ISO 7 anteroom and the buffer room to don shoe covers. FDA environmental sample results of the area behind the eyewash station/faucet in the anteroom and other surrounding areas of the cleanroom identified microbial growth.

2. Your operators were observed following poor aseptic practices. Specifically, non-sterile lint-free wipes used within the ISO 6 clean room, ISO 5 hoods, and on products are stored out of their original containers on a supply wire cart. Investigators observed that the outside of IV bag ports are wiped with non-sterile **(b)(4)** swabs inside the IS0-5 hood prior to being filled with drug product. Furthermore, technicians enter the buffer room without wearing gloves, surgical mask or hair net, allowing human-generated particles to be introduced into the buffer room.

3. Your firm did not use a sporicidal agent or sterile wipes as part of the disinfection program to disinfect the work surfaces where aseptic processing occurred. FDA environmental sample results identified spore-forming bacteria at several locations within your aseptic processing area.

4. Your firm failed to demonstrate through appropriate studies that your hoods are able to provide adequate protection of the ISO 5 areas in which sterile products are processed.

Therefore, products may be produced in an environment that poses a significant contamination risk.

FDA investigators also observed CGMP violations at your facility, causing the drug products for which you have not obtained valid prescriptions for individually-identified patients to be adulterated under section 501(a)(2)(B) of the FDCA. The violations include, for example:

1. Your firm failed to establish and follow appropriate written procedures that are designed to prevent microbiological contamination of drug products purporting to be sterile, and that include validation of all aseptic and sterilization processes (21 CFR 211.113(b)).

2. Your firm failed to establish and follow an adequate written testing program designed to assess the stability characteristics of drug products and to use results of such stability testing to determine appropriate storage conditions and expiration dates (21 CFR 211.166(a)).

3. Your firm does not have, for each batch of drug product purporting to be sterile and/or pyrogen-free, appropriate laboratory determination of satisfactory conformance to final specifications for the drug product 21 CFR 211.167(a)).

Under Section 301(a) of the FDCA, the introduction or delivery for introduction into interstate commerce of any drug that is adulterated is a prohibited act. Further, it is a prohibited act under section 301(k) of the FDCA to do any act with respect to a drug, if such act is done while the drug is held for sale after shipment in interstate commerce of the components used to make the drug and results in the drug being adulterated.

C. Corrective Actions

We acknowledge receipt of your firm's responses to the Form FDA 483, on June 8, 2015, and June 10, 2015, and your action taken to voluntarily recall all aseptically filled sterile drug products produced within expiry as indicated in a letter dated June 15, 2015. As stated during a teleconference on June 11 , 2015, we reviewed your firm's planned corrective actions included in your June 8, 2015, and June 10, 2015 responses to the Form FDA 483. We determined that they do not meet the minimum requirements of 21 CFR 21 0 and 211 and are inadequate to correct the observed insanitary conditions at your facility. We are also aware that ·the New Jersey Board of Pharmacy sent a cease and desist order for all sterile drug production. Please note that section 501(a)(2)(A) of the FDCA concerning insanitary conditions applies regardless of whether the drugs are compounded and distributed after receipt of a prescription for an identified individual patient. You must correct all insanitary conditions at your firm before you resume operations.

If you decide to resume production of sterile drugs at the Chatham, NJ facility, FDA strongly recommends that your management immediately undertake a comprehensive assessment of your operations, including facility design, procedures, personnel, processes, materials, and systems. In particular, this review should assess your aseptic processing operations. A third party consultant with relevant sterile drug manufacturing expertise could be useful in conducting this comprehensive evaluation. Please notify the Agency prior to resuming sterile operations.

In addition, if you continue to manufacture and dispense drug products without valid prescriptions for individually-identified patients, the manufacture of such drugs would be subject to FDA's drug CGMP regulations (21 CFR Parts 210 and 211), among other requirements described above, and, before doing so, you should fully implement corrections that meet the minimum requirements of 21 CFR part 211 in order to provide assurance that the drug products produced by your firm conform to the basic quality standards that ensure safety, identity, strength, quality, and purity. In addition, you should also correct the violations of sections 505(a) and 502(f)(1) of the FDCA, noted above.

D. Conclusion

The violations cited in this letter are not intended to be an all-inclusive statement of violations at your facility. You are responsible for investigating and determining the causes of the violations identified above and for preventing their recurrence or the occurrence of other violations. It is your responsibility to ensure that your firm complies with all requirements of federal law, including FDA regulations.

You should take prompt action to correct the violations cited in this letter. Failure to promptly correct these violations may result in legal action without further notice, including, without limitation, seizure and injunction.

Within fifteen working days of receipt of this letter, please notify this office in writing if you have taken any specific steps to correct violations, or you may inform us that you do not intend to resume production of sterile drugs. If you intend to resume production of sterile drugs in the future, please include an explanation of each step being taken to prevent the recurrence of violations, as well as copies of related

documentation. If you do not believe that the products discussed above are in violation of the FDCA, include your reasoning and any supporting information for our consideration. In addition to taking appropriate corrective actions, you should notify this office prior to resuming production of any sterile drugs in the future. If the corrective actions cannot be completed within 15 working days, state the reason for the delay and the time frame within which the corrections will be completed. Your written notification should be addressed to: Erin McCaffery, Compliance Officer, U. S. FDA, 10 Waterview Blvd., 3rd Floor, Parsippany, NJ 07054. If you have questions regarding any issues in this letter, please contact Ms. McCaffery via email at erin.mccaffery@fda.hhs.gov or by phone at (973) 331-4993.

Sincerely,
/S/
Craig W. Swanson
Acting District Director
New Jersey District

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1 For example, section 503A also addresses anticipatory compounding, which includes compounding (not distribution) before receipt of a valid prescription order for an individual patient. We are not addressing anticipatory compounding here.

2 The specific products made by your firm are drugs within the meaning of section 201(g) of the Act, (21 U.S.C. § 321 (g)] because they are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases. Further, they are "new drugs" within the meaning of section 201(p) of the FDCA [21 U.S.C. § 321 (p)] because they are not generally recognized as safe and effective for their labeled uses.