Dougherty's Pharmacy 5/12/17

U.S. Food & Drug Administration
Dallas District Office
4040 N. Central Expressway,
Suite 300
Dallas, Texas 75204

May 12, 2017
Ref: 2017-DAL-WL-22

WARNING LETTER

VIA UNITED PARCEL SERVICE
Andrew J. Komuves, President and CEO
Dougherty's Holdings Inc.
16250 Knoll Trail Drive
Suite 102
Dallas, Texas 75248

Dear Mr. Komuves:
From December 8, 2015, to December 29, 2015, U.S. Food and Drug Administration (FDA) investigators conducted an inspection of your facility, Dougherty's Pharmacy Preston Royal, located at 5959 Royal Ln., Suite 515, Dallas, Texas 75230. This inspection was conducted after receipt of a complaint about the lack of efficacy of alprostadil injections prepared by your firm.
During the inspection, the investigators noted that drug products you produced failed to meet the conditions of section 503A of the Federal Food, Drug, and Cosmetic Act (FDCA), [21 U.S.C. § 353A]. Specifically, the investigators noted that you did not receive valid prescriptions for individually-identified patients for a portion of the drug products you produced. In addition, the investigators observed serious deficiencies in your practices for producing sterile drug products, which put patients at risk. For example, during aseptic production of a sterile drug product, our investigators observed an operator reaching over open containers and therefore blocking first air within the ISO 5 area. In addition, our investigators observed an operator failing to sanitize components prior to introducing them into the ISO 5 area from the ISO 7 area. The investigators also observed an operator's bare hands being exposed within the ISO 5 work area while donning gloves in preparation for sterile drug production. Furthermore, your firm failed to demonstrate through appropriate studies that your aseptic processing areas 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 issued a Form FDA 483 to your firm on December 29, 2015. FDA acknowledges your response to the Form FDA 483 dated January 19, 2016.
Based on this inspection, it appears that you are producing drugs that violate the FDCA.

A. Compounded Drugs Under the FDCA

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

B. Failure to Meet the Conditions of Section 503A

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.
Therefore, you compounded drug products (collectively the “ineligible drug products”) that do not meet the conditions of section 503A and are not eligible for the exemptions in that section from the FDA approval requirement of section 505 of the FDCA, the requirement under section 502(f)(1) of the FDCA that labeling bear adequate directions for use, and the requirement of compliance with CGMP under section 501(a)(2)(B) of the FDCA.
Specific violations are described below.

C. Violations of the FDCA

Adulterated Drug Products

The FDA investigators noted that 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 whereby they may have been rendered injurious to health, causing your drug products to be adulterated within the meaning of section 501(a)(2)(A) [21 U.S.C. § 351(a)(2)(A)] of the FDCA. For example, during aseptic production of a sterile drug product, our investigators observed an operator reaching over open containers and therefore blocking first air within the ISO 5 area. In addition, our investigators observed an operator failing to sanitize components prior to introducing them into the ISO 5 area from the ISO 7 area. The investigators also observed an operator’s bare hands being exposed within the ISO 5 work area while donning gloves in preparation for sterile drug production. In addition, your firm failed to demonstrate through appropriate studies that your aseptic processing areas are able to provide adequate protection of the ISO 5 areas in which sterile products are processed.
Furthermore, the manufacture of ineligible drug products 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 products to be adulterated within the meaning of section 501(a)(2)(B) of the FDCA. The violations included 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 ensure that manufacturing personnel wear clothing appropriate to protect drug product from contamination [21 CFR 211.28(a)].
3. Your firm failed to establish an adequate system for cleaning and disinfecting the room and equipment to produce aseptic conditions [21 CFR 211.42(c)(10)(v)].
4. Your firm failed to thoroughly investigate any unexplained discrepancy or failure of a batch or any of its components to meet any of its specifications, whether or not the batch has already been distributed [21 CFR 211.192].
5. 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)].
6. Your firm failed to establish an adequate system for monitoring environmental conditions in aseptic processing areas [21 CFR 211.42(c)(10)(iv)].
7. 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)].

It is 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 and results in the drug being adulterated.

Misbranded Drug Products

The ineligible drug products you compounded are intended for conditions that are not amenable to self-diagnosis and treatment by individuals who are not medical practitioners; therefore, adequate directions for use cannot be written 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, and they are not exempt from the requirement to have labeling with adequate directions for use, 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).

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 and results in the drug being misbranded.

D. Corrective Actions

We acknowledge your January 19, 2016 response to the Form FDA 483, in which you state that your firm "engages in the practice of pharmacy by compounding patient-specific prescriptions for patients located in Texas" and "has also historically prepared and dispensed compounded medications for office use, as allowed by the Texas State Board of Pharmacy rules 22 TAC 291.131(d)(1)(A)(iii) and 22 TAC 291.133(d)(1)(A)(iii)." As noted above, because your firm has produced ineligible drug products, such drugs are not entitled to the exemptions in section 503A of the FDCA, and the manufacture of such drugs is subject to FDA's drug CGMP regulations, 21 CFR parts 210 and 211.

In addition, in your January 19, 2016, response you described certain corrective actions you took in response to the Form FDA 483 observations. Although your corrective actions regarding insanitary conditions appear adequate, some of your responses cannot be fully evaluated by FDA because of insufficient supporting

documentation. For example, your firm committed to perform smoke studies under dynamic conditions; however, you have not provided documentation for our review. Please be aware 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 valid prescription for an individually-identified patient. You must correct all insanitary conditions at your firm.

Should you continue to compound and distribute drug products without valid prescriptions for individually-identified patients, the compounding and distribution of such drugs would be subject to the new drug approval requirement, the requirement to label drug products with adequate directions for use, and FDA's drug CGMP regulations (21 CFR 210 and 211). Before doing so, you must comply with the requirements of section 505 and 502(f)(1) and, fully implement corrections that meet the minimum requirements of 21 CFR 210 and 211.

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.

E. 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 and 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 (15) working days of receipt of this letter, please notify this office in writing of the specific steps that you have taken to correct violations. 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. Your written notification should be addressed to:

Jeff R. Wooley, Compliance Officer
FDA Dallas District Office
U.S. Food and Drug Administration
4040 North Central Expressway, Suite 300
Dallas, TX 75204

If you have questions regarding any issues in this letter, please contact Mr. Wooley via email at Jeffrey.Wooley@fda.hhs.gov or by phone at 214-253-5251.

Sincerely,
/s/
Shari J. Shambaugh
Acting Dallas District Director

CC:
Gay Dodson, RPh, Executive Director
Texas State Board of Pharmacy

William P. Hobby Building
Tower 3, Suite 600
333 Guadalupe Street
Austin, Texas 78701

1. We remind you that there are conditions other than those discussed in this letter that must be satisfied to qualify for the exemptions in section 503A of the FDCA.