



IND 103,287

IND EXEMPT

Comprehensive Cancer Center
Wake Forest University CCOP Research Base
ATTENTION: Kevin High, M.D., MS
Principal Investigator
Medical Center Boulevard
Piedmont Plaza II, Suite 401
Winston Salem, NC 27157

Dear Dr. High:

We acknowledge receipt of your Investigational New Drug Application (IND), submitted August 18, 2008, received August 18, 2008, under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FDCA) for North American Ginseng Extract (CVT-E002; Coldfx).

After reviewing the information contained in your submission, we have concluded that your study meets all of the requirements for exemption from the IND regulations and, therefore, an IND is not required to conduct your investigation. In accordance with 21 CFR 312.2(b)(4) of the regulations, FDA will not accept your application.

The IND regulations [21 CFR 312.2(b)] state that clinical investigation of a drug product, including a biological product, that is lawfully marketed in the United States is exempt from the requirements for an IND if all of the following apply:

1. The investigation is not intended to be reported to FDA as a well-controlled study in support of a new indication for use, nor intended to be used to support any other significant change in the labeling for the drug.
2. The investigation is not intended to support a significant change in the advertising for a prescription drug product.
3. The investigation does not involve a change in route of administration, dosage level, or patient population, or other factor that significantly increases the risks (or decreases the acceptability of risks) associated with use of the drug product.
4. The investigation is conducted in compliance with the requirements for institutional review (21 CFR Part 56) and informed consent (21 CFR Part 50).

5. The investigation is conducted in compliance with the requirements of 21 CFR 312.7, i.e., the drug may not be represented as safe or effective for the purposes for which it is under investigation, nor may it be commercially distributed or sold.

In addition, 21 CFR 312.2(b)(5) exempts from the IND requirements a clinical investigation that involves use of a placebo if the investigation does not otherwise require submission of an IND.

We remind you that exemption from the requirements for an IND does not in any way exempt you from complying with the requirements for informed consent under 21 CFR 50.20 or from initial and continuing Institutional Review Board review under 21 CFR Part 56. You may not charge for this investigational drug without prior written approval of FDA. You are also responsible for complying with the applicable provisions of sections 402(i) and 402(j) of the Public Health Service Act (PHS Act) (42 U.S.C. §§ 282(i) and (j)), which was amended by Title VIII of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Public Law No. 110-85, 121 Stat. 904).

Title VIII of FDAAA amended the PHS Act by adding new section 402(j) (42 USC § 282(j)), which expanded the current database known as ClinicalTrials.gov to include mandatory registration and reporting of results for applicable clinical trials of human drugs (including biological products) and devices. Please note that, if in the future you submit an application under sections 505, 515, or 520(m) of the FDCA (21 USC §§ 355, 360(e), or 360(j)(m)), or under section 351 of the PHS Act (21 U.S.C. § 262), or you submit a report under section 510(k) of the FDCA (21 USC § 360(k)), the application or submission must be accompanied by a certification that all applicable requirements of section 402(j) of the PHS Act (42 USC § 282(j)) have been met. Where available, such certification must include the appropriate National Clinical Trial (NCT) control numbers. 42 USC § 282(j)(5)(B). Additional information regarding the certification is available at: http://internet-dev.fda.gov/cder/regulatory/FDAAA_certification.htm. Additional information regarding Title VIII of FDAAA is available at: <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-014.html>. Additional information on registering your clinical trial(s) is available at the Protocol Registration System website (<http://prsinfo.clinicaltrials.gov/>).

For additional information, a searchable version of the IND regulations is available at <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcft/CFRSearch.cfm>.

If you have any questions, call Karen Winestock, Regulatory Project Manager, at (301) 796-0834.

Sincerely,

{See appended electronic signature page}

Debra Birnkrant, M.D.
Director
Division of Antiviral Products
Office of Antimicrobial Products
Center for Drug Evaluation and Research

Linked Applications

Sponsor Name

Drug Name

IND 103287

Comprehensive Cancer
Centr Wake Forest
University CCOP
Research Base

North American Ginseng Extract (CVT-
E002;COLD-fx)

This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.

/s/

DEBRA B BIRNKRANT
08/24/2008