People's Custom Rx and Clinical Care, LLC 6/6/16

Department of Health and Human Services

Public Health Service
Food and Drug Administration
New Orleans District
404 BNA Drive
Building 200 – Suite 500
Nashville, TN 37217
Telephone: (615) 366-7801
FAX: (615) 366-7802

June 06, 2016
WARNING LETTER NO. 2016-NOL-07

UNITED PARCEL SERVICE
Delivery Signature Requested

William C. Johns, Owner
People's Custom Rx and Clinical Care, LLC
785 Brookhaven Circle East
Memphis, Tennessee 38117-4501

Dear Mr. Johns:

From July 20-24 and 27-29, 2015, U.S. Food and Drug Administration (FDA) investigators conducted an inspection of your facility, People's Custom Rx and Clinical Care, LLC, located at 785 Brookhaven Circle East, Memphis, Tennessee.

During the inspection, the investigators observed 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, the investigators observed insanitary conditions such as failure to use a sporicidal agent and the use of non-sterile disinfectants for daily cleaning of the ISO 5 hoods and clean room. In addition, personnel did not sanitize the components used during aseptic production (e.g., sterile syringes, sterile needles, compounding solution) prior to placing them inside the aseptic areas (ISO 5 and cleanroom). Our investigators also noted thatyour firm has no assurance of the sterility of multi-use solutions used to produce injectable drug products without a subsequent sterilization

step. Furthermore, our investigator noted that your firm failed to demonstrate through appropriate studies that your hoods are able to provide adequate protection of the ISO 5 area in which sterile products are processed. Therefore, your products may be produced in an environment that poses a significant contamination risk.

Based on this inspection, it appears 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 *United States Code* (USC) 353a] describes the conditions under which certain compounded human drug products may 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 USC 351(a)(2)(B)]; labeling with adequate directions for use, Section 502(f)(1) of the FDCA [21 USC 352(f)(1)]; and FDA approval prior to marketing, Section 505 of the FDCA [21 USC 355]. Receipt of valid prescriptions for individually-identified patients is one of the conditions for the exemptions under 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.

In addition, we remind you that there are a number of other conditions that 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 whereby they may have been rendered injurious to health, causing them to be adulterated within the meaning of Section 501(a)(2)(A) of the FDCA [21 USC 351(a)(2)(A)].

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 USC 355(a) and 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

You compound drug products, for which you have not obtained valid prescriptions for individually-identified patients that 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, 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) (*see, e.g., 21 Code of Federal Regulations 201.115*).

The introduction or delivery for introduction into interstate commerce of these products, therefore, violates Section 301(a) of the FDCA *[21 USC 331(a)].* It is also a prohibited act under Section 301(k) of the FDCA *[21 USC 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 misbranded.

Adulterated Drug Products

The FDA investigators noted that drug products 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 your drug products to be adulterated under Section 501(a)(2)(A) of the FDCA. Examples of insanitary conditions observed during our inspection include:

1. Your firm does not use a sporicidal agent and uses non-sterile disinfectants for daily cleaning of the ISO 5 hoods and clean room.

2. Your firm has no assurance of the sterility of multi-use solutions used to produce injectable drug products. Puncturing a container compromises the integrity of the container closure system, and each puncture increases the chances of contamination. Moreover, your multi-use solutions were not always subject to a further sterilization step when producing a finished drug product.

3. Your firm did not conduct smoke studies for the ISO 5 hoods under dynamic conditions. Therefore, your firm failed to demonstrate through appropriate studies that your hoods are able to provide adequate protection of the ISO 5 area in which sterile products are processed.

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 adulterated.

C. Corrective Actions

FDA acknowledges receipt of your response dated August 13, 2015, to the Form FDA 483, dated August 13, 2015. Although some corrective actions described in your

response appear to be adequate, your responses to certain observations appear to be deficient or cannot be fully evaluated by FDA because of insufficient supporting documentation. For example, your response indicates your firm will now require **(b)(4)** rotations of cleaning agents and included a **(b)(4)** citing the planned use of **(b)(4)** different agents: **(b)(4)** (Sterile 70% IPA and 30% WFI) and **(b)(4)** (Hydrogen Peroxide Agent) from **(b)(4)** and **(b)(4)** from **(b)(4)** However, no SOP describing the procedure for the use of the agents was provided with the response. In addition, the **(b)(4)** cleaning agents you plan to use are “phenolic base” and do not have sporicidal activity.

FDA strongly recommends you 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.

In your response, you referenced your purported compliance with the United States Pharmacopeia (USP) – National Formulary (NF) General Chapter <797> Pharmaceutical Compounding- - Sterile Preparations. However, as discussed above, your firm has manufactured and distributed drugs without valid prescriptions for individually-identified patients, and the manufacture of such drugs is subject to FDA’s finished drug product CGMP regulations, 21 CFR 210 and 211.

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 prescription for an identified individual patient. In addition, should you continue to manufacture and distribute drug products, including non-sterile 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 210 and 211), among other requirements described above, and, before doing so, you should fully implement the minimum requirements of 21 CFR 211 in order to provide assurance that the drug product(s) produced by your firm conform to the basic quality standards regarding safety, identity, strength, quality, and purity.

In addition, you should 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 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 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 the products discussed above are in violation of the FDCA, include your reasoning and any supporting information for our consideration. If the corrective action cannot be completed within 15 working days, state the reason for the delay and the time frame within which the correction will be implemented.

If you have questions regarding any issues in this letter, please contact Ms. Asente via email at Rebecca.Asente@fda.hhs.gov or by phone at (504) 846-6104. Please address your reply to Rebecca A. Asente, Compliance Officer, at the address above.

Sincerely,
/S/
Ruth Dixon
District Director
New Orleans District Office

cc: Tennessee Board of Pharmacy
Tennessee Department of Health
Health Related Boards
665 Mainstream Drive
Nashville, Tennessee 37243

---

[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 USC 321(g)], because they are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases and/or because they are intended to affect the structure or any function of the body. Further, they are “new drugs” within the meaning of Section 201(p) of the FDCA [21 USC 321(p)] because they are not generally recognized as safe and effective for their labeled uses.