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August 17, 2021

VIA E-MAIL (ORAPharm1 responses@fda.hhs.gov)

Diana Amador Toro, District Director
Food and Drug Administration, New Jersey Office
10 Waterview Boulevard, 3rd Floor
Parsippany, New Jersey 07054

Re: Waiver of Colonia Care Pharmacy for Publication of Response to FDA
Form 483 Issued July 26, 2021

Dear Director Toro:

On behalf of Colonia Care Pharmacy, I hereby authorize the United States Food and Drug Administration (“FDA”) to publicly disclose the information described below on FDA’s website. I understand that the information that is disclosed may contain confidential commercial or financial information or trade secrets within the meaning of 18 U.S.C. 1905, 21 U.S.C. 331 (y)(2), and 5 U.S.C 552(b)(4) that is exempt from public disclosure under those statutory provisions and/or relevant FDA regulations. I agree to hold FDA harmless for any injury caused by FDA’s sharing the information with the public.

Information to be disclosed: Colonia Care Pharmacy’s Response to the FDA Form 483 issued July 26, 2021. The waiver shall extend only to Colonia Care Pharmacy’s Response to the FDA Form 483 Issued July 26, 2021 and not to any of the supporting or underlying documents implicated or involved in the FDA Form 483 issued July 26, 2021 or Colonia Care Pharmacy’s response thereto.

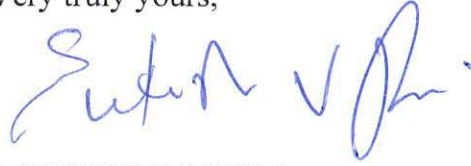
Authorization is given to FDA to disclose the above-mentioned information which may include confidential commercial or financial or trade secret information. As indicated by my signature, I am authorized to provide this consent on behalf of Colonia Care Pharmacy, and my full name, title, telephone number, and facsimile number is set out above for verification.

In the event there are any questions regarding the disclosure of such information, I hereby request pre-disclosure notification so that we can address any such questions prior to disclosure of the material.

Diana Amador Toro, District Director
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In the interim, please do not hesitate to contact me should you have any questions.

Very truly yours,



SATISH V. POONDI

SVP/js

cc: Colonia Care Pharmacy (Via-E-Mail-svet.milic@coloniapharmacy.com)
Unnee Ranjan, Investigator

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August 12, 2021

VIA E-MAIL (ORAPharm1_responses@fda.hhs.gov)

Diana Amador Toro, District Director
Food and Drug Administration, New Jersey Office
10 Waterview Boulevard, 3rd Floor
Parsippany, New Jersey 07054

**Re: Colonia Care Pharmacy; FEI No.: 3012223534
Response to 483**

Dear Director Amador Toro:

Please be advised that I represent the above referenced pharmacy. Please accept this submission in response to the 483 issued to Colonia Care Pharmacy ("CCP"), located at 515 Inman Avenue, Colonia, New Jersey 07067. A copy of the form FDA 483 is attached, as Exhibit A.

The dates of inspection were June 9, 2021, June 10, 2021, June 14, 2021, June 21, 2021, June 22, 2021, June 25, 2021, June 29, 2021, July 1, 2021, July 2, 2021, July 14, 2021, and July 26, 2021. During the inspection, CCP engaged cooperatively and constructively with FDA. We would like to assure FDA that CCP is committed to providing patients with the highest quality compounded medications prepared in compliance with all applicable standards and that, as demonstrated herein, we take our professional responsibilities very seriously.

For the reasons set forth below, the pharmacy respectfully disputes portions of the FDA's factual and/or legal findings.

Please note that Colonia Care Pharmacy makes this submission without conceding the relevancy, materiality, existence, or admissibility of any document or document request, and without prejudice as to its rights to further contest the FDA's findings. In producing or making available for inspection documents in connection with this action, Colonia Care Pharmacy reserved, and continues to reserve, all claims of privilege and other such protections and further hereby expressly reserves the right to demand the return of all copies of, and object to the use of, any documents or information subject to a claim of privilege or other such protections that are inadvertently disclosed.

Diana Amador Toro, District Director

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Additionally, insofar as the information contained in the enclosed documents includes protected health information, we request the FDA to maintain the same as confidential documents. The records are being produced pursuant to your representations and the HIPAA exception found at 45 C.F.R. 164.512 (b)(1).

Please also be advised that Colonia Care Pharmacy reserves the right to supplement this response and/or submit additional information as it pertains to this matter and the 483 that has been issued. This letter does not waive any rights Colonia Care Pharmacy may assert under applicable law. Furthermore, this submission should not be construed as a waiver of Colonia Care Pharmacy's rights.

As an initial matter, we also note that the pharmacy fully and voluntarily cooperated with FDA throughout the course of this matter. In addition to responding to multiple requests for documentation, the pharmacy and its staff were also made available for multiple interviews. The pharmacy did not refuse to provide any information.

We also note that the pharmacy requested, but was not provided, citations to statutes and/or regulations that serve as the basis for each of the observations. The Form 483 observations attempt to hold Colonia Care Pharmacy to cGMP standards with which, as a matter of law, Colonia Care Pharmacy is not required to comply. See 21 C.F.R. part 210 and 211. Colonia Care Pharmacy objects to any observation in the Form 483 which inappropriately applies cGMP standards. While Colonia Care Pharmacy is addressing all of FDA's inspectional findings, its cooperation with FDA should not be construed as Colonia Care Pharmacy agreeing that it is required to comply with cGMP.

Colonia Care Pharmacy is not a manufacturer. Colonia Care Pharmacy is a retail pharmacy licensed by the New Jersey Board of Pharmacy that compounds medications pursuant to patient specific prescriptions. Furthermore, Colonia Care Pharmacy holds an unrestricted license and is in good standing.

FDA's Observations ignore the fact that this pharmacy - which complies with the requirements set forth in Section 503A - is exempt from cGMP regulations. Pharmacies operating under Section 503A of the FDCA are exempt from cGMP in accordance with the newly enacted Drug Quality and Security Act. Specifically, on November 27, 2013, President Obama signed into law the Drug Quality and Security Act ("DQSA"), Pub. L. No. 113-54. Title I of the DQSA, the Compounding Quality Act, eliminated certain unconstitutional advertising provisions from Section 503A, thus effectively re-enacting those provisions and allowing Section 503A unequivocally to go into effect. The statutory provisions, however, do not expand FDA's inspection authority or alter in any way applicable standards for compounding pharmacies that comply with FDCA Section 503A.

A critical aspect of Section 503A is the explicit recognition that pharmacies acting in compliance with Section 503A are exempt from certain provisions of the FDCA. In light of

this Congressional mandate, FDA must adhere to Section 503A and cannot impose more stringent standards on Colonia Care Pharmacy, such as the cGMP. Section 503 A provides:

Sections 501(a)(2)(B), 502(f)(1) and 505 shall not apply to a drug product if the drug product is compounded for an identified individual patient based on the receipt of a valid prescription order or a notation, approved by the prescribing practitioner.....¹

FDA's non-binding guidance, published July 2, 2014,² is completely consistent with the statute. It reiterates that drugs compounded in compliance with Section 503A will be exempt from certain sections of the FDCA including cGMP requirements (Section 503(a)(2)(B)); labeling with adequate directions for use (Section 502(1)(1)); and new drug requirements (Section 505). Guidance at 2.

Preparation of this Response to FDA's Observations does not constitute an admission or agreement by this Pharmacy to the alleged deficiencies or conclusions set forth in FDA's Observations. None of the actions that may be taken by this Pharmacy pursuant to its response should be considered an admission that an Observation existed or that additional measures should have been in place at the time of the inspection. Without conceding that any of the Observations are applicable, set forth below are the Pharmacy's Responses to each observation. This Pharmacy respectfully requests that if FDA posts the Form 483 issued to this Pharmacy, then FDA shall post this Response along with it, and also provide this Response when FDA provides the Observations to third parties.

Notwithstanding the questionable application of federal manufacturing regulations to a retail pharmacy, we would like to assure FDA that Colonia Care Pharmacy is committed to providing patients with the highest quality compounded medications prepared in compliance with all applicable standards and that, as demonstrated herein, the pharmacy takes its professional responsibilities very seriously.

To that end, patient safety is Colonia Care Pharmacy's primary concern, and the pharmacy strives to provide the highest quality preparations and services. Colonia Care Pharmacy has an impeccable safety record concerning the compounded medications that it prepares according to the applicable standards.

Its quality assurance and standard operating procedures ("SOPs") follow demonstrated pharmacy best practices and are designed to produce high-quality compounded sterile

¹ Section 503A(b) further provides that a drug may be compounded if the pharmacist uses bulk substances that (1) comply with the standards of an applicable United States Pharmacopeia ("USP,") or National Formulary ("NF") Monograph, if a monograph exists, and the USP chapter on pharmacy compounding; (2) if such a monograph does not exist, are substances that are components of approved drug products; or (3) if neither of the above, then the drug appears on a shortage list developed by the FDA through regulations.

² Final Guidance; Pharmacy Compounding of Human Drug Products under Section 503A of the Federal Food, Drug, and Cosmetic Act; Availability; 79 Fed. Reg. 37742 (July 2, 2014).

preparations. Colonia Care Pharmacy's practices are based upon New Jersey Board of Pharmacy requirements and other standards applicable to retail pharmacies so that its patients can continue to access high-quality compounded medications to meet their individual medical needs.

Moreover, in several instances, the Form 483 and FDA's observations are on their face incorrect. There are several material errors of fact and any observations premised on these errors should be withdrawn or amended to reflect the actual facts.

In light of the above, without waiving its right to contest FDA's application of cGMPs, Colonia Care Pharmacy provides the following responses to the Observations set forth in the 483.

OBSERVATION 1(a)

Non-microbial contamination was observed in your production area.

Specifically, On 6/9/2021, we observed an unknown white to off-white powder residue and light brownish discoloration under the front return air grille located inside the ISO 5 Germfree Laminar Flow Glovebox/Isolator (LFGI), which was documented as having been cleaned the day before on 6/8/2021.

Response:

We acknowledge your observation but disagree with your conclusion. Specifically, we object to the terms "off-white powder residue" and "light brownish discoloration" as there is no evidence to support the use of those terms. Furthermore, FDA is holding the pharmacy to a standard that is inapplicable to a compounding pharmacy under FDCA Section 503A.

The area where the LFGI is located is a Segregated Compounding Area (SCA) not a production area. Per USP General chapter <797>, a Primary Engineering Control (PEC), in this case a LFGI, in a SCA is not required to be in a classified room. However, CCP will review and further refine the processes for cleaning the grill on the LFGI and investigate the alleged light brown discoloration under the front of the air grill.

CCP's independent outside certification provider, Solana & Sons, Inc. of Commack, NY has most recently certified its equipment without comment. The performance testing and viable sampling of the device was conducted consistent with USP General Chapter <797>, Guidance provided by the Controlled Environmental Testing Association (CETA), as referenced with USP <797>, and New Jersey Board of Pharmacy regulations.

OBSERVATION 1(b)

The unclassified room where the ISO 5 LFGI is located is held under insanitary conditions. This unclassified room is utilized for the compounding of non-sterile drug products. We observed the following, but not limited to:

Dust/filth on HVAC vent and on the surface of chemo/hazardous wipe bags stored on the shelf. Wooden blocks to support the four legs of LFGI.

Off-white to yellowish substance stuck on the ceiling.

Dust/filth on multiple appliances such as, but not limited to, the surface of the weighing balance, computer, camera and keyboard.

Discoloration/dark stain on the vinyl-like floor.

Rust-like appearance (orange/reddish material) on the nails on a shelf where active pharmaceutical ingredients and raw materials are stored.

Response:

We acknowledge your observation but disagree with your conclusion. Specifically, we object to the terms “Dust/filth” and “Off-white to yellowish substance”, and “Rust-like appearance” as there is no evidence to support the use of those terms. Furthermore, FDA is holding the pharmacy to a standard that is inapplicable to a compounding pharmacy under FDCA Section 503A.

The area where the LFGI is located is a Segregated Compounding Area (SCA) not a production area and is not ISO-Classed (unclassified). Per USP General chapter <797>, a Primary Engineering Control (PEC), in this case a LFGI, in a SCA is not required to be in a classified room. An LFGI should not be affected by normal presence of room dust.

However, CCP will review and further refine the processes for appropriate cleaning of the unclassified area. CCP will replace the blocks holding the hood to a more suitable material, but in doing so we note that the observation is arbitrary and contrary to the advice offered by FDA on prior visits to the pharmacy.

OBSERVATION 2 (a)

The use of sporicidal agents in the ISO 5 classified aseptic processing area was inadequate and infrequent.

Specifically, the cleaning logs indicated that the sporicidal cleaning of the ISO 5 LFGI was performed twice a year. You stated that the sporicidal cleaning is performed at the discretion of the pharmacist. You did not provide any scientific rationale for the frequency of sporicidal cleaning. In addition, the contact time for the use of sporicidal cleaning agent is unknown from the documents provided.

Response:

We acknowledge your observations but disagree with your conclusion. This Pharmacy objects to the observation because FDA is holding the pharmacy to a standard that is inapplicable to a compounding pharmacy under FDCA Section 503A. Observation copies 21 C.F.R. § 211.42(c)(10)(v). (Specifically, that section of 21 C.F.R. part 211 requires: "a system for cleaning and disinfecting the room and equipment to produce aseptic conditions.") FDA's cGMP regulations are inapplicable because Section 503A pharmacies are exempt from cGMP.

Notwithstanding the inapplicability of cGMP, this Pharmacy has processes and procedures in place that assure aseptic conditions when cleaning and disinfecting the primary engineering control (CAI) and other equipment. The USP<797> guideline that most appropriately applies to the activities cited is as follows:

"Cleaning and disinfecting shall occur before compounding is performed. Items shall be removed from all areas to be cleaned, and surfaces shall be cleaned by removing loose material and residue from spills; for example, water-soluble solid residues are removed with sterile water (for injection or irrigation) and low-shedding wipes. This shall be followed by wiping with a residue-free disinfecting agent such as sterile 70% IPA, which is allowed to dry before compounding begins."

The policies comply with USP<797>, including the use of disinfectants like accelerated hydrogen peroxide, sterile isopropyl alcohol, and a sporicidal when indicated.

Additionally, USP <797> nor NJBOP regulation requires the use of sporicidal agents to disinfect the ISO 5 surfaces, and in fact they both recommend the use of sterile isopropyl alcohol. Colonia has implemented the position on disinfectants as stated in USP<1072> and referenced in USP<797> as the source for USP <797> statements:

"Because it is theoretically possible that the selective pressure of the continuous use of a single disinfectant could result in the presence of disinfectant-resistant microorganisms in a manufacturing area, in some quarters the rotation of disinfectants has been advocated. However, the literature supports the belief that the exposure of low numbers of microorganisms on facility and equipment surfaces within a clean room where they are not actively proliferating will not result in the selective pressure that may be seen with the antibiotics. It is prudent to augment the daily use of a bactericidal disinfectant with weekly (or monthly) use of a sporicidal agent. The daily

application of sporicidal agents is not generally favored because of their tendency to corrode equipment and because of the potential safety issues with chronic operator exposure."

USP<797> does not require the use of sporicidal agents to disinfect the ISO 5 surfaces and in fact recommends the use of sterile isopropyl alcohol. This Pharmacy has implemented the position on disinfectants as stated in USP<1072> and referenced in USP<797> as the source for USP<797> statements:

"Because it is theoretically possible that the selective pressure of the continuous use of a single disinfectant could result in the presence of disinfectant-resistant microorganisms in a manufacturing area, in some quarters the rotation of disinfectants has been advocated. However, the literature supports the belief that the exposure of low numbers of microorganisms on facility and equipment surfaces within a clean room where they are not actively proliferating will not result in the selective pressure that may be seen with the antibiotics. It is prudent to augment the daily use of a bactericidal disinfectant with weekly (or monthly) use of a sporicidal agent. The daily application of sporicidal agents is not generally favored because of their tendency to corrode equipment and because of the potential safety issues with chronic operator exposure."

This coupled with the lack of abnormalities on our routine environmental monitoring data there was no reason to believe that the current policy was insufficient.

However, in the spirit of continuous quality improvement, the pharmacy has reviewed its cleaning processes and has improved the process by adding the use of a sporicidal agent to its monthly cleaning and disinfecting routines. Please see Exhibit B (policy # 02-04.02 Sterile Compounding Area Cleaning & Disinfecting Microenvironments.)

OBSERVATION 2 (b)

On 6/25/2021, we observed that the pharmacist conducting routine cleaning of the ISO 5 LFGI did not clean the supply air grille located below the HEPA filter nor the surface of the latex glove sleeves. These surfaces are located inside the glovebox where sterile products are open to the environment during compounding manipulations inside the LFGI.

Response:

We acknowledge your observation but disagree with your conclusion. The observation includes material and substantive factual inaccuracies. As explained during the inspection, the sleeves attached to the LFGI were inspected earlier that morning per policy. See Exhibit C (Policy No. 05-31.01 - Compounding aseptic isolator (CAI), operations competency). This

is a daily event which the staff completes early each day before using the device and the inspectors were advised of this but did not request to observe the activity.

Furthermore, per the Manufacturer's instructions per the Germfree LFGI Operations & Safety Manual:

“Use a cleaner compatible with stainless steel for routine cleaning of the LFGI exterior, abrasive compounds should not be used as they will scratch and can pit the stainless-steel surface.”

See pg.30 of the Germfree LFGI Operations & Safety Manual (previously produced). Since the Grill and filter intake assembly for the LFGI are within a non-ISO classed Segregated compounding area (SCA) as permissible by the manufacturer, USP General Chapter <797> and NJBOP statute, cleaning of this “external” air intake is not within the ISO Classed 5 compounding or in-take chambers of the device and there are not required to be treated as the direct compounding areas (DCAs). The grill area is part of the routine room cleaning process and would not have been cleaned at the time of the compounding demonstration watched by the FDA personnel. Nor is it recommended by the device's manufacturer to be aggressively cleaned.

OBSERVATION 2 (c)

The February 2021 cleaning log of the ISO 5 LFGI indicated that no cleaning was performed from 2/23/2021 to 2/28/2021. The daily operation checklist indicated that the glovebox was not in use during this period. However, your prescription records show that Atropine Ophthalmic Solution, 0.01 %, Lot 022621A was compounded on 2/26/2021 using the LFGI.

Response:

We acknowledge your observation but disagree with your conclusion. The observation includes material and substantive factual inaccuracies. The compounded prescription in question was actually compounded on 3/1/2021, not 2/26/2021 as stated in the observation. In reality, the prescription records show that the prescription was entered into the computer on Friday, February 26, 2021 and compounded on Monday, March 1, 2021. See Exhibit D (Log Formula Worksheet). The glovebox was cleaned on March 1, 2021 and documentation for that cleaning was provided during the course of the inspection.

OBSERVATION 3

You produced highly potent drugs without providing adequate containment, segregation, cleaning of work surfaces, cleaning of utensils and cleaning of personnel to prevent cross-contamination.

Specifically, Your firm compounds sterile/non-sterile drug products such as, but not limited to beta-lactams, opioids, antineoplastic, and hormonal products. However, no cleaning agent is currently utilized that would render these compounds inactivated and removed from product contact surfaces. In addition, cleaning activities after compounding operations are not documented and cannot not be verified.

Response:

We acknowledge your observation but disagree with your conclusion. We object to the observation because FDA is holding the pharmacy to a standard that is inapplicable to a compounding pharmacy under FDCA Section 503A. Observation copies 21 C.F.R. § 211.42(c). (Specifically, that section of 21 C.F.R. part 21 I requires: "There shall be separate or defined areas . . . necessary to prevent contamination or mix-ups.") FDA's cGMP regulations are inapplicable because Section 503A pharmacies are exempt from cGMP.

Notwithstanding the inapplicability of FDA's cGMP, this Pharmacy has in place appropriate procedures and policies to prevent contamination or mix-ups. USP General Chapter <797> contains several references to cleaning of the ISO 5 compounding area, but it does not reference any requirement of structurally isolated areas, separate air handling systems, or separate facilities to segregate beta-lactam antibiotics. There are no state pharmacy regulations or accreditation standards requiring such segregation and this Pharmacy's practice is consistent with the prevailing standard of patient care.

USP General Chapter <797> states that "cleaning and disinfecting surfaces in the ISO 5 compounding area are the most critical practices before the preparation of compounded sterile products. Consequently, such surfaces shall be cleaned and disinfected frequently, including at the beginning of each work shift, before each batch preparation is started, every 30 minutes during continuous compounding periods of individual compounded sterile products, when there are spills, and when surface contamination is known or suspected from procedural breaches." This Pharmacy's policy and process complies with these guidelines. The Pharmacy's P&P describes the cleaning of the ISO 5 compounding area to remove any residual drugs, then disinfection with sterile isopropyl alcohol. See Exhibit E. The cleaning is documented on the Pharmacy Checklist. See Exhibit F. Training on the cleaning process is part of the initial and ongoing competency. See Exhibit G. The removal of all drug residue during the cleaning process is emphasized in the training. Documentation of training is available upon request.

In closing, we respectfully submit this response to explain and distinguish Colonia Care Pharmacy's operational processes and to clarify what may have been misinterpreted by the FDA field investigator who visited the pharmacy.

Colonia Care Pharmacy emphasizes that it takes patient safety and its professional responsibilities very seriously. Colonia Care Pharmacy shares FDA's goal of ensuring that patients in need of custom compounded medications receive quality preparations. To that end,

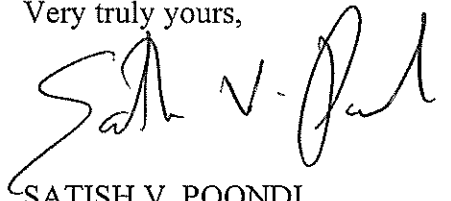
Diana Amador Toro, District Director
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and although it is not required to do so, Colonia Care Pharmacy has voluntarily taken corrective measures identified herein.

We respectfully submit that these measures more than adequately address FDA's observations, and otherwise should exceed FDA's expectations in this matter. We look forward to discussing this matter with you.

In the interim, please do not hesitate to contact me should you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Satish V. Poondi". The signature is fluid and cursive, with the first name "Satish" being the most prominent.

SATISH V. POONDI

AJC/cg

Enclosures

cc: Colonia Care Pharmacy (Via-E-Mail-svet.milic@coloniapharmacy.com)
Unnee Ranjan, Investigator