U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service

Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30329-4027

APPENDIX 7

To: Healthcare Providers and Institutional Review Board (IRB) Contacts at Institutions Providing Diphtheria Antitoxin (DAT) under CDC-sponsored Expanded Access Investigational New Drug (EA-IND) Program

RE: CDC IRB Protocol #4167: Use of Diphtheria Antitoxin (DAT) for Suspected Diphtheria Cases under Expanded Access Investigational New Drug Application (BB-IND 11184)

Dear Healthcare Providers and IRB Contacts,

This memorandum is intended to provide clarification regarding CDC IRB's review of the IND protocol for equine-based DAT, an investigational antitoxin, for the treatment of patients with suspected diphtheria in the United States under CDC-sponsored BB-IND 11184.

To facilitate timely, nationwide access to DAT for treatment purposes only (i.e., non-research) and ease the logistical and regulatory burden of individual hospitals from having to procure DAT, develop an IND treatment protocol, obtain FDA permission, and comply with FDA's IND regulations, including IRB approval per 21 C.F.R. Parts 50 and 56, CDC holds an active IND filed with FDA that permits CDC's distribution and use of investigational DAT for treatment of patients with suspected diphtheria in the United States. The CDC-sponsored BB-IND 11184 has been FDA-authorized since December 19, 2003, with continued IND annual report reviews, and CDC IRB serves as a central IRB for continuing review and approval of the DAT IND protocol (CDC IRB Protocol #4167) to help reduce the administrative burden on local IRBs and allow timely access for DAT treatment. Therefore, hospitals may elect to use CDC IRB's approval for this protocol (see the enclosed IRB approval memo) in place of local IRB review per local hospital/institution policy with internal documentation as applicable. Hospitals electing to rely on CDC IRB for centralized review and approval may request an IRB authorization agreement by contacting huma@cdc.gov. CDC will promptly document an agreement in writing, which must be signed by both parties. Administration of DAT may proceed once informed consent is obtained and should not be delayed on account of execution of an IRB authorization agreement.

Please note that CDC IRB determined that use of DAT as described in Protocol #4167 does not constitute human subjects research because it is provided for treatment purposes only (45 C.F.R. §46.102(l)), and therefore, does not need to be reviewed for compliance with 45 C.F.R. Part 46. Each hospital that receives DAT for treatment of suspected diphtheria under BB-IND 11184 may elect to use the CDC IRB approval to meet FDA's regulatory requirements for IRB review (21 C.F.R. Parts 50, 56, and 312). Hospitals that may be precluded by local law or institutional policy from relying on another IRB, or those hospitals that otherwise decide to perform their own IRB review regardless of the central IRB review, should consider the following factors in their review:

- This IND protocol may be utilized for the administration of investigational DAT to all patients with suspected diphtheria, including vulnerable populations. Vulnerable populations including but not limited to pediatrics, pregnant and nursing individuals, and prisoners may be treated under this IND protocol.
- CDC IRB and program staff will not be able to respond to specific issues and concerns arising from local IRB review. Hospitals that choose to perform their own IRB review rather than utilizing the central IRB review mechanism should be aware that CDC is unable to accommodate requests for changes to this IND protocol (CDC IRB Protocol #4167).

Additionally, since this IND protocol for DAT is solely for treatment use and does not constitute research involving human subjects as defined by 45 C.F.R. 46.102(l), Federalwide Assurance requirements are not applicable.

If you have any additional questions about any aspects of the protocol, you can contact the CDC Diphtheria Duty Officer through the CDC Emergency Operations Center (EOC) at 770-488-7100.

Enclosure: CDC IRB Approval Memo for CDC IRB Protocol #4167