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STATE OF NEW YORK  
OFFICE OF THE STATE  
COMPTROLLER

September 1, 1998

Dr. John W. Ryan  
Chancellor  
State University of New York  
State University Plaza  
Albany, NY 12246

Re: Report 98-F-8

Dear Dr. Ryan:

According to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we have reviewed the actions taken by officials of the State University of New York, as of August 13, 1998, to implement the recommendations included in our prior report, Report 95-D-50, entitled "Potential Conflict of Interest in the School of Pharmacy." Our prior report, which was issued on February 3, 1997, examined selected aspects of the Department of Pharmacy Practice's operations in response to allegations received by the State Comptroller's Office.

**Background**

The State University of New York at Buffalo (University) is one of four university centers operated by the State University of New York (SUNY). The University operates a School of Pharmacy, which includes a Department of Pharmacy Practice (Department). The Department provides courses as well as practical experience in dispensing drugs in response to disease, and conducts research on the effects of specific drugs in the treatment of disease.

In October of 1995, the New York State Comptroller's Office received a letter alleging that, since 1992, Department resources, including faculty and staff time as well as computer equipment, had been inappropriately diverted to benefit Pharmaceutical Outcomes Research, Incorporated (PhOR), a private, for-profit corporation created and owned by the former Chairman of the Department. This corporation conducts the same kind of research as the Department, utilizing the Drug Surveillance Network, a network that facilitates data and information sharing by clinical pharmacists performing pharmacoepidemiology (pharmacoepidemiology is the study of the effect of drugs in relation to disease) research in hospitals nationwide.

Subsequent to the conclusion of our review, University officials advised us that the former

Chairman resigned effective September 16, 1996.

### **Summary Conclusions**

In our prior review, we found that there was merit to some of the allegations made in the October 1995 letter, while the merit to the other allegations could not be determined with certainty. We suggested actions that needed to be taken if the problems identified by the allegations were to be satisfactorily resolved.

In our follow-up review, we found that the University has made some progress implementing the suggested actions. However, continued actions are needed by SUNY officials to satisfactorily resolve the problems identified.

### **Summary of Status of Prior Recommendations**

Of the six prior review recommendations, we found that University officials implemented two recommendations and have partially implemented two recommendations. Two other recommendations were deleted from the final report because they were no longer applicable due to the former Chairman's resignation from the University on September 16, 1996.

### **Follow-up Observations**

#### **Recommendation 1**

*Draft report recommendation was deleted.*

#### **Recommendation 2**

*Draft report recommendation was deleted.*

#### **Recommendation 3**

*University officials should determine whether PhOR should reimburse the University for the University equipment and grant funds that were used by PhOR.*

Status - Partially Implemented

Agency Action - University officials are still in the process of determining whether PhOR should reimburse the University for University-owned equipment and grant funds that were used by PhOR. The University Provost sent a letter, dated February 13, 1998, to the former Chairman, proposing that the University audit staff be allowed complete access to PhOR's files that contain information related to projects conducted for the period 1990 through 1996. The letter further proposed that a methodology be agreed upon to analyze the information contained in PhOR's files. University officials advised us that, to date, they have not yet

received a response to their letter.

Auditors' Comments - University and SUNY officials should pursue determining whether PhOR should reimburse the University for the University-owned equipment and grant funds that were used by PhOR.

#### **Recommendation 4**

*University officials should determine what actions are needed to ensure that the Pharmacy Department obtains sufficient research grants to support Department objectives.*

Status - Implemented

Agency Action - The Dean of the School of Pharmacy advised us that currently he is attempting to collect and analyze research grant data of peer schools to compare with the School's own data. The School is also in the process of developing a policy regarding the type and presentation of such information in the School's Annual Report. The Dean further noted that while research grant information has always been included in the School's Annual Report, there were no requirements calling for specific types of data that would help measure and compare research grant activity to other indicators. It is expected that the new policy will address these issues. In addition, faculty are being asked to report research grant data as part of their annual Faculty Report. The Dean said that this data will be captured and evaluated to ensure that sufficient grants are obtained to support Department objectives.

#### **Recommendation 5**

*SUNY officials should determine whether SUNY needs to strengthen its policies and procedures to adequately protect the interests of SUNY when faculty operate private corporations that compete with SUNY for grant funds.*

Status - Implemented

Agency Action - As a result of our review, in June of 1997 the University revised its Policy on Investigator Disclosure. The revised Policy requires faculty to disclose all financial interests, not only significant financial interests, as was previously required. Further, upon receipt of a grant award, the University's Office of Sponsored Programs Administration now requests that the cognizant dean's or vice president's office certify that no conflict of interest or conflict of obligation exists, or that any such conflict has been resolved. In addition, the revised Policy requires that any remedies instituted to reduce or eliminate conflicts of interest be signed by all affected parties, with a copy forwarded to the Vice President for Research. In addition, the Health Sciences Department, of which the School of Pharmacy is a part, has hired a staff attorney to help address the legal aspects of potential conflicts of interest. These revisions appear to strengthen the University's ability to adequately

protect its interests when faculty operate private corporations that compete with the University for research grant funds.

**Recommendation 6**

*SUNY and University officials should refer the matters described in this report to the State Ethics Commission and either the Erie County District Attorney or the New York State Attorney General for further investigation. SUNY should also advise investigators to contact the State Comptroller's Office for further information about this matter.*

Status - Partially Implemented

Agency Action - University officials, in responding to our prior draft report, informed us that since the former Chairman was no longer employed by the State, the State Ethics Commission has no jurisdiction over him. However, the University did refer the matter to the State Attorney General for investigation. In a letter dated February 12, 1997, the Criminal Prosecutions Bureau of the State Attorney General's Office responded that it believed that the alleged improprieties were insufficient to form the basis of criminal charges. However, the Office advised that civil remedies may be available to redress any unjust enrichment arising out of the alleged conflict of interest and suggested that SUNY contact the Office's Civil Recoveries Bureau. SUNY Counsel told us they are still considering whether to refer this matter for civil remedies.

Auditors' Comments - SUNY and University officials should pursue all available remedies.

Major contributors to this report were Karen Bogucki and Joanne Kavich.

We would appreciate your response to this report within 30 days, indicating any actions planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of the State University of New York at Buffalo for the courtesies and cooperation extended to our auditors during this review.

Yours truly,

Jerry Barber  
Audit Director

cc: Robert L. King  
Dr. William R. Greiner