DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Silver Spring, MD 20993

TRANSMITTED BY FACSIMILE

January 11, 2010

Dr. Leslie Baumann
Baumann Cosmetic and Research Institute
4701 North Meridian Avenue, Suite 7450
Miami Beach, Florida 33140

RE: BLA #125274
Dysport (abobotulinumtoxinA) for Injection
MACMIS #18181

Dear Dr. Baumann:

As part of its monitoring and surveillance program, the Division of Drug Marketing, Advertising, and Communications (DDMAC) of the U.S. Food and Drug Administration (FDA) has become aware of promotional statements that you made regarding Ipsen Biopharm Limited's (Ipsen) drug abobotulinumtoxinA for Injection (which you referred to as "Dysport" (the U.S. approved trade name) and "Reloxin" [1]). For the purposes of this letter, we will refer to the drug as Dysport. Specifically, you made promotional statements that were in violation of FDA regulations in the following communications: the April 2007 issue of allure magazine in an article titled, "NEEDLE WORK"; the September 2007 issue of ELLE magazine in an article titled, "COUNTER CULTURE Doctors' Orders TOP SKIN MDs TOUT THE TREATMENTS THEY SWEAR BY. WHAT LIVES UP TO THE HYPE AND WHAT'S JUST HIGH HOPES?"; and NBC's "Today Show" on January 8, 2009 in a segment titled, "Today's Health: Better Than Botox?"

Upon receiving information about potential preapproval promotion communications for Dysport, DDMAC sent a letter of inquiry on March 4, 2009 to Ipsen (through its U.S. agent) who filed and holds the BLA. Ipsen and Medicis Pharmaceutical Corporation (Medicis), who holds exclusive license from Ipsen to market Dysport for the moderate to severe glabellar lines indication, each responded to DDMAC on April 24, 2009.

Based on information DDMAC received from Medicis on April 24, 2009, including a signed declaration from you dated April 7, 2009, it is our understanding that you have served as a clinical investigator for Medicis pursuant to a clinical study agreement between Medicis, yourself, and the University of Miami, with whom you have been affiliated, for the conduct of a Phase III clinical research study on the safety and effectiveness of Dysport in the treatment of glabellar lines and for the conduct of a Phase III open-label extension study to assess the

[1] Reloxin was the proposed tradename filed under BLA Number 125286 by Ipsen to the FDA for the moderate to severe glabellar lines indication. This BLA was later subsumed under BLA 125274 (an application for the use of the drug for cervical dystonia) and the tradename Reloxin was ultimately rejected. On April 29, 2009, FDA approved the drug under BLA Number 125274 with the tradename Dysport for cervical dystonia and for the moderate to severe glabellar lines indication. According to Ipsen, Medicis has exclusive license from Ipsen to market Dysport under BLA Number 125274 for the moderate to severe glabellar lines indication. This drug has been in use outside the United States under the names Dysport and Azzalure.

long-term safety of repeat administrations of Dysport in the treatment of glabellar lines . Medicis also informed us that you were initially recruited for the study by Ipsen's previous Dysport business partner, Inamed Corporation (Inamed), and that Medicis became the study sponsor after the clinical trials were underway. Finally, Medicis indicated, and your signed declaration confirmed, that Medicis had no involvement or influence over your participation in the articles and television segment referred to above, but rather that you were acting independently and not at the initiation or direction of Medicis.

In the articles and television segment referred to above, you promoted Dysport as safe and effective for the purposes for which it was/is being investigated, and otherwise promoted the drug as superior to an approved product. As a result, we conclude that you did not adhere to the pertinent federal laws and regulations; specifically, these promotional communications are in violation of the Federal Food, Drug and Cosmetic Act (Act) and FDA's regulations. 21 CFR 312.7(a). Our specific objections follow.

Promotion of an Unapproved Drug

According to FDA's regulations at 21 CFR 312.7(a), "A sponsor or **investigator**, or any person acting on behalf of a sponsor or investigator, shall not represent in a promotional context that an investigational new drug is safe or effective for the purposes for which it is under investigation or otherwise promote the drug" (emphasis added). Your declaration, submitted to DDMAC with Medicis' above referenced communication, acknowledges that you became involved as an investigator in the research trials for Dysport in July 2006. While you were involved as an investigator for Dysport, you made the following claims in the articles and television segment:

- "Reloxin, the new Botox, will likely come out later this year. Early data shows it may last longer and kick in faster than Botox. It will be nice to have competition on the market—the Botox people (Allergan) raised their price another 8 percent this year!" (allure article)

- "I can't wait to use Reloxin, known in Europe as Dysport. This Botox alternative will be available in the U.S. next year. Effects last a month longer than Botox and, hopefully, it will cost less." (ELLE article)

- "It's time that we have something that lasts a little bit longer, and I'm hoping that the minute the FDA approves this, I'll be able to use it in my practice." (Today Show)

These statements clearly suggested that Dysport was safe and effective before it was approved, and that it was in fact superior to the approved product Botox because it lasts longer and starts working faster than Botox. These statements thus violate 21 CFR 312.7(a) because they represented that Dysport was safe and effective before the product was approved, and otherwise promoted the drug before it was approved (i.e., as superior to the approved product Botox). We note that this suggestion of superiority, in addition to promoting the product before approval, is also misleading in that it is not supported by substantial evidence or substantial clinical experience. In fact, we are not aware of **any** adequate and well-controlled head-to-head trials that compare Dysport to Botox to determine whether Dysport lasts longer or starts working faster than Botox.

In your declaration, you indicate that you were not paid or otherwise compensated by Medicis to speak to any of the media sources referred to above. However, as noted above, FDA's regulations regarding pre-approval promotion apply to investigators as well as sponsors, and you made the statements referred to above while serving as an investigator for the drug. You also state that your claims about Dysport are based on your foreign experiences as an academic physician and from the anecdotal observations of your colleagues and not from your experience as an investigator in the clinical trials for Dysport. Regardless of the source of your knowledge, representations by an investigator in a promotional context that an investigational new drug is safe or effective for the purposes for which it is under investigation, or representations that otherwise promote the drug, are a violation of FDA's regulations.

FDA's regulations are intended to promote and protect the public health. The restrictions these regulations place on the promotion of drugs by investigators or sponsors before the drugs are approved protect the public health by preventing investigators or sponsors from conveying misleading first impressions of products to the public. We believe, particularly in the case of new drugs not previously available in this country, that first marketing impressions should include accurate, balanced and substantiated information about new drugs, including important risk information as well as any important limitations on the use of a new product. If an investigator or sponsor presents claims about a product's effectiveness (and in this case, its unsubstantiated superiority to an approved product) in pre-approval promotional messages, then the impressions received by the public about that product are not accurate or balanced and the public health may be compromised. There are mechanisms by which investigators and sponsors may engage in the full exchange of scientific information concerning drugs that are under investigation; however, the promotional activities you engaged in regarding Dysport do not constitute such exchange. Therefore, we find that these statements violate FDA's regulations.

Conclusion and Requested Action

We are concerned from a public health perspective by your promotional activities described above, which suggested that Dysport was safe and effective when the product had not yet been approved by the FDA, and made superiority claims for the product that have not been demonstrated by substantial evidence or substantial clinical experience. Because of the departures from the FDA regulations described above, please inform this office, in writing, within 10 business days of receipt of this letter, of the actions you have taken or plan to take to prevent similar violations in the future.

If you have any questions, please contact the undersigned by facsimile at (301) 847-8444. Your written response should be directed to: Food and Drug Administration, Center for Drug Evaluation and Research, Division of Drug Marketing, Advertising, and Communications 5901-B Ammendale Road, Beltsville, Maryland 20705-1266.

Sincerely,

/s/

Shefali Doshi, M.D.
Regulatory Review Officer
Division of Drug Marketing,
Advertising, and Communications

cc: Steven R. Scott
Vice President, Regulatory Affairs
Biomeasure Incorporated
US Agent for Ipsen Biopharm Limited
27 Maple Street
Milford, MA 01757-3650

Jason D. Hanson
Executive Vice President, General Counsel & Corporate Secretary
Medicis Pharmaceutical Corporation
7720 N. Dobson Road
Scottsdale, AZ 85256