Health Chief Assails a Research Deal

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WASHINGTON, March 11 — The nation's largest nonprofit biomedical laboratory has granted a foreign drug company unusual powers over the conduct of federally financed research under a 10-year $300 million contract, Government health officials said today.

At a Congressional hearing, the director of the National Institutes of Health, Dr. Bernadine Healy, assailed the contract between the laboratory, the Scripps Research Institute in La Jolla, Calif., and the Swiss-based Sandoz Pharmaceuticals Corporation.

"This contract forbids free enterprise and forbids the free exchange of ideas," Dr. Healy testified. "It is against the spirit of science. It may be against the law."

The contract was signed last December, but the details were not known until this week.

Restrictions at Issue

Among its provisions, the contract gives the company the right to restrict the presence of outside scientists on the Scripps campus and the right of the researchers to associate with other scientists. The agreement also gives Sandoz the right to take work that a Scripps scientist is doing, at any point, and move it to Switzerland for development.

Under the terms of the contract, Sandoz will give Scripps $300 million over 10 years beginning in 1997, in return for rights to patent the work of Scripps scientists and for exclusive access to the scientists.

Sandoz refused to testify at today's hearing before the House Committee on Small Business's Subcommittee on Regulation, and Scripps sent only a scientist who was not familiar with the agreement. But immediately after the hearing, lawyers for the company and for Scripps attacked Dr. Healy's testimony.

A statment issued by Sandoz said the agreement is "proper in every respect." It added, "Its validity under existing law is unquestioned."

Misreading of Pact Seen

"It's a misreading of the contract," said Douglas A. Bingham, general counsel for Scripps, who said he wrote the contract. "I just don't know where [illegible] these things."

cent of all Scripps's money comes from taxpayers.

"The key Government agency was neither informed nor consulted about the deal," he said. "We have a situation where the labs and the drug companies are romancing one another, cutting sweetheart agreements, and jilting the taxpayer."

Dr. Healy testified that the agreement went "against the spirit of science nd possibly against the law" because it could turn a publicly-funded research lab into a "subsidiary of a foreign drug company and N.I.H. into an industrial lab for a foreign company."

Dr. Healy's testimony represents the strongest criticism so far from the N.I.H. on the subject of an agreement between a major research institution

A company gains unusual privileges at a lab.

and a drug company. The case has prompted N.I.H. to review 104 other such agreements, Dr. Healy said, although at first glancethe Sandoz contract appears to go beyond what others have done. It may lead to new regulation on the use of publicly financed research.

After the hearing, lawyers for Sandoz, including Mr. Bingham and Chris Doherty, talked about the agreement. They contend that the agreement is little different from others now used by universities, and little different from one already in existence between Johnson and Johnson and the Scripps Institute.

They said that it does restrict the presence of scientists on campus at Scripps to maintain the confidentiality of the work so Sandoz will not lose crucial information to competitors. But they said the restriction is aimed primarily at weeks- or months-long visits by scientists connected with other companies.

They said the company would have the right to approve or disapprove the financial or working arrangements that Scripps scientists make with other companies or with scientists linked to other companies.

The agreement also does give the company power to veto the institute's contracts with other companies. Scripps now has 40 or more other agreements, and the lawyers said this rule is only to keep Scripps from working on the same research with Sandoz and another company as the same time. Research in other areas will be permitted.

The agreement allows Sandoz to review scientific papers by Scripps scientists before publication, but only for a maximum delay of 75 days to assure patents can be applied for before publication.

The agreement does not allow Sandoz to prescribe research programs for Scripps scientists, the lawyers said, but can suggest specific projects to them. Of the $30 million per year that Sandoz would give to Scripps under the contract, $12 million would go to these "specific projects", while $18 million per year would go to unspecified basic research of the scientists' choosing.

"I think Dr. Healy went on the attack to deflect the spotlight from herself," said Mr. Doherty. He said if she had not criticized the agreement, she could have been charged with doing a poor job of keeping track of agreements affecting labs that get NIH funding.

A 1980 patent law, called the Bayh-Dole act, changed the rules under which publicly-funded research is handled, making it legal for the government and private labs working with government money to give the patent rights to a single private company rather than seek bidders. The government got little or no control of drug development or drug prices in the arrangement.

Mr. Wyden said many conflicts of interest arise out of these deals. For example, will the leaders of such labs, run on public money, but getting tens of thousands of dollars in personal deals with the companies, give unbiased attention to what basic research should be carried out? Or decisions about who would be best to market discoveries?

Among the better-known products Sandoz makes are Sandimune, a drug that prevents organ rejection in transplants, and Clozaril, a new treatment for schizophrenia.