

Food and Drug Administration, HHS

§ 203.39

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§ 203.38 Sample lot or control numbers; labeling of sample units.

(a) *Lot or control number required on drug sample labeling and sample unit label.* The manufacturer or authorized distributor of record of a drug sample shall include on the label of the sample unit and on the outside container or packaging of the sample unit, if any, an identifying lot or control number that will permit the tracking of the distribution of each drug sample unit.

(b) *Records containing lot or control numbers required for all drug samples distributed.* A manufacturer or authorized distributor of record shall maintain for all samples distributed records of drug sample distribution containing lot or control numbers that are sufficient to permit the tracking of sample units to the point of the licensed practitioner.

(c) *Labels of sample units.* Each sample unit shall bear a label that clearly denotes its status as a drug sample, e.g., "sample," "not for sale," "professional courtesy package."

(1) A drug that is labeled as a drug sample is deemed to be a drug sample within the meaning of the act.

(2) A drug product dosage unit that bears an imprint identifying the dosage form as a drug sample is deemed to be a drug sample within the meaning of the act.

(3) Notwithstanding paragraphs (c)(1) and (c)(2) of this section, any article that is a drug sample as defined in section 503(c)(1) of the act and § 203.3(i) that fails to bear the label required in this paragraph (c) is a drug sample.

§ 203.39 Donation of drug samples to charitable institutions.

A charitable institution may receive a drug sample donated by a licensed practitioner or another charitable institution for dispensing to a patient of the charitable institution, or donate a drug sample to another charitable institution for dispensing to its patients, provided that the following requirements are met:

(a) A drug sample donated by a licensed practitioner or donating chari-

table institution shall be received by a charitable institution in its original, unopened packaging with its labeling intact.

(b) Delivery of a donated drug sample to a recipient charitable institution shall be completed by mail or common carrier, collection by an authorized agent or employee of the recipient charitable institution, or personal delivery by a licensed practitioner or an agent or employee of the donating charitable institution. Donated drug samples shall be placed by the donor in a sealed carton for delivery to or collection by the recipient charitable institution.

(c) A donated drug sample shall not be dispensed to a patient or be distributed to another charitable institution until it has been examined by a licensed practitioner or registered pharmacist at the recipient charitable institution to confirm that the donation record accurately describes the drug sample delivered and that no drug sample is adulterated or misbranded for any reason, including, but not limited to, the following:

(1) The drug sample is out of date;

(2) The labeling has become mutilated, obscured, or detached from the drug sample packaging;

(3) The drug sample shows evidence of having been stored or shipped under conditions that might adversely affect its stability, integrity, or effectiveness;

(4) The drug sample is for a prescription drug product that has been recalled or is no longer marketed; or

(5) The drug sample is otherwise possibly contaminated, deteriorated, or adulterated.

(d) The recipient charitable institution shall dispose of any drug sample found to be unsuitable by destroying it or by returning it to the manufacturer. The charitable institution shall maintain complete records of the disposition of all destroyed or returned drug samples.

(e) The recipient charitable institution shall prepare at the time of collection or delivery of a drug sample a complete and accurate donation record, a copy of which shall be retained by the recipient charitable institution for at least 3 years, containing the following information:

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(1) The name, address, and telephone number of the licensed practitioner (or donating charitable institution);

(2) The manufacturer, brand name, quantity, and lot or control number of the drug sample donated; and

(3) The date of the donation.

(f) Each recipient charitable institution shall maintain complete and accurate records of donation, receipt, inspection, inventory, dispensing, redistribution, destruction, and returns sufficient for complete accountability and auditing of drug sample stocks.

(g) Each recipient charitable institution shall conduct, at least annually, an inventory of prescription drug sample stocks and shall prepare a report reconciling the results of each inventory with the most recent prior inventory. Drug sample inventory discrepancies and reconciliation problems shall be investigated by the charitable institution and reported to FDA.

(h) A recipient charitable institution shall store drug samples under conditions that will maintain the sample's stability, integrity, and effectiveness, and will ensure that the drug samples will be free of contamination, deterioration, and adulteration.

(i) A charitable institution shall notify FDA within 5 working days of becoming aware of a significant loss or known theft of prescription drug samples.

Subpart E—Wholesale Distribution

§ 203.50 Requirements for wholesale distribution of prescription drugs.

(a) *Identifying statement for sales by unauthorized distributors.* Before the completion of any wholesale distribution by a wholesale distributor of a prescription drug for which the seller is not an authorized distributor of record to another wholesale distributor or retail pharmacy, the seller shall provide to the purchaser a statement identifying each prior sale, purchase, or trade of such drug. This identifying statement shall include:

(1) The proprietary and established name of the drug;

(2) Dosage;

(3) Container size;

(4) Number of containers;

(5) The drug's lot or control number(s);

(6) The business name and address of all parties to each prior transaction involving the drug, starting with the manufacturer; and

(7) The date of each previous transaction.

(b) The drug origin statement is subject to the record retention requirements of § 203.60 and must be retained by all wholesale distributors involved in the distribution of the drug product, whether authorized or unauthorized, for 3 years.

(c) *Identifying statement not required when additional manufacturing processes are completed.* A manufacturer that subjects a drug to any additional manufacturing processes to produce a different drug is not required to provide to a purchaser a statement identifying the previous sales of the component drug or drugs.

(d) *List of authorized distributors of record.* Each manufacturer shall maintain at the corporate offices a current written list of all authorized distributors of record.

(1) Each manufacturer's list of authorized distributors of record shall specify whether each distributor listed thereon is authorized to distribute the manufacturer's full product line or only particular, specified products.

(2) Each manufacturer shall update its list of authorized distributors of record on a continuing basis.

(3) Each manufacturer shall make its list of authorized distributors of record available on request to the public for inspection or copying. A manufacturer may impose reasonable copying charges for such requests from members of the public.

EFFECTIVE DATE NOTE: At 64 FR 67756, Dec. 3, 1999, § 203.50 was added, effective Dec. 4, 2000. At 65 FR 25639, May 3, 2000, the effective date for § 203.50 was delayed until Oct. 1, 2001. At 66 FR 12851, Mar. 1, 2001, § 203.50 was further delayed until Apr. 1, 2002. At 67 FR 6646, Feb. 13, 2002, the effective date was further delayed until April 1, 2003. At 68 FR 4912, Jan. 31, 2003, the effective date was further delayed until Apr. 1, 2004.