

*proceeding against, and conviction of, a person for the sale, purchase, or trade of a drug sample.* A person who provides information leading to the institution of a criminal proceeding against, and conviction of, a person for the sale, purchase, or trade of a drug sample, or the offer to sell, purchase, or trade a drug sample, in violation of section 503(c)(1) of the act, is entitled to one-half the criminal fine imposed and collected for such violation, but not more than \$125,000.

(b) *Procedure for making application for a reward for providing information leading to the institution of a criminal proceeding against, and conviction of, a person for the sale, purchase, or trade of a drug sample.* A person who provides information leading to the institution of a criminal proceeding against, and conviction of, a person for the sale, purchase, or trade of a drug sample, or the offer to sell, purchase, or trade a drug sample, in violation of section 503(c)(1) of the act, may apply for a reward by making written application to:

(1) Director, Office of Compliance (HFD-300), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855; or

(2) Director, Office of Compliance and Biologics Quality (HFM-600), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, as appropriate.

## PART 205—GUIDELINES FOR STATE LICENSING OF WHOLESALE PRESCRIPTION DRUG DISTRIBUTORS

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AUTHORITY: 21 U.S.C. 351, 352, 353, 371, 374.

SOURCE: 55 FR 38023, Sept. 14, 1990, unless otherwise noted.

### § 205.1 Scope.

This part applies to any person, partnership, corporation, or business firm in a State engaging in the wholesale distribution of human prescription drugs in interstate commerce.

### § 205.2 Purpose.

The purpose of this part is to implement the Prescription Drug Marketing Act of 1987 by providing minimum standards, terms, and conditions for the licensing by State licensing authorities of persons who engage in wholesale distributions in interstate commerce of prescription drugs.

### § 205.3 Definitions.

(a) *Blood* means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(b) *Blood component* means that part of blood separated by physical or mechanical means.

(c) *Drug sample* means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

(d) *Manufacturer* means anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug.

(e) *Prescription drug* means any human drug required by Federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

(f) *Wholesale distribution and wholesale distribution* means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(1) Intracompany sales;

(2) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(3) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 to a non-profit affiliate of the organization to the extent otherwise permitted by law;

(4) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control; for purposes of this section, *common control* means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(5) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this section, *emergency medical reasons* includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(6) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

(7) The distribution of drug samples by manufacturers' representatives or distributors' representatives; or

(8) The sale, purchase, or trade of blood and blood components intended for transfusion.

(9) Drug returns, when conducted by a hospital, health care entity, or charitable institution in accordance with § 203.23 of this chapter; or

(10) The sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use.

(g) *Wholesale distributor* means any one engaged in wholesale distribution of prescription drugs, including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions.

(h) *Health care entity* means any person that provides diagnostic, medical,

surgical, or dental treatment, or chronic or rehabilitative care, but does not include any retail pharmacy or any wholesale distributor. A person cannot simultaneously be a "health care entity" and a retail pharmacy or wholesale distributor.

[55 FR 38023, Sept. 14, 1990, as amended at 64 FR 67762, Dec. 3, 1999]

#### § 205.4 Wholesale drug distributor licensing requirement.

Every wholesale distributor in a State who engages in wholesale distributions of prescription drugs in interstate commerce must be licensed by the State licensing authority in accordance with this part before engaging in wholesale distributions of prescription drugs in interstate commerce.

#### § 205.5 Minimum required information for licensure.

(a) The State licensing authority shall require the following minimum information from each wholesale drug distributor as part of the license described in § 205.4 and as part of any renewal of such license:

(1) The name, full business address, and telephone number of the licensee;

(2) All trade or business names used by the licensee;

(3) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs;

(4) The type of ownership or operation (i.e., partnership, corporation, or sole proprietorship); and

(5) The name(s) of the owner and/or operator of the licensee, including:

(i) If a person, the name of the person;

(ii) If a partnership, the name of each partner, and the name of the partnership;

(iii) If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the State of incorporation; and

(iv) If a sole proprietorship, the full name of the sole proprietor and the name of the business entity.

(b) The State licensing authority may provide for a single license for a business entity operating more than