

Over-the-counter medicines are used by millions of consumers each year to treat a wide range of health ailments, from coughs and colds to backaches and heartburn. A nonprescription, or over-the-counter (OTC), drug is one that the Food and Drug Administration (FDA) has determined to be safe and effective for direct consumer use based on the label instructions and warnings. There are approximately 270 active ingredients that FDA has determined are safe and effective for use in OTC medicines.

Both prescription (Rx) and OTC drugs must be deemed safe and effective for their intended use by the FDA. But OTC medicines differ in some ways from Rx drugs:

Margin of safety: Since their intended use is not supervised by a doctor or other prescriber, OTCs need to have a wider margin of safety than Rx drugs.

Labeling: By law, OTC medicine labeling must include all the information that an ordinary consumer needs for the safe and effective use of the product.

Marketing: A set of FDA regulations referred to as the “OTC monographs” dictates the conditions under which certain active ingredients can be used in OTC medicines. OTC drugs marketed in compliance with the monographs do not need separate or individual approval by FDA.

Advertising: Prescription medicine advertising is overseen by FDA. The Federal Trade Commission has authority over OTC medicine advertising, just as it does for other consumer products.

Distribution: The majority of OTC medicines can be sold in any of the approximately 750,000 retail outlets in the United States supermarkets, mass merchandisers, pharmacies, etc. unlike Rx drugs which are limited to the roughly 55,000 pharmacies.

The Monograph System

While prescription medicines are typically considered for approval under a New Drug Application (NDA) process, most—but not all—OTC medicines are marketed under regulations referred to as “OTC monographs.” A monograph is a regulatory standard for the labeling and ingredients for products within a specific category or “therapeutic class” (such as antacids, analgesics, etc). Rather than approving an individual product, a monograph establishes acceptable ingredients, doses, formulations, indications, and labeling. OTC drugs marketed in compliance with the monographs do not need separate approval by FDA.

Following notice-and-comment rulemaking procedures pursuant to the Administrative Procedure Act, FDA initiated the OTC Drug Review in 1972 to evaluate approximately 800 active ingredients then in use. As part of that exhaustive review, FDA chose to ban over 500 compounds from the market, and ultimately determined that only 270 or so active ingredients were generally recognized as both safe and effective for their intended uses. FDA also has issued “negative monographs” that prohibit the use of hundreds of specific indications for OTC drug ingredients. FDA continues to evaluate safety and effectiveness of OTC medicines, as warranted, through notice-and-comment rulemakings.

The regulatory system for OTC products was strengthened by the 2006 enactment of the Dietary Supplement and Nonprescription Drug Consumer Protection Act, which established new adverse event

reporting requirements for OTC medicines marketed pursuant to a monograph (all medicines marketed through a New Drug Application already are subject to mandatory adverse event reporting).

Changes to monographs can develop from FDA as new information arises, from petitions for changes from interested stakeholders, or from time and extent applications.

Time and extent applications (TEAs) provide a route to permit foreign marketing data, or to allow OTCs which have been under a new drug application (NDA) for more than five years, into the OTC Review. First, OTC Review eligibility is assessed through a TEA. Second, once eligibility is determined, FDA requests safety and effectiveness data for evaluation for OTC Review inclusion. TEAs are kept confidential while under evaluation by FDA, but the Agency's responses to them are public.

As FDA proposes changes on monograph issues, the Agency typically publishes a proposed rule or an advance notice of proposed rulemaking in the Federal Register to invite comment on the topic. After reviewing comments received on FDA's docket, the Agency proposes a rule (referred to as a temporary final monograph). The final rule (known as the final monograph) is published in the Code of Federal Regulations.

In some instances, FDA will seek advice from its Nonprescription Drugs Advisory Committee (NDAC) and other qualified advisory committees on particular monograph issues. The NDAC is made up of outside experts including a non-voting industry liaison representative and a consumer liaison who provide non-binding recommendations to the Agency on scientific questions.

Medicines that do not fall within the monograph system may not be marketed as OTCs unless they are approved for OTC use by the FDA through individual new drug applications.

The New Drug Application Process

The New Drug Application (NDA) process is the route taken by manufacturers to request FDA's approval of a new drug for sale and marketing in the United States as specified in the Federal Food, Drug, and Cosmetic Act of 1938. It is also the approval mechanism for switching a prescription drug to OTC status.

The goals of the NDA process are to provide enough information to permit an FDA reviewer to determine: 1) whether the drug is safe and effective in its current state and whether the benefits of the drug outweigh the risks; 2) whether the drug's proposed labeling is adequate; and 3) whether the methods used in manufacturing are adequate to preserve the drug's identity, strength, quality, and purity.

After an NDA application is received by FDA, it must first be deemed worthy of a formal review. The information is then forwarded on to a team of reviewers such as physicians, chemists, pharmacokineticists, and statisticians who examine the data submitted for accuracy. FDA also may elect to call on its advisory committees for additional review and recommendations.

Once FDA determines that the application information is complete and acceptable (including labeling information and manufacturing inspections), an approval recommendation is reached by the reviewers and their supervisors. Once the division director signs an approval action letter, the product can be legally marketed starting that day in the United States.

About CHPA

Founded in 1881, the Consumer Healthcare Products Association (CHPA) is the national association representing the leading manufacturers and distributors of nonprescription, over-the-counter (OTC) medicines and nutritional supplements. Our member companies account for 90 percent of the over-the-counter market. Through science, education, and advocacy, CHPA works to ensure that consumers have the greatest possible access to the safe, effective, and convenient OTC medicines that they rely on for the treatment and prevention of many ailments and diseases.

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