

# Guidance for Industry

## Questions and Answers Regarding Adverse Event Reporting and Recordkeeping for Dietary Supplements as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act

### Draft Guidance

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For questions regarding this document, contact the Center for Food Safety and Applied Nutrition (CFSAN) at 301-436-2375.

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# Guidance for Industry

## Questions and Answers Regarding Adverse Event Reporting and Recordkeeping for Dietary Supplements as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act

This guidance, when finalized, will represent the current thinking of the Food and Drug Administration on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if such approach satisfies the requirements of the applicable statute and regulations. If you wish to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call the telephone number listed on the title page of this document.

### I. Introduction

This draft guidance document is intended to assist the dietary supplement industry in complying with the adverse event reporting and recordkeeping requirements prescribed for dietary supplement manufacturers, packers, and distributors by the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109-462, 120 Stat. 3469). As required by section 3(d)(3) of this law, we are issuing guidance to describe the minimum data elements for serious adverse event reports for dietary supplements. We are also providing guidance on (1) how, when, and where to submit a serious adverse event report for a dietary supplement; and (2) records maintenance and access for serious and non-serious adverse event reports and related documents. A separate guidance is being issued on the reporting of serious adverse events for over-the-counter (nonprescription) human drug products marketed without an approved application.

FDA's guidance documents, including this document, do not establish legally enforceable responsibilities. Instead, guidance documents describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidance means that something is suggested or recommended, but not required.

## **II. BACKGROUND**

On December 22, 2006, the President signed into law the Dietary Supplement and Nonprescription Drug Consumer Protection Act. This law amends the Federal Food, Drug, and Cosmetic Act (FD&C Act) with respect to adverse event reporting and recordkeeping for dietary supplements and non-prescription drugs marketed without an approved application. This guidance document contains questions and answers relating to the new requirements under the Dietary Supplement and Nonprescription Drug Consumer Protection Act, concerning the mandatory reporting to the Food and Drug Administration (FDA) of serious adverse events for dietary supplements, the minimum data elements to be submitted in such reports, and records of serious and non-serious adverse events reported to a dietary supplement manufacturer, packer, or distributor.

## **III. Questions and Answers**

### **1. When do the requirements of the Dietary Supplement and Nonprescription Drug Consumer Protection Act become effective?**

The effective date for compliance with the requirements of this law is December 22, 2007.

### **2. What types of foods are covered by the Dietary Supplement and Nonprescription Drug Consumer Protection Act requirements?**

The requirements of this law only apply to dietary supplements. No other types of food are covered.

### **3. What is FDA's definition of a dietary supplement?**

Dietary supplements are defined, in part, as products (other than tobacco) intended to supplement the diet that bear or contain one or more of the following dietary ingredients:

- a. A vitamin;
- b. A mineral;
- c. An herb or other botanical;
- d. An amino acid;
- e. A dietary substance for use by man to supplement the diet by increasing the total dietary intake; or
- f. A concentrate, metabolite, constituent, extract, or combination of any ingredient mentioned above.

Further, a dietary supplement must be labeled as such and must be intended for ingestion. A dietary supplement must not be represented for use as a conventional food or as a sole item of a meal or the diet. Finally, the dietary supplement category generally does not include articles approved as new drugs, licensed as biologics, or authorized for clinical investigation under an IND, unless the article was previously marketed as a dietary supplement or as a food. The complete statutory definition can be found in section 201(ff) of the FD&C Act (21 U.S.C. 321(ff)).

**4. Does the Dietary Supplement and Nonprescription Drug Consumer Protection Act apply to foods other than dietary supplements?**

No. However, FDA does encourage the voluntary submission of reports of serious adverse events associated with all FDA regulated foods. Such reports can be submitted using MedWatch Form 3500 for voluntary reporting found at: <https://www.accessdata.fda.gov/scripts/medwatch/>

**5. What is an “adverse event?”**

An “adverse event” is “any health-related event associated with the use of a dietary supplement that is adverse.” Section 761(a)(1) of the FD&C Act (21 U.S.C. 379aa-1(a)(1)).

**6. What is a “serious adverse event?”**

A “serious adverse event” is an adverse event that:

- Results in death, a life-threatening experience, inpatient hospitalization, a persistent or significant disability or incapacity, or a congenital anomaly or birth defect; or
- Requires, based on reasonable medical judgment, a medical or surgical intervention to prevent an outcome described above.

Section 761(a)(2) of the FD&C Act (21 U.S.C. 379aa-1(a)(2)).

FDA considers inpatient hospitalization to include initial admission to the hospital on an inpatient basis, even if the patient is released the same day, and prolongation of an existing inpatient hospitalization.

## **7. What is a “serious adverse event report?”**

A “serious adverse event report” is a report that must be submitted to FDA on MedWatch Form 3500A when a manufacturer, packer, or distributor of a dietary supplement receives any report of a serious adverse event associated with the use of the dietary supplement in the United States. See section 761(a)(3) and (b)(1) of the FD&C Act (21 U.S.C. 379aa-1(a)(3), (b)(1)).

## **8. Who must submit the serious adverse event report for a dietary supplement to FDA?**

The manufacturer, packer, or distributor whose name (pursuant to section 403(e)(1) of the FD&C Act)<sup>1</sup> appears on the label of a dietary supplement marketed in the United States is required to submit to FDA all serious adverse event reports associated with use of the dietary supplement in the United States. Section 761(b)(1) of the FD&C Act (21 U.S.C. 379aa-1(b)(1)).

The Dietary Supplement and Nonprescription Drug Consumer Protection Act usually refers to the entity that is required to submit a serious adverse event report to FDA as the “responsible person.” This draft guidance uses the term “responsible person” as an alternative to “manufacturer, packer, or distributor.”

## **9. Are retailers required to submit serious adverse event reports for dietary supplements to FDA?**

Usually not, but the answer could be yes in some situations. Whether a retailer is required to submit a serious adverse event report for a dietary supplement it sells will depend on two things: (1) whether the retailer’s name appears on the label of the dietary supplement; (2) if so, whether the retailer has entered into an agreement with the manufacturer or packer of the dietary supplement transferring responsibility for submitting adverse event reports for the product to the other firm.

A retailer whose name appears on the label of a dietary supplement as its distributor may, by agreement, authorize the manufacturer or packer of the dietary supplement to submit the required adverse event reports for such dietary supplement to the FDA so long as the retailer directs to the manufacturer or packer all adverse events associated with such dietary supplement that are reported to the retailer through the address or telephone number on the label of

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<sup>1</sup> Under section 403(e)(1) of the FD&C Act (21 U.S.C. 343(e)(1)) and 21 CFR 101.5, dietary supplements and other foods in package form must bear a label containing the name and place of business of the product’s manufacturer, packer, or distributor.

the dietary supplement. Section 761(b)(2) of the FD&C Act (379aa-1(b)(2)). If such an agreement is in place and the retailer complies with its obligation to forward the dietary supplement adverse event reports it receives to the other party (i.e., the manufacturer or packer), the retailer is under no obligation to report to FDA any serious adverse events for the dietary supplements covered by the agreement. Likewise, if the retailer's name does not appear on the label of a dietary supplement, the retailer is not responsible for reporting any serious adverse events associated with the supplement to FDA.

#### **10. When must reports of serious adverse events be submitted to FDA?**

Serious adverse event reports received through the address or phone number on the label of a dietary supplement, as well as all follow-up reports of new medical information received by the responsible person within one year after the initial report, must be submitted to FDA no later than 15 business days after the report is received by the responsible person. Section 761(c)(1)-(2) of the FD&C Act (21 U.S.C. 379aa-1(c)(1)-(2)). For the reasons discussed below, FDA recommends that all other serious adverse event reports received by the responsible person also be submitted to FDA within 15 business days of receipt.

Section 761(c)(1), which contains the 15-day deadline for submitting serious adverse event reports to FDA, expressly applies to serious adverse event reports resulting from information received by the responsible person through the address or telephone number on the product label. Although the FD&C Act does not expressly provide a timeframe for serious adverse event reports that the responsible person receives by other means (such as by e-mail or fax), the reporting of such adverse events is required by the plain language of section 761(b)(1) (providing that the responsible person "shall submit . . . *any report received* of a serious adverse event associated with such dietary supplement when used in the United States . . . ." (emphasis added)) , and the agency recommends that such reports be submitted to FDA within the same timeframe as reports received by phone or mail, i.e., within 15 business days of their receipt by the responsible person.

Prompt submission of serious adverse event reports is important for public health reasons. Delayed reporting of some serious adverse events to FDA solely because of the medium through which the adverse event was reported to the responsible person would lessen the effectiveness of adverse event reporting as an early warning sign of possible safety problems with dietary supplements. Without prompt notification of all serious adverse events associated with dietary supplements, FDA would be unable to investigate and follow up promptly, which in turn could cause delays in alerting the public when safety problems are found. Therefore, the agency strongly recommends that all serious adverse event reports received by the responsible person should be reported to FDA

within 15 business days of receipt, regardless of the means by which the responsible person received the initial report.

The date the responsible person receives the minimum data elements (i.e., identifiable injured person, initial reporter, suspect dietary supplement, serious adverse event) is Day 0 of the 15-business-day time clock and should be entered in section G, block 4, on FDA Form 3500A. If the responsible person does not initially receive sufficient data for a serious adverse event report to FDA, but later receives additional information completing the minimum data elements listed in Question 13, then the responsible person should submit the serious adverse event report within 15 business days of the date the additional information was received, with that date entered in section G, block 4, of FDA Form 3500A.

Reports of serious adverse events received by a responsible person in which the initial reporter identifies the suspect dietary supplement as one manufactured, packaged, or distributed by another responsible person should be promptly forwarded to that other responsible person. A responsible person who receives a report of an adverse event regarding one of its products from another responsible person must submit a serious adverse event report to FDA within the same timeframe applicable to any report received from an initial reporter (i.e., 15 business days from receipt), unless the serious adverse event has already been submitted to FDA by the first responsible person (see "Suspect Dietary Supplement" discussion in Question 13).

**11. How is a serious adverse event report for a dietary supplement submitted to FDA?**

A serious adverse event report for a dietary supplement is submitted to FDA on MedWatch Form 3500A. The manufacturer, packer, or distributor of a dietary supplement is required by statute to use a MedWatch form when submitting a serious adverse event report to FDA. The statute permits but does not require FDA to modify the MedWatch form for dietary supplement reporting. The agency has determined that MedWatch Form 3500A, the form used for mandatory reporting of adverse events for other FDA-regulated products, is also the most appropriate MedWatch form currently available for mandatory reporting of dietary supplement adverse events. As FDA gains experience with mandatory adverse event reports for dietary supplements, the agency will consider whether the form should be modified to facilitate dietary supplement reporting. Section 761(d) of the FD&C Act (21 U.S.C. 379aa-1(d)).

**12. Are there any instructions available for filling out MedWatch Form 3500A to report a serious adverse event for a dietary supplement?**

Yes. Instructions for filling out MedWatch Form 3500A for serious adverse event reports for dietary supplements are in Appendix A of this guidance and are available online at <http://www.cfsan.fda.gov/~dms/dsaerins.html>.

**13. What are the minimum data elements that should be included in a serious adverse event report for a dietary supplement, and where should these data elements be entered on MedWatch Form 3500A?**

The five data elements listed in the bullets below should be included in any serious adverse event report for a dietary supplement. These elements, at a minimum, are necessary for FDA to avoid duplication in its adverse event reports database, interpret the significance of adverse events, facilitate follow-up, and detect fraud. The section where each element should be entered on MedWatch Form 3500A is given in parentheses at the end of the bullet.

- an identifiable injured person (Section A);
- an identifiable initial reporter (Section E)
- identity and contact information for the responsible person (i.e., the manufacturer, packer, or distributor submitting the serious adverse event report to FDA) (Section G)
- a suspect dietary supplement; (Section C) and
- a serious adverse event or fatal outcome (Section B).

The responsible person should actively seek information on any minimum data elements that are not initially provided by the reporter and wait to submit a serious adverse event report to FDA until the information is obtained. FDA recommends that the responsible person document its efforts to obtain the basic elements for a serious adverse event report. As discussed below in the questions and answers about recordkeeping, the responsible person must keep records related to any adverse event report it receives for six years, regardless of whether the event must be reported to FDA.

During initial contacts with the reporter and subsequent follow-up, the responsible person should make diligent attempts to obtain complete information. To this end, the agency encourages responsible persons to use trained health care practitioners to elicit information from reporters. Computer-assisted interview technology, targeted questionnaires, and other methods developed to obtain detailed information on an event can help focus the line of questioning. When the initial report is from a consumer, FDA recommends that the responsible person seek the injured person's permission to contact the health care practitioner(s) familiar with the diagnosis and treatment of the adverse event to obtain further information and relevant medical records, as needed.

*Identifiable injured person:* (Section A - "Patient Information")

To have an identifiable injured person means providing enough information to demonstrate that an individual person was injured. For example, filling in "some consumers" under "Patient Identifier" would not be sufficient; however, a report that listed the patient identifier as "an elderly woman" or "a young man" would be sufficient because there is enough information to assess that a specific person was injured. One or more of the following automatically qualifies a person as identifiable: age or age category (e.g., adolescent, adult, elderly), gender, initials, date of birth, name, or patient identification number. A report stating that "an elderly woman had anaphylaxis" or "a young man experienced anaphylaxis" would be sufficient. If a report submitted to the responsible person refers to groups of unknown size, such as "some" or "a few" college students got anaphylaxis, the responsible person should follow up to find out the number of injured persons and then submit a separate report to FDA for each identifiable injured person. The responsible person should distinguish each injured person so that it is clear that the separate serious adverse event reports are not duplicate reports of a single adverse event.

To protect the privacy of the injured person, he or she should not be identified by name or address; instead, the responsible person should assign a code (e.g., the injured person's initials) to each serious adverse event report that will permit cross reference with identifying information and contact information in the responsible person's records in case the responsible person needs to contact the injured person (or the initial reporter, if other than the injured person) for follow-up.

#### *Initial Reporter (Section E)*

The initial reporter is the person who first notifies the responsible person about the serious adverse event and can be the injured person, a family member, or some other person (e.g., doctor, pharmacist). In addition to the contact information requested on the form, the initial reporter's e-mail address should also be provided, if available.

If the initial reporter is a third party who has only limited information about the serious adverse event (e.g., "my neighbor told me that a friend became seriously ill after taking Product X"), the responsible person should try to obtain contact information (such as a phone number or e-mail address) for someone with personal knowledge of the adverse event. The responsible person should then follow up with that person to obtain enough information to submit a serious adverse event report to FDA (i.e., the five minimum data elements).

If the initial reporter requests that the responsible person not forward the reporter's name and contact information to FDA, the responsible person can submit a report without identifying the reporter, as long as the responsible person keeps the contact information on file so that it may contact the reporter

either upon request by FDA or on its own initiative. For these reports, the responsible person should fill in the initial reporter name and address block in section E of Form 3500A with a statement such as “Requested Anonymity.” However, if the initial reporter refuses to give the responsible person at least one way of contacting him or her for follow-up, such as a phone number or e-mail address, the responsible person should not submit a serious adverse event report to FDA because one of the minimum data elements for a report is missing.

#### *Responsible Person* (Section G - “All Manufacturers”)

This section of Form 3500A is for information about the responsible person and the initial report. Per the instructions in Appendix A, blocks 5 and 6 are not required for dietary supplement serious adverse event reports.

#### *Suspect Dietary Supplement* (Section C - “Suspect Product(s)”)

With regard to a *suspect dietary supplement*, provide the complete product name, including brand name and other identifying information as necessary to provide sufficient information to uniquely identify the suspect product and distinguish it from other similarly named products. For example, “Vitamin C” or “multi-vitamin” would not be considered complete product names. Examples of information that may be needed to uniquely identify the product include the physical form of the product (e.g., tablet, powder, gelcap, bar); strength (e.g., 120 mg); flavor, if any; and packaging form and size (e.g., 120-tablet bottle).

If a serious adverse event involves multiple dietary supplements that are manufactured, packaged, or distributed by the same responsible person, the responsible person should submit only one serious adverse event report to FDA on Form 3500A, listing all suspect products in Section C with the same manufacturer report number in section G, block 9.

If the serious adverse event involves a nonprescription drug product marketed without an approved application and a dietary supplement that is also manufactured, packaged, or distributed by the same responsible person, and the initial reporter views each product as suspect, the responsible person should submit one report about the serious adverse event to both CDER and CFSAN. The report should include information about both suspect products in section C and should use one manufacturer report number.

If a serious adverse event involves multiple suspect dietary supplements that were manufactured, packaged or distributed by more than one responsible person (e.g., manufacturers A and B), and if the event is reported to one of the responsible persons (manufacturer A), then that responsible person

(manufacturer A) should submit a serious adverse event report to FDA that identifies both its own product(s) and manufacturer B's product(s) in the Suspect Product section of Form 3500A. In such a case, manufacturer A should send manufacturer B a copy of the submitted Form 3500A, including manufacturer A's report number. Manufacturer B need not submit to FDA information already submitted to the agency by manufacturer A. Therefore, manufacturer B need not submit a separate report to FDA for the serious adverse event unless manufacturer B has information about the serious adverse event that was not provided to FDA in manufacturer A's report. If manufacturer B does have such information, it must be reported to FDA. In this situation, manufacturer B should submit the information as a follow-up report of new medical information (see Questions 17 - 19), accompanied by a copy of manufacturer A's serious adverse event report. It is not necessary for manufacturer B to submit its own separate serious adverse event report on Form 3500A.

*Serious Adverse Event or Fatal Outcome* (Section B - "Adverse Event or Product Problem")

A *serious adverse event*, as defined in section 761(a)(2) of the Dietary Supplement and Nonprescription Drug Consumer Protection Act (21 U.S.C. 379aa-1(a)(2)), is an adverse event that results in one or more of the following patient outcomes or, based on reasonable medical judgment, requires a medical or surgical intervention to prevent one of the following patient outcomes:

- death
- a life-threatening experience
- inpatient hospitalization<sup>2</sup>
- a persistent or significant disability or incapacity
- a congenital anomaly or birth defect.

FDA considers inpatient hospitalization to include initial admission to the hospital on an inpatient basis, even if the patient is released the same day, and prolongation of an existing inpatient hospitalization.

A *serious adverse event* other than death should, at a minimum, be described in terms of signs (including abnormal laboratory findings), symptoms, or disease diagnosis for purposes of reporting. Thus, a report stating that the injured person "experienced unspecified injury," "suffered irreparable damages," or "was ill" would not be specific enough. If the initial reporter does not provide any signs, symptoms, or diagnosis, the responsible person should follow up as

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<sup>2</sup> See Question 6 for guidance on how FDA interprets the term "inpatient hospitalization."

necessary to obtain more information from that person, the patient, or (with the patient's permission) medical professionals who treated the patient.

A report of a *fatal outcome* (death) meets the minimum description for a serious adverse event even if the events that led to the death are unknown, but such reports should also include any other available information related to the death (e.g., adverse event(s) associated with the death).

**14. Can I submit a serious adverse event report to FDA using the MedWatch voluntary reporting form (Form 3500)?**

No. FDA has determined under the authority granted by the statute that dietary supplement manufacturers, packers, and distributors must report serious adverse events associated with their products on MedWatch Form 3500A, the mandatory reporting form for adverse events. However, voluntary reports of adverse events associated with a dietary supplement may be submitted on MedWatch Form 3500, the voluntary reporting form. Voluntary reports of dietary supplement adverse events would include:

- any adverse event report submitted by a consumer, health care provider, or any other entity that is not a dietary supplement manufacturer, packer, or distributor;
- a report of a non-serious adverse event submitted by a dietary supplement manufacturer, packer, or distributor for one of its products;
- a report of a serious adverse event submitted by a dietary supplement manufacturer, packer, or distributor for one of its products, where the firm is not the "responsible person" who must report the serious adverse event. For example, the manufacturer of a dietary supplement might choose to submit a report of a serious adverse event to FDA even though the distributor was the "responsible person" because the distributor's name appeared on the dietary supplement label. In such a case, FDA would receive both voluntary and mandatory reports of the same serious adverse event.

**15a. Am I required to submit a copy of the label of the dietary supplement that is the subject of the serious adverse event report with MedWatch Form 3500A?**

Yes. A copy of the label on or within the retail packaging of that dietary supplement must be included with the serious adverse event report to FDA. Section 761(b)(1) of the FD&C Act (21 U.S.C. 379aa-1(b)(1)).

**15b. Should I submit anything other than the product label along with Form 3500A?**

Yes. As part of the serious adverse event report, we encourage the responsible person to attach the following, as appropriate: (1) hospital discharge summaries, (2) autopsy reports, (3) relevant laboratory data, and (4) other critical clinical data.

**16. Does a sample of the dietary supplement that is the subject of the serious adverse event report have to be submitted to FDA?**

No. There is no requirement that a sample of the dietary supplement be provided to FDA with the adverse event report and FDA does not recommend you submit a sample unless requested to do so.

**17. Must new medical information received by the manufacturer, packer, or distributor of a dietary supplement that is related to a previously submitted serious adverse event report also be submitted to FDA?**

Yes, any new medical information received within one year of the initial report must be submitted to FDA. Section 761(c) (2) of the FD&C Act (21 U.S.C. 379aa-1(c)(2)). Even if new medical information is received later than one year after the serious adverse event report and therefore does not have to be reported, you must keep it in your file on the serious adverse event for six years because it is a record related to the serious adverse event report. Section 761(e)(1) of the FD&C Act (21 U.S.C. 379aa-1(e)(1)). Although you are not required to submit to FDA any new medical information that is received later than one year after the serious adverse event report, we encourage the voluntary submission of such information so that we obtain a complete report to evaluate.

**18. When am I required to submit the new medical information to FDA?**

This new medical information must be submitted to FDA within 15 business days of being received by the manufacturer, packer, or distributor. Section 761(c)(2) of the FD&C Act (21 U.S.C. 379aa-1(c)(2)).

**19a. How should I submit the new medical information to FDA? Do I have to fill out and submit another report on MedWatch Form 3500A, in addition to the initial serious adverse event report I originally submitted?**

No, you do not have to complete a new report on Form 3500A to submit with the new medical information (e.g., medical records). Instead, simply submit a copy of the new medical information in the same form you received it and include a copy of the initial serious adverse event report that you previously

submitted on Form 3500A. It is not necessary to re-submit any attachments from the initial serious adverse event report.

**19b. How can I ensure that the new medical information I submit will be consolidated into a single report by FDA?**

If you include a copy of your initial serious adverse event report on MedWatch Form 3500A when you submit the new medical information, FDA will be able to consolidate the initial submission and the new medical information into a single report.

**20. Will FDA confirm receipt of serious adverse event reports submitted and provide a tracking number to use for further submissions of new medical information related to the initial report?**

Not at this time. FDA is working to implement processes that will provide a confirmation of receipt and tracking number to the responsible person when a serious adverse event report for dietary supplements is submitted. We will revise this guidance when these processes are implemented.

**21. How do I get a copy of the MedWatch Form 3500A?**

MedWatch Form 3500A is on FDA's Internet web site at <http://www.fda.gov/medwatch/getforms.htm>. If you are unable to access the on-line version of the form, you may request a paper copy of the form by calling 1-800-FDA-1088 or by submitting a written request to MedWatch at MedWatch: The FDA Safety Information and Adverse Event Reporting Program Office Of The Center Director, Center for Drug Evaluation and Research, 5515 Security Lane, Suite 5100, Rockville, MD 20852.

**22. Where do I submit my completed MedWatch Form 3500A for a serious adverse event report for dietary supplements?**

Please mail your MedWatch Form 3500A, along with a copy of the dietary supplement label and any other attachments (see Questions 15a and 15b), to: FDA, Center for Food Safety and Applied Nutrition, Office of Food Defense, Communication and Emergency Response, CAERS Team, HFS-11, 5100 Paint Branch Parkway, College Park, MD 20740.

**23. Does FDA have an on-line option at FDA's MedWatch website for submitting serious adverse events reports for dietary supplements electronically?**

No. We do not have this option available for dietary supplement adverse event reporting at this time. Serious adverse event reports for dietary supplements must be submitted by filling out MedWatch Form 3500A and mailing it to FDA (see answer to Question 22 for address) along with the product label and any other attachments.

**24. Can MedWatch Form 3500A for a dietary supplement serious adverse event report be submitted to FDA by facsimile?**

No. Dietary supplement serious adverse events reported on MedWatch Form 3500A must be mailed to FDA (see answer to Question 22 for address). We do not permit the submission of these reports by facsimile.

**25a. How long should I maintain records of serious adverse event reports and related medical information?**

You must maintain records related to each report of a serious adverse event for a period of 6 years. Section 761(e)(1) of the FD&C Act (21 U.S.C. 379aa-1(e)(1)). These records should include, at a minimum, copies of the following:

- the responsible person's serious adverse event report to FDA on MedWatch Form 3500A, with attachments;
- any new medical information about the serious adverse event received by the responsible person;
- any reports to FDA of new medical information related to the serious adverse event;
- communications between the responsible person and
  - the initial reporter
  - any other person(s) who provided information related to the adverse event

**25b. Do I have to keep records of non-serious adverse events reported to me as the manufacturer, packer, or distributor of the dietary supplement involved?**

Yes. If you receive a report of a non-serious adverse event associated with a dietary supplement for which you are the manufacturer, packer, or distributor, you must keep the report along with any related records (e.g., records of your communications with the person(s) who reported the adverse event to you). All such records of non-serious adverse events must be kept for six years, just as with records of serious adverse events.

**26. Can FDA examine or inspect my adverse event report records?**

Yes. During an FDA inspection conducted under the authority of section 704 of the FD&C Act (21 U.S.C. 374), FDA is authorized to have access to all adverse event report records that dietary supplement manufacturers, packers, and distributors are required to maintain. Section 761(e)(2) of the FD&C Act (21 U.S.C. 379aa-1(e)(2)).

**27. Is my submission to FDA of a serious adverse event report an admission that the dietary supplement involved caused the serious adverse event described in that report?**

No. Your submission will not be construed by FDA as an admission that the dietary supplement involved caused or contributed to the adverse event being reported. Any serious adverse event report submitted to FDA, including any new medical information submitted as a follow-up to the initial report, is considered a safety report under section 756 of the FD&C Act (21 U.S.C. 379v) and may be accompanied by a statement, which shall be a part of any report that is released for public disclosure, that denies that the report or the records constitute an admission that the product involved caused or contributed to the serious adverse event. Section 761(f)(1) of the FD&C Act (21 U.S.C. 379aa-1(f)(1)).

Further, FDA notes that MedWatch Form 3500A contains the statement “Submission of a report does not constitute an admission that medical personnel, user facility, importer, distributor, manufacturer or product caused or contributed to the event.”