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Over-the-Counter (OTC) Drug Products

Introduction to Drug Law and Regulation: OTC Monograph System

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Regulation of OTC Drug Products

- OTC drugs play increasingly vital role in America's healthcare system
- More than 80 therapeutic categories of OTC drugs
- More than 300,000 OTC drug products marketed, encompassing about 800 active ingredients

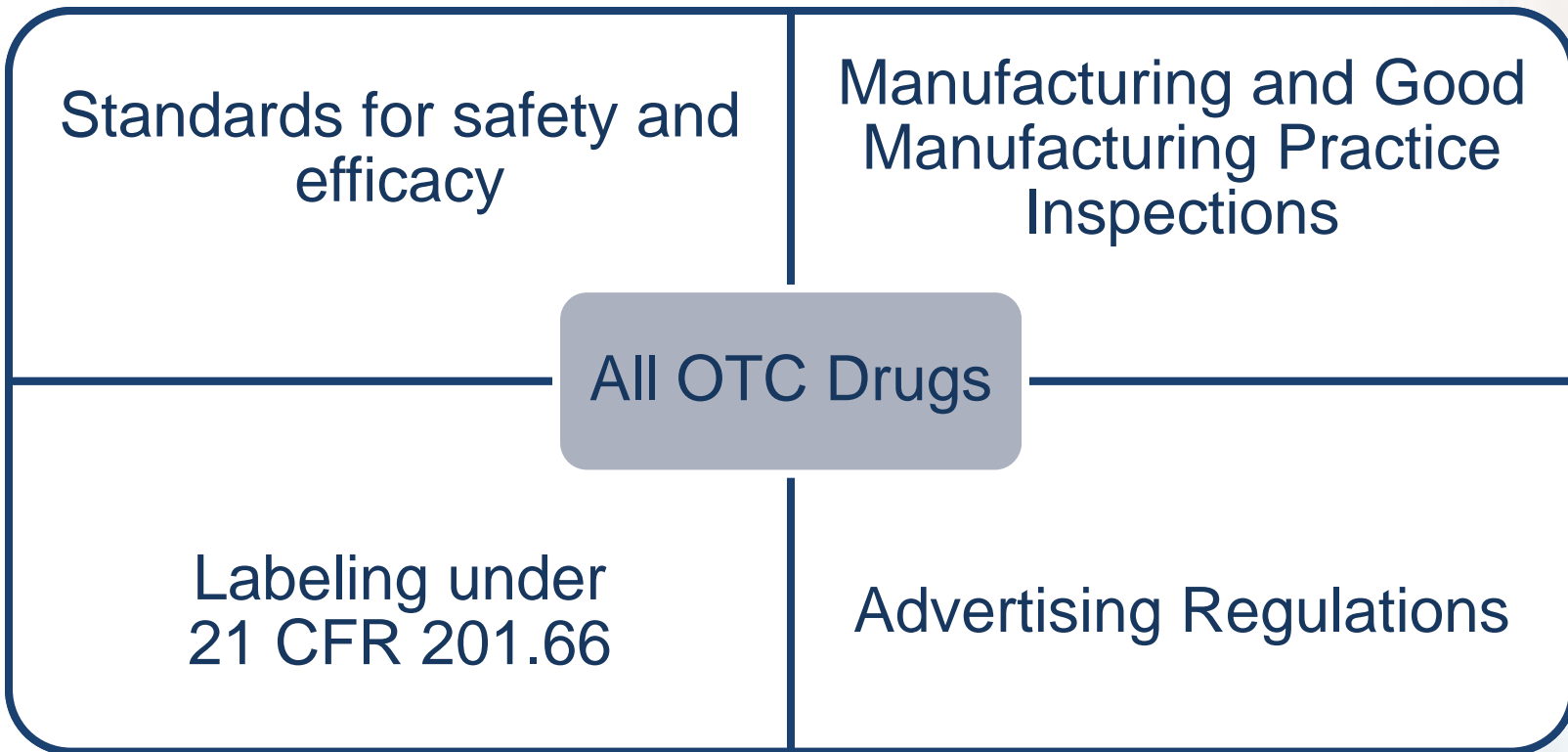
OTC Drugs: Generally Safe and Effective for Use by the General Public

- The product has an acceptable safety margin (benefits outweigh the risks)
- Potential for misuse and abuse is low
- Consumer can use them for self-diagnosed conditions
- Drug can be adequately labeled
- HCPs are not needed for the safe and effective use of the product

Regulatory Pathways for Marketing OTC Drugs

- OTC Drug Monograph
 - Identifies specific requirements for a class of drug products
 - If product complies, manufacturer does not need FDA approval before marketing
- New Drug Application
 - Rx-to-OTC Switch
 - Full Switch (NDA supplement)
 - Partial Switch (new NDA)
 - Direct to OTC
 - NDA Deviation (330.11)
 - Generic (ANDA)

Requirements For All OTC Drug Products



NDA Process vs Monograph Process

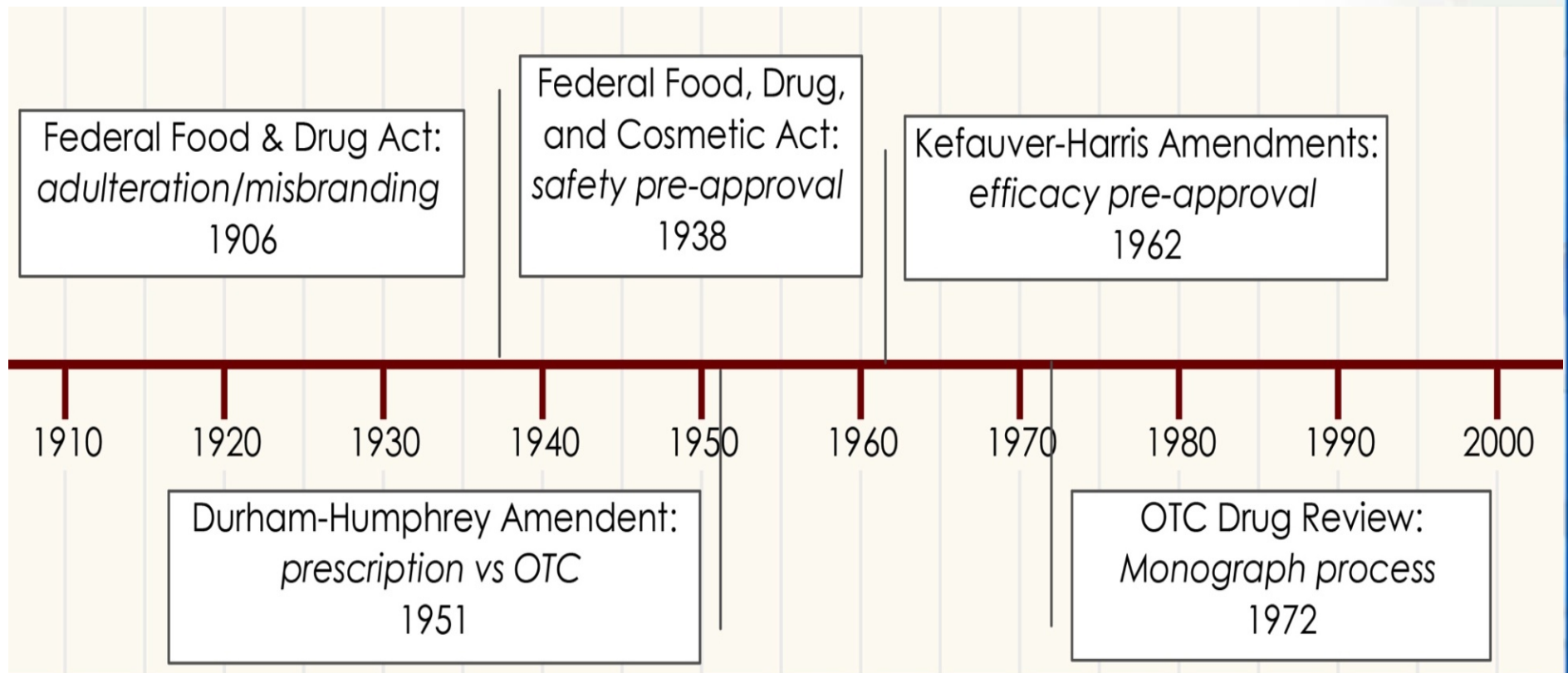
NDA Process

- Drug-product specific
- Pre-approval required
- Clinical studies and user fees may be necessary
- Review process is proprietary
- Approved labeling is unique to your drug
- Possible marketing exclusivity
- Approved NDA is license to market

Monograph Process

- Active ingred/drug category specific
- Pre-approval not required
- Clinical studies may not be necessary and no user fees
- Notice and comment process is public
- Labeling is the same for all similar drugs
- No marketing exclusivity
- Final monograph is open to anyone

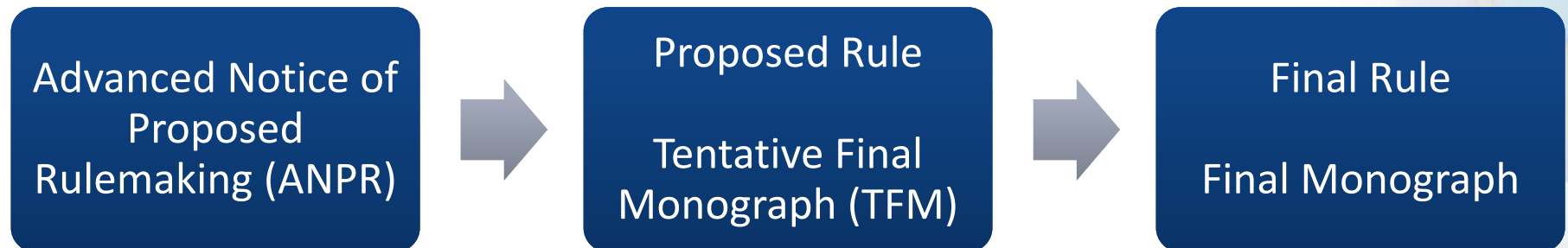
OTC Drug Review: Regulatory History



The OTC Drug Review- Inception of Monograph Process

- Process began in early 1970s
 - Offshoot of Drug Efficacy Study Implementation (DESI) for pre-1962 NDA-approved drugs
- FDA assembled expert panels to review active ingredients and claims
- Panels to develop standards, “monographs”, to set out the conditions under which OTC drugs would be considered GRASE and not misbranded
- Final monographs published in CFR

Three phase process



Public Rulemaking Process: Phase 1

- FDA “call for data” from industry
- Expert panel reviews data submitted, develops recommendations to FDA
 - Panel report covers active ingredients, labeling requirements, excluded conditions
- Classification of active ingredients and other conditions
 - Category I-GRASE
 - Category II- affirmatively not GRASE
 - Category III- insufficient evidence for I or II

Public Rulemaking Process: Phase 2

- Panel report published in *Federal Register* with a “proposed monograph”
 - “Advanced notice of proposed rulemaking”
 - Agency seeks comment from public
- FDA reviews comments and any new data
- Agency publishes “tentative final monograph”
 - TFM is a “proposed regulation”
 - Sets forth active ingredients, indications, warnings, and directions (Category I)

Public Rule Making Process: Phase 3

- Agency again reviews comments, objections and new data
- Final order issued (“final regulation”) setting forth requirements
- Monographs typically effective 1 year after publication
- Non-compliant products then subject to regulatory action

What is included in an OTC Drug Monograph

- Monographs include:
 - Listing of active ingredients that are GRASE
 - Specific labeling requirements for indications, directions for use, and warnings
 - Finished formulations testing if appropriate
 - Dosage forms (in some cases) and doseage strength
- Requirements designed to ensure that the product is used in the manner for which it is GRASE and is not misbranded

Monograph Does Not Include

- Monographs do not include:
 - Data requirements to establish safety and effectiveness
 - Requirements to establish “material time” or “material extent” of marketing
 - Listing of permitted inactive ingredients
 - Specific requirements for OTC packaging

Mechanism to Amend OTC Monograph

- FDA may amend a monograph on its own initiative (21 C.F.R. 330.10(a)(12)(i))
- Interested party may submit petition requesting amendment
 - Citizen Petition
 - Time and Extent Application

Mechanism to Amend OTC Monograph: Citizen Petition

- 21 CFR 10.30
- Can be used to amend OTC drug monograph at any stage
- Limited to pre-1975 marketing conditions
 - “conditions”: active ingredient, dosage form, indication, etc.

Mechanism to Amend OTC Monograph: Time and Extension Application (TEA)

- 21 CFR 330.14 (Effective in 2002)
- Can be used to amend OTC drug monograph for products marketed:
 - Under an approved NDA after OTC Drug Review began
 - Outside the US
- Meets “material time” and “material extent” requirements of 21 CFR 330.14(b)
 - At least 5 continuous years in the same country
 - 10s of millions of dosage units sold

Do You Have Questions About:

- OTC Monograph Process
- Marketing During Monograph Development
- Marketing With a Final Monograph
- OTC Labeling
- Adverse Event Reporting
- Enforcement Actions
- Rx to OTC Switch
- NSURE



PLEASE CONTACT

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