Provisional Translation (as of August 2019)

PFSB/MDRMPE Notification No. 1121-33
PFSB/SD Notification No. 1121-1
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November 21, 2014

To: Directors of Health Departments (Bureaus) of Prefectural Governments

Director of the Medical Device and Regenerative Medicine Product Evaluation,
Pharmaceutical and Food Safety Bureau,
Ministry of Health, Labour and Welfare
(official seal omitted)

Director of the Safety Division,
Pharmaceutical and Food Safety Bureau,
Ministry of Health, Labour and Welfare
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Director of the Compliance and Narcotics Division,
Pharmaceutical and Food Safety Bureau,
Ministry of Health, Labour and Welfare
(official seal omitted)

Handling of Medical Device Software

Under the "Act on Securing the Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics" (Law No. 145 of 1960, hereinafter referred to as "Act") amended according to the "Act for Partial Amendment of the Pharmaceutical Affairs Law" (Act No. 84 of 2013, hereinafter, the "Act for Partial Amendment"), "Software and storage media with the software recorded" are additionally defined as medical devices.

As described the Note Part 2-II 4 "Clarification of the Regulatory Status of Medical Device Software" under the "Enforcement of the Act for Partial Amendment of the Pharmaceutical Affairs Law" (PFSB Notification No. 0806-3, by the Director-General of the Pharmaceutical and Food Safety Bureau, dated August 6, 2014), an additional notification about handling of

* This English version of the Japanese Notification is provided for reference purposes only. In the event of any inconsistency between the Japanese original and the English translation, the former shall prevail.

software is to be issued. The Ministry of Health, Labour and Welfare (MHLW) has prepared guidance materials concerning its handling of medical device software as provided below. We request your cooperation in circulating and ensuring complete understanding of the information contained in this Notification by marketing authorization holders (MAHs), etc. under your supervision.

This notification is effective as of the date of enforcement of the Act for Partial Amendment (November 25, 2014).

Please note that copies of this Ministerial Notification will be sent to the Chief Executive of the Pharmaceuticals and Medical Devices Agency (PMDA), the Chairperson of the Japan Federation of Medical Devices Associations, the Chairperson of the Medical Devices and Diagnostics Subcommittee of the American Medical Devices and Diagnostics Manufacturers' Association in Japan, the Chairperson of the Medical Devices and Diagnostics Committee of the European Business Council in Japan, and the chief executive of each third-party certification body.

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1 Scope of this Notification

This Notification applies to software meeting the definition of "Medical devices" stipulated in Article 2, Paragraph 4 of the Act, but not to the other software that are not classified as medical devices. As to whether the software is classified as a medical device or not, see Note 3.

2 Glossary

The terms used in this Ministerial Notification shall be defined as follows.

(1) Software

A software is an assembly of commands inputted to an electronic computing device that is designed to obtain a single, specific result.

(2) Medical device software

A medical device software is a software that is classified as a medical device.

(3) Storage medium

Storage media are devices used to record data. Such devices may include magnetic disks, optical discs, and flash memory devices.

(4) Telecommunication line

Telecommunication lines are pathways facilitating electronic or radio-based telecommunications comprising a network architecture, such as the Internet. Telecommunication lines can carry wired or wireless two-way data transmission. Telecommunication lines do not include one-way broadcast transmissions.

3 Determining whether software is classified as a medical device

Whether the software is classified as a medical device shall be determined based on whether it is classified into one of the software listed in Appendix Table 1 of the "Order for Enforcement of the Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics" (Cabinet Order No. 11 of 1961; hereinafter, the "Enforcement Order"). For more specific examples, see the "Basic concept for medical device software" (PFSB/CND Notification No. 1114-5, by the Director of the Compliance and Narcotics Division, Pharmaceutical and Food Safety Bureau, MHLW, dated November 14, 2014).

(reference)

Order for Enforcement of the Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics (excerpts)

Appendix Table 1

Software

1. Software intended for disease diagnosis (except for ones of which any adverse drug reaction or functional disorder is unlikely to have any impact on human life or health); the same shall apply to Item 1 of the subsequent paragraph)
2. Software intended for disease treatment (except for ones of which any adverse drug reaction or functional disorder is unlikely to have any impact on human life or health); the same shall apply to Item 2 of the subsequent paragraph)
3. Software intended for disease prevention (except for ones of which any adverse drug reaction or functional disorder is unlikely to have any impact on human life or health); the same shall apply to Item 3 of the subsequent paragraph)

Storage media containing software

1. A storage medium containing a software intended for disease diagnosis
2. A storage medium containing a software intended for disease treatment
3. A storage medium containing a software intended for disease prevention

4. Provision of medical device software through a telecommunication line

Provision of medical device software through a telecommunication line includes not only downloadable software sales, but also licensing by which use of the medical device software is authorized without a transfer of ownership.

Diagnostic services that use data provided by a user is not recognized as provision of medical device software through a telecommunication line because in such cases, users provide data only, and do not make use of any medical device software. Note that the following case may be recognized as provision of a medical device software through a telecommunication line: A user operates a medical device software through a telecommunication line, and in doing so, results, such as diagnostic data based on the data provided, are subsequently received by the user automatically.

5. Generic name

MHLW plans to designate a new generic name for medical device software that is distinct from the existing generic name, as explained in the Ministerial Notification for Classification ("Specially Controlled Medical Devices, Controlled Medical Devices, and General Medical Devices Specified by the Minister of Health, Labour and Welfare according to the Provisions of Article 2, Paragraphs 5 to 7 of the Pharmaceutical Affairs Law" (Ministerial Notification No. 298 of 2004)). In addition, classification of the generic name shall be determined in accordance with the rules for classification provided in the Ministerial Notification for Classification ("Enforcement of Specially Controlled Medical Devices, Controlled Medical Devices and General Medical Devices Specified by the Minister of Health, Labour and Welfare according to the Provisions of Article 2, Paragraphs 5-7 of the Pharmaceutical Affairs Law (Ministerial Notification) and Specially Designated Maintenance and Management Required Medical Devices Specified by the Minister of Health, Labour and Welfare according to the Provisions of Article 2, Paragraph 8 of the Pharmaceutical Affairs Law (Ministerial Notification)" [PFSB Notification No. 0720022, by the Director-General of the Pharmaceutical and Food Safety Bureau, MHLW, dated July 20, 2004)). Note that in principle, the rules for classification of active devices shall apply to medical device software. Because software with respect to which any adverse drug reaction or functional disorder is deemed to be unlikely to pose any threat to a user's life or have any impact on user's health, as well as storage media containing such software, are outside the scope of the medical device products specified in Appendix Table 1 of the Enforcement Order. In addition, the generic names of the medical device software classified as general medical devices is not specified.

6 Business license for purposes of marketing medical device software

(1) Persons who intend to market medical device software, etc. classified as specially controlled medical devices (including storage media containing such software) are required to hold a first-class medical device marketing business license.

(2) Persons who intend to market medical device software, etc. classified as controlled medical devices (including storage media containing such software) are required to hold a second-class medical device marketing business license.

7 Manufacturing business registration

Persons who intend to manufacture medical device software, etc. shall register their manufacturing business for the relevant manufacturing process(es) according to the following types.

(1) Design of medical device software

(2) Medical devices that serve as storage media with medical device software recorded

   a. Design

   b. Storage of finished products in Japan

For concepts about application for manufacturing business registration and manufacturing process to be registered, see "Handling of Manufacturing Business for Medical Devices and *In Vitro* Diagnostics" (PFSB/MDRMPE Notification No. 1003-1, by the Director of the Medical Device and Regenerative Medicine Product Evaluation, Pharmaceutical and Food Safety Bureau, MHLW, dated October 3, 2014).

8 Handling of application for marketing approval

For more information concerning applications for marketing approval, refer to "Application for Medical Device Marketing Approval" (PFSB Notification No. 1120-5, by the Director-General of the Pharmaceutical and Food Safety Bureau, MHLW, dated November 20, 2014) and "Points to Consider for Medical Device Marketing Approval Applications" (PFSB/MDRMPE Notification No. 1120-1, by the Director of the Medical Device and Regenerative Medicine Product Evaluation, Pharmaceutical and Food Safety Bureau, MHLW, dated November 20, 2014).

Complete each field of the application form for approval of medical device software, etc. as follows:

(1) "Category" field

Complete the Category field according to Appendix Table 1 of the Enforcement Order. Identify the applicable category according to the Appendix of the Ministerial Notification for Classification.

For products that can be classified into multiple categories, enter the category based on the generic name in the Name field.

(2) "Generic Name" field

Enter the generic name in accordance with definition of generic names in the Appendix to the Ministerial Notification for Classification. Determine which definition of generic names to be applied in consideration of the classification rules provided in Annex 1 of the Ministerial Notification for Classification. If an appropriate generic name for the application cannot be found, the "Name" field may be left blank, but in such cases supportive information such as the reason why no available generic name candidate, its potential definition, and potentially applicable medical device class could be considered to be applicable, shall be described in an annex, as specified in "Handling of Generic Names of Medical Devices and *In Vitro* Diagnostics for which Appropriate Generic Names Cannot Be Found" (Administrative Notice, by the Office of Medical Device Evaluation, Evaluation and Licensing Division, Pharmaceutical and Food Safety Bureau, MHLW, dated February 8, 2007). This annex shall be submitted with the application form as an attachment.

If multiple potentially appropriate generic names are found for a single product, but a single, collectively appropriate generic name cannot be found, enter the generic name indicating the medical devices believed to present the greatest risk to users based on the product's primary intended use or function.

(3) “Brand Name” field

The brand name shall be devised in a manner as to avoid creating a risk to public health by inviting misunderstanding of the actual performance of the relevant medical device software, etc.. Names that are deemed likely to suggest or be potentially misconstrued as promoting other use(s) will not be accepted.

(4) Intended Use or Indication field

In this field, describe the intended use of the relevant medical device software, etc. appropriately according to features of the medical devices, including patients for whom the software is indicated, applicable disease names, appropriate use circumstances, and expected results. Where necessary, any effects of the product may be described.

(5) Shape, Structure, and Principle field

In this field, explain the relevant medical device software, etc. specifically and in detail in terms of the provision form (sold in downloadable format, via storage media, etc.), operational characteristics (input information, executable targets, output information), platform requirements (HDD (hard drive disk), memory, CPU (central processing unit), OS (operating system), electric current safety [JIS T0601-1 or JIS C6950-1], etc.), and devices in concomitant use (medical devices [including medical device software], software). Explain accessory functions if applicable. Platform requirements may be described in the Use Method field.

(6) “Raw Materials”, “Manufacturing Method”, and “Storage and Shelf Life” fields

For each of the above fields, no entries are required for medical device software, etc.

(7) “Performance and Safety Specifications” field

This field shall include design specifications that are required for the product with the medical device software installed in a platform from the viewpoints of quality, safety, and efficacy; and are not included in the “Shape, Structure, and Principle” field. The content shall be based on verification results obtained primarily during the design phase as well as during the development cycle; shall serve to ensure the quality, safety, and efficacy of the product to be marketed; and shall include specifications that must be met from the perspective of quality, safety, and efficacy (of product functionality and performance).

If no reference specifications or standards are available, additionally include test methods.

(8) “Use Method” field

Describe the manner by which the product with the relevant medical device software installed will be used in terms of the order of operations inputted, starting from the installation method (download method). Illustrations may be used where necessary.

If the product in question is to be used in combination with other products, explain their respective and combined methods of use.

(9) “Marketed Product Manufacturing Site” field

For each of the manufacturing sites holding a valid manufacturing business registration,

enter name of the site, the manufacturing business registration number, and the manufacturing process (design, storage of finished products in Japan (to be marketed as storage media)). If the application process is ongoing for manufacturing business registration of the relevant manufacturing site, make a note to that effect.

9 Handling of QMS inspections

As is the case with other types of medical devices, medical device software, etc. are required to undergo audit to ensure compliance with the "Ministerial Ordinance on Standards for Manufacturing Control and Quality Control for Medical Devices and *In Vitro* Diagnostics" (MHLW Ministerial Ordinance No. 169 of 2004) (such audits are hereinafter referred to as, "QMS inspections"), if such software, etc. are to receive approval or certification (including approval/certification for a partial change), or if 5 years have passed since acquisition of approval/certification or the most recent QMS inspection.

Medical device software, etc. granted a certificate of compliance with the aforementioned standards are not required to undergo QMS inspection during the effective period of the relevant certificate, provided that the product is manufactured at the registered manufacturing site listed in the certificate.

For details concerning other matters related to QMS inspections, refer to related notifications such as "Amendment of the Ministerial Ordinance on Standards for Manufacturing Control and Quality Control for Medical Devices and *In Vitro* Diagnostics in association with the enforcement of the Act for Partial Amendment of the Pharmaceutical Affairs Law" (PFSB/CND Notification No. 0827-4, by the Director of the Compliance and Narcotics Division, Pharmaceutical and Food Safety Bureau, MHLW, dated August 27, 2014).

10 Handling of essential requirements

As is the case with other types of medical devices, medical device software, etc. shall comply with "Standards for Medical Devices Specified by the Minister of Health, Labour and Welfare according to the Provisions of Article 41, Paragraph 3 of the Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics" (MHLW Ministerial Notification No. 122 of 2005; hereinafter, the "Standards for Essential Requirements").

For handling of the Standards for Essential Requirements, see "Handling of the Standards for Medical Devices and *In Vitro* Diagnostics specified by the Minister of Health, Labour and Welfare pursuant to the Provisions of Article 41, Paragraph 3 of the Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics" (PFSB/MDRMPE Notification No. 1105-5, by the Director of the Medical Device and Regenerative Medicine Product Evaluation, Pharmaceutical and Food Safety Bureau, MHLW, dated November 5, 2014).

11 Retail and leasing businesses

(1) If a medical device software, etc. classified as specially controlled medical device is sold, granted, or leased; displayed for sales, granting, or leasing; or provided through a telecommunication line, license of the selling business or leasing business (hereinafter referred to as "selling business, etc.") shall be required. For medical device software, etc. classified as controlled medical devices, notification of the selling business, etc. shall be submitted.

(2) Provision of medical device software through a telecommunication line shall be recognized as an activity of a selling business, but not that of a leasing business.

(3) Internet mall vendors are not considered to run a selling business. If retailers provide medical device software through an e-commerce website/page, such retailers shall post the following matters on the relevant webpage/site in accordance with the provisions of Article 165-2 of the "Enforcement Regulations of the Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics" (MHW (currently MHLW) Ministerial Ordinance No. 1 of 1961; hereinafter, the "Enforcement Regulations").

[1] Name and address of retailer's representative or business entity

[2] Telephone number and other contact information

[3] Other necessary items

- Address of sales office(s) (at least one office)
- License number or notification number

(4) Medical device software distributed through a telecommunication line is not subject to the "Regulations for Buildings and Facilities for Pharmacies, etc." (MHW (currently MHLW) Ministerial Ordinance No. 2 of 1961).

(5) With respect to qualifications for personnel supervising retail operations involving medical device software, etc., pursuant to Article 162 of the Enforcement Regulations no prior experience related to sales or marketing-related roles is required.

12 Repair business operations

Activities such as facilitating updates of medical device software, etc. are not recognized as within the scope of a repair business. This is because such operations serve only to change the content of the software and do not fall within definition of repair (correcting and restoring the function of a point of failure, restoring damaged or deteriorated components/aspects to their original condition or function).

13 Statutory Labeling

(1) When a medical device software is provided in a form of storage media:
Items specified in each item under Article 63, Paragraph 1 of the Act (hereinafter, "Statutory Labeling") must satisfy the following two points:

[1] Statutory Labeling shall be presented on the relevant storage media or immediate

container or wrapper of the relevant storage media.

[2] Statutory Labeling must be stored in an electromagnetic record in a means to enable users of the relevant medical device to access the record easily. The record must be provided with or without of the storage medium. More specifically, the following methods may be possible:

a. Statutory Labeling is available on the "Help" screen or within the "Properties" menu.

b. A shortcut key to the PDF (portable document format) file containing Statutory Labeling is arranged along with the manual at a place where users can readily find the key.

The presentational function of Statutory Labeling may be included in the relevant medical device software or contained in a different storage medium from the medium containing the relevant medical device software to be installed.

(2) When a medical device software is provided through a telecommunication line:

For medical device software provided through a telecommunication line, it is impossible to present Statutory Labeling physically. Presentation of Statutory Labeling may be replaced by fulfillment of the following two points.

[1] A seller of the relevant medical device software provides the labeling information to a user of the software before he or she receives the software through a telecommunication line.

[2] A marketing authorization holder of the relevant medical device software provides the electromagnetic record of the labeling information with the software in a means to enable users of the software to access the record easily. More specifically, the following methods may be possible:

a. Statutory Labeling is available on the Help screen or in the Properties information.

b. A short-cut key to the PDF file containing Statutory Labeling is arranged along with the manual at a place where users can readily find the key.

14 Package inserts

(1) Matters to be indicated on the package inserts

As is the case with other types of medical devices, matters to be indicated on the package inserts of medical device software shall be indicated in the manner specified in Article 63-2 of the Act, and in reference to "Revision of Guidance for Statements in Medical Device Package Inserts" (PFSB Notification No. 1002-8, by the Director-General of the Pharmaceutical and Food Safety Bureau, MHLW, dated October 2, 2014), "Guidance concerning Statements in Medical Device Package Inserts (detailed regulations)" (PFSB/SD Notification No. 1002-1, by the Director of the Safety Division, Pharmaceutical and Food Safety Bureau, MHLW, dated October 2, 2014), and "Guidance for Statements of Precautions for Use of Medical Devices" (PFSB/SD

Notification No. 1002-5, by the Director of the Safety Division, Pharmaceutical and Food Safety Bureau, MHLW, dated October 2, 2014). Of matters to be indicated on the package inserts, only ones considered necessary in light of properties of the relevant medical device software may be stated.

(2) Requirements for information indicated in package inserts

With respect to of the matters to be indicated on the package inserts of the medical device software, etc. under Article 63-2 of the Act, when an electromagnetic record is provided with the relevant medical device software, etc. in a means to enable users of the software to access the record easily in accordance with Article 225 of the Enforcement Regulations, a document stating the matters to be indicated on the package inserts may not have to be attached. More specifically, the relevant information may be provided by the following method: A file of the package insert prepared according to (1) above is downloaded simultaneously with sales of the relevant medical device software, etc. or is stored on the storage medium.

15 Error/Malfunction reporting

As is the case with other types of medical devices, errors or malfunctions of medical device software, etc. shall, pursuant to Article 68-10 of the Act, be reported following the method specified in “Reporting of Adverse Drug Reactions” (PFSB Notification No. 1002-20, by the Director-General of the Pharmaceutical and Food Safety Bureau, MHLW, dated October 2, 2014). The written report shall be prepared by referring to “Preparation of Written Reports for Reporting of Medical Device Malfunction” (PFSB Notification No. 0331002, by the Director-General of the Pharmaceutical and Food Safety Bureau, MHLW, dated March 31, 2005).

16 Recalls

Criteria related to the necessity of recalls of medical device software, etc. and procedures for implementing such recalls shall be the same as those applicable to other types of medical devices. For more details concerning recalls, refer to “Recall of Drugs and Medical Devices” (PFSB/CND Notification No. 1121-10, by the Director of the Compliance and Narcotics Division, Pharmaceutical and Food Safety Bureau, MHLW, dated November 21, 2014).